



An
Bord
Pleanála

Inspector's Report ABP-309011-20

Development

PROTECTED STRUCTURE:
amendments to the development permitted under Reg. Ref.: 2373/17 and ABP Reg. Ref.: ABP-300873-18 and as further amended by 4765/19. Extension of the office accommodation at fourth and fifth floor levels, and provision of an additional access at ground level,

Location

2, Grand Parade, Dublin 6 & Dartmouth Road, Dublin 6. The application site contains the former Carroll's Building which is a Protected Structure (RPS Ref.: 3280).

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3486/20

Applicant(s)

Grand Parade Property Trading Company DAC

Type of Application

Permission

Planning Authority Decision

Grant with conditions

Type of Appeal	Third Party
Appellant(s)	Conor Power and Loraine Mulligan
Observer(s)	None
Date of Site Inspection	20 th of April 2021
Inspector	Adrian Ormsby

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
4.0 Planning Authority Reports	6
4.1. Planning Reports.....	6
4.2. Other Technical Reports	7
4.3. Prescribed Bodies	8
4.4. Third Party Observations	8
5.0 Planning History.....	8
6.0 Policy Context.....	10
6.1. National Policy	10
6.2. Ministerial Guidelines and Other Guidance	10
6.3. Dublin City Development Plan 2016-2022	11
6.4. Natural Heritage Designations	12
6.5. Environmental Impact Assessment	13
7.0 The Appeal	13
7.1. Grounds of Appeal	13
7.2. Applicant Response	16
7.3. Planning Authority Response	21
7.4. Observations	22
7.5. Further Responses.....	22
8.0 Assessment.....	25

8.1. Introduction	25
8.2. Zoning and Principle of the Development	25
8.3. Project Splitting and Incremental Design	26
8.4. Residential Amenity	28
8.5. Built Heritage and Visual Impact	30
8.6. Overdevelopment.....	31
8.7. Other Matters	32
8.8. Appropriate Assessment	33
9.0 Recommendation.....	39
10.0 Reasons and Considerations	39
11.0 Conditions	39

1.0 Site Location and Description

- 1.1. The site is c. 2km south of Dublin City Centre on a large parcel of brownfield land with an address at 2, Grand Parade, Dublin 6. The R111 regional road known as Grand Parade is to the northern boundary of the site. The site is across this road and immediately south of the Grand Canal. Dartmouth Road is to the southern boundary of the site. The Luas green line and Charlemont Luas Stop are located at an elevated level along the western boundary of the site. Dartmouth Place and a number of residential properties are also located along this boundary. There is a laneway that runs along the eastern boundary of the site to the rear of the rear gardens to a row of terraced houses numbers 1-17 along Dartmouth Square West.
- 1.2. The application site has a stated area of 5,825 sq.m and accommodates the former Carroll's building at 2 Grand Parade. This is an 8 storey building and is identified on Dublin City Council's Record of Protected Structures as RPS Ref 3280 Carroll's Building. The row of terraced houses numbered 1-17 along Dartmouth Square West are all also protected structures (Ref No's 2147-2163). These houses and the general area around Dartmouth Square are identified as an Architectural Conservation Area in the Dublin City Development Plan.
- 1.3. At the time of the site inspection developments works are ongoing at the site and the boundaries of the site are surrounded by hoarding. It appears that building to the rear of the Carroll's building have now been demolished. The site can be accessed from existing entrances onto Grand Parade and Dartmouth Road.

2.0 Proposed Development

- 2.1. The application comprises-
 - Amendments to the development permitted under Reg. Ref.: 2373/17 and An Bord Pleanála Reg. Ref.: ABP-300873-18, as further amended under Reg. Ref.: 4755/19 by Dublin City Council (DCC).
 - The amendments include-
 - extensions of office accommodation at fourth and fifth floor levels, resulting in 114 sq.m at fourth floor level and 184 sq.m at fifth floor level;

- The extension of the southern stair core of the permitted office development to serve the fourth and fifth floor levels
- Associated amendments to the extent and layout of the permitted roof terraces at fourth and fifth floor levels, including reorientation of permitted rooftop plant
- Provision of an additional access / egress route at ground level to the south of the permitted office development including an extension of the application site boundary of previous permissions.
- The proposed amendments result in an increase of 298 sq.m to the gross floor area of the development, resulting in a total gross floor area of 14,926 sq.m including basement.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 23/11/20 subject to 6 conditions generally of a standard nature and including-

- C4 which required the permission to comply with the terms and conditions issued under Reg. Ref. 2373/17/ABP-300873-18 and Reg Ref. 4755/19

4.0 Planning Authority Reports

4.1. Planning Reports

The report of Dublin City Council's (DCC) Planning Officer (dated 17/11/20) reflects the decision of the Planning Authority. The following is noted from the report-

- Pre planning discussions were held in relation to the proposed amendments which only relate to the new build element on the site and not to the existing Protected Structure.
- Condition 2 of the permission granted by ABP under Reg. ref. 2373/17 required the maximum height of the proposed atrium to align with the height of the brick return on the rear elevation of the Carroll's building (the Protected

Structure). The proposed amendments do not have any impact on the atrium as granted.

- The proposed amendments extend the office floorspace at fourth and fifth floor levels. There is no increase proposed in the overall height of the building and materials will be consistent with the permitted scheme.
- The photomontages submitted with the application indicate that the visual impact of the works will be minor in the context of the permitted development. The height of the development shall not be increased.
- The Sunlight and Daylight report notes that the proposed development will not result in undue adverse impacts on daylight access to residences or existing buildings to the west of the Luas Line in Dartmouth Square.
- The impact of the proposed development on daylight access within existing buildings is predicted to be materially similar to the impact of the development previously permitted on the application site under Reg. ref 2373/17.
- The design and scale of the amendments are considered relatively minor in the context of the permitted development.
- The proposed works will not have any significant additional impacts on the Protected Structure nor will it adversely impact upon the visual and residential amenities of the adjoining ACA and Protected Structures and Dartmouth Square West.
- It is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

4.2. Other Technical Reports

Transportation Division- no objection subject to conditions.

City Archaeologist- the proposal shall comply with condition 13 of 2373/17

Drainage Division- no objection subject to conditions.

4.3. Prescribed Bodies

TII- Recommends a number of conditions including a Demolition and/or Construction Method Statement

4.4. Third Party Observations

Two third party submissions were received and are on file. The main issues raised are generally those as set out in the grounds of appeal in section 7.1 and include-

- The development is already too large, disproportionate and out of character with the historical character of the area.
- Incremental project splitting for the overall development and the design process.
- Impacts on residential amenity through overlooking, overbearing, overshadowing and devaluation of property in the vicinity and in particular on the street scape of Dartmouth Square West.
- Amendments to the site boundary
- Development represents an unacceptable level of intensification of the permitted land use

5.0 Planning History

5.1.1. This Site-

- 4755/19, ABP-306957-20- **Invalid**
- 4755/19, amendments to the permission 2373/17 and An Bord Pleanála Reg. Ref.: ABP-300873-18 resulting in additional office floorspace at the western side of the building (Luas side) at ground to fourth floor levels, an increase of 597sq.m in the overall gross floor area (GFA) of the permitted development, resulting in a total GFA of 14,627sq.m and omission of basement level -2.

Grant by DCC 21/04/2020

- Condition 9 states-

Save for the changes authorized by this permission, the proposed development shall comply with all relevant conditions of previous planning permission granted under Reg. Ref: 2373/17 and An Bord Pleanála Reg. Ref.: ABP-300873-18.

- 2373/17, ABP-300873-18, Refurbishment and alterations to the existing 8 storey Carroll's Building (a protected structure RPS Ref. 3280), Demolition of 3 no. existing building, Provision of a new part 3, part 4, part 5 and part 6 storey, over two levels of basement, office building connected to the Carroll's Building by a 6 storey glazed atrium and an 8 storey link. **Grant** 11/04/19

- Condition 2 (a) states-

The development hereby permitted shall be carried out in accordance with Option 2 of the plans and particulars submitted to An Bord Pleanála on the 19th day of November 2018. The maximum height of the proposed atrium shall align with the height of the brick return on the rear elevation of the Carroll's building as indicated on Architects drawing number PL 3001 Rev E, entitled Proposed Section A-A & B-B, and the removal of original fabric to open the atrium connection shall be as indicated on Architects drawing number D 2002 Rev D, entitled Elevations South & West Alterations and Interventions.

- 2373/17, ABP-301008-18, Application for **leave to appeal refused**, 12/03/2018

5.1.2. Adjoining Site directly to east

- 3505/20, development of a laneway to eastern boundary of subject appeal site and rear of numbers 1 to 17 Dartmouth Square West (all protected structures). The works include light cleaning and consolidation of the existing walls of the laneway; resurfacing of the laneway and provision of lighting, paved surfaces and planting; reinstatement of cast-iron gates to the entrances to the laneway from Grand Parade and Dartmouth Road provision of

replacement gates to the entrances to the rear gardens of numbers 1 to 17
Dartmouth Square West, **grant** 11-Jan-2021

6.0 Policy Context

6.1. National Policy

National Planning Framework-

- National Policy Objective 11

In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

6.2. Ministerial Guidelines and Other Guidance

6.2.1. Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG 2018)

Section 3 deals with 'Building Height and the Development Management process' and states-

'In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility'

6.2.2. Architectural Heritage Protection – Guidelines for Planning Authorities 2011

Chapter 6 deals with Development Control. Section 6.8.1 – 6.8.5 deals with 'Extensions'.

6.2.3. Other Guidance-

- Quantitative methods for daylight assessment are detailed in the following documents:

- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and;]
- BS EN 17037:2018 Daylight in Buildings.

6.3. Dublin City Development Plan 2016-2022

- 6.3.1. The majority of the appeal site has a zoning objective 'Z6 - Employment/Enterprise' within the Dublin City Development Plan 2016-2022, with a stated objective '*To provide for the creation and protection of enterprise and facilitate opportunities for employment creation*'.

The development plan states that Z6 zoned lands '*constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective of the Z6 zoned lands is to facilitate long-term economic development in the city region*'.

A small area of the southern part of the site fronting onto Dartmouth Road has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' with a stated objective '*to protect, provide and improve residential amenities*'.

- 6.3.2. The northern part of the site generally including the area of the Carroll's Building is located/zoned/specific objective within a Conservation Area (Red Hatching on zoning map). Lands directly to the east of the site are identified within an Architectural Conservation Area around Dartmouth Square.

Section 11.1.5.4- Architectural Conservation Areas and Conservation Areas

The policy mechanisms used to conserve and protect areas of special historic and architectural interest include:

- Land-use zonings:'*and the red-hatched areas shown on the zoning objective maps*'.....
- Architectural Conservation Areas:.....*are intended to preserve the character of townscapes that are of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest.*

The policy to ensure the conservation and protection of the areas of special historic and architectural interest is as follows-

It is the Policy of Dublin City Council:

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.....

6.3.3. The following policy and sections are considered particularly relevant for this application-

- CEE11-

To promote and facilitate the supply of commercial space, where appropriate, e.g. retail and office including larger floorplates and quanta suitable for indigenous and FDI HQ-type uses, as a means of increasing choice and competitiveness, and encouraging indigenous and global HQs to locate in Dublin; to consolidate employment provision in the city by incentivising and facilitating the high-quality re-development of obsolete office stock in the city.

- Section 16.5 Plot Ratio- Z6- 2.0 – 3.0
- Section 16.6 Site Coverage- Z6- 60%

6.4. Natural Heritage Designations

6.4.1. The site is

- c. 3.2km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).
- The site is c.6.2km south west of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006).
- The site is c. 15m south of the Grand Canal Proposed Natural Heritage Area.

6.5. Environmental Impact Assessment

- 6.5.1. Having regard to the nature and small scale of the proposed development, the permitted development on site and the sites context on a serviced site it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

A third party appeal has been received from Conor Power and Lorraine Mulligan of 5 Dartmouth Square, Ranelagh, Dublin 6 and relevant planning matters can be summarised as follows-

- The appellants have serious concerns in respect of the development process, quality and impact of the proposed increased development on their property, rear garden and residential amenity.
- They are specifically concerned about the intermittent project design process and submission of amendments resulting in a project- splitting design process. The overall impact on the adjacent residential developments was not considered as a whole as the development was split to individually appear to be of a lesser quantity and significance.
- the subject development under consideration has not been developed and does not physically exist. The attempts by the developer and the council to treat this as an existing development and to argue that the additions are only minor floor areas, alterations and changes to an existing development are fundamentally flawed.
- The previously granted permissions, have an independent legal status for their planning statutory lifetime of 5 years. The context and legal planning status of the previous permissions are fundamentally changed by the subject application, and legally ties the previous permission, as amended, to the new

planning permission. The amendments also materially amend the potential detrimental environmental effects and the impacts on the urban and residential amenities of the existing development. The environmental impact is not dividable and has to be considered from a holistic point of view on the existing environmental baseline.

- The residents are concerned about the increased overlooking based on the increased extension, building overhang, increased floor space and scale of the amended development. No design measures have been taken to minimise overlooking by architectural design.
- Dartmouth Square West currently enjoys undisturbed privacy and seclusion. Views from the 4th and 5th floor level will result in significant overlooking, significant reduction of privacy and amenity invasion.
- Both the amendments and intensification of the proposed extensions significantly increase the overall impact on residential amenity of the dwellings on Dartmouth Square West.
- The proposed development will result in an unacceptable degree of overshadowing and increased visual to the rear of Dartmouth Square West.
- Under the subject application the bulk of the building has increased against the skyline and is no longer broken up by a stepped down design which increases overshadowing and visual impact to an unacceptable level.
- There is a significant discrepancy between the sunlight daylight report of the original application of 2017 and the 2020 report with the subject application. The shadow models for 2017 and 2020 are also significantly different. These both undermine the 2017 and subject application and this has been verified by the appellants architect Mr Steven Philips. The Board is requested to verify these models and that a further independent model be undertaken to verify the potential impact on the rear gardens and residences of Dartmouth Square (West) and in particular the appellants residence No. 5. The first floor is of particular concern and the rear garden levels of No. 5. Falling from the rear laneway are highlighted.

- The appellants object to the increase effective height, scale, size, scale and massing of the proposed development and question the reason for extension to the southern stair core which is required for fire safety certification. It is submitted that the previous grant or permission and amendments are permissions granted with deficient architectural and civil engineering design.
- The remedy sought by the developer to fix a critical flaw in design through an amendment application limits the scope of the community to comment on the overall development, is fundamentally unfair and a manipulation of the planning system. This application should be refused and the developer is free to submit a new application to revise the overall development allowing the community to input in respect of all design elements.
- The appellants suggest a design amendment based on analysis and advice by Sean Mahon Architect. Report attached to appeal. It is submitted that there are alternative ways that an increase in floor area could have been designed without having such a negative effect on the adjoining residents and such mitigation is proposed (by the appellants).
- It is contended that the developer has used the need for a fire escape as a proxy to increase the floor area and the bulk and scale of the building.
- The developer opted against its own commitments to the community not to increase the development if the community does not agree.
- The extension of the site boundary is a fundamental in principle change that directly includes the statutory context of the previously granted permissions and opens up the potential to fundamentally amend the previous granted design. The appellant submits an amendment to the overall design to allow mitigation of impacts on effective height, scale of height, and size scale and massing of the proposed development on the properties of Dartmouth Square West and Dartmouth Square to be appropriate.
- The proposal represents an unacceptable level of intensification of the permitted land use by stealth. This is overdevelopment of the site. The developers have given a commitment that they would not proceed with further

development without the consent of residents. A letter has been submitted. This is a failure in public consultation.

- The subject site is located in an urban transitional zoned area between city centre and suburban residential land use Z6, Z2 and an ACA. A transitional buffer or adequate spatial separation should be allowed between the commercial renewable of the city and existing low rise development.
- The proposal is overbearing on the streetscape of Dartmouth Square West.
- The proposal will have negative impacts on residential and heritage amenity.

7.2. Applicant Response

The applicant's response to the third party grounds of appeal is accompanied by the following-

- An Appropriate Assessment Screening Report prepared by EnviroGuide Consulting
- Additional Illustrative Architectural Drawings prepared by Henry J Lyons Architects
- Sunlight and Daylight Response by ARC Architectural Consultants
- Copy of Sunlight and Daylight Assessment previously submitted in response to the Boards section 132 request on the parent permission
- MSA Fire Safety Engineers Note

Relevant planning matters in the applicant's response can be summarised as follows:

- The response sets out the sites location and context, the relevant planning history including the grant of permission by DCC for the upgrade of the laneway along the eastern boundary of the site, description of the proposed development and a rebuttal of the grounds of appeal.
- There is a degree of confusion in relation to the party actually making the original observation to the Planning Authority and the appeal now submitted.

Incremental Development and Project Splitting

- The design process for the development has not been intermittent and neither has it entailed project splitting. The application allows for a robust assessment of the scheme and delineates the impact of the amendments now proposed which is insignificant in terms of daylight / sunlight impact, overlooking and visual impact.
- Contrary to the appeal the development is currently under construction. It is entirely correct to treat the proposed changes to the permitted scheme as minor alterations to a permitted development which forms the baseline for any subsequent alterations or amendments.
- It is expected that any application that expressly amends a parent application would benefit from the same duration of permission as the parent.
- The parent permission was subject to Appropriate Assessment (AA) and the need for Stage 2 was screened out. The proposed application would not give rise to any change which might impact on that original conclusion. DCC have considered no AA issues arise.
- An additional AA Screening Report has been prepared by EnviroGuide Consulting and is submitted with the appeal response and concludes the proposal will not give rise to any significant European Sites and states- *'Accordingly, a stage 2 Appropriate Assessment is not required to be carried out in relation to the proposed development.'*
- The application and report of the Planning Authority have not sought to confuse or conflate the AA or the 'Environmental Impact Assessment' process.
- The comprehensive suite of documentation submitted with the application demonstrates the minor nature of the proposed amendments and the absence of significant impacts on nearby properties.

Overlooking of Dartmouth Square West

- The proposed development represents an increase of just 2% in floor spaces at 4th and 5th floor. These are located a significant distance from the rear facades and gardens of houses on Dartmouth Square west.

- There is no 'building overhang' proposed as part of the application.
- The contention that the proposal significantly increases the built form and mass of development is not borne out by the drawings, photomontages and landscape and visual impact assessment (VIA) submitted.
- A series of additional illustrative drawings prepared by Henry J Lyons Architects are submitted to demonstrate the absence of overlooking impacts to Dartmouth Square West from the additional floorspace now proposed. The line of sight is demonstrated to be 48m from window to window. The line of sight from the fifth floor is blocked entirely due to the setting back of development.
- Roof terraces have been permitted with the parent permission. The current application proposes minor alterations to these terraces. The impact of the terraces will not be increased in terms of potential overlooking. The distance between the roof terraces and the dwellings at Dartmouth Square West is significant with over 58m demonstrated for any line of sight between the fifth floor terrace and the rear of dwellings as shown in section drawings.
- At fourth floor the proposed additional floor space will replace what was previously permitted as accessible roof terrace. The extent of the roof terrace remains as previously permitted along the eastern edge and does not step any closer to the properties at Dartmouth Square West. There will be no access to roof terrace spaces or accessible areas any closer to Dartmouth Square West than was previously permitted. The proposals at fifth floor level will also not result in accessible roof terrace extending any closer to Dartmouth Square West.
- The drawings clearly demonstrate that there will be no significant impact in terms of overlooking or loss of privacy on foot of the proposed amendments.

Overshadowing, daylight and sunlight

- It appears the comparison conducted in the appeal between sunlight and daylight reports was conducted on the wrong report from the original application. There were several iterations of the documents submitted through the parent application process including appeal and Oral Hearing stages. The

latest iteration was the response to a s.132 request form ABP reflecting the significant reduction in the scale of the link proposed between the existing and proposed building.

- All iterations of the analysis (except for original versions submitted in March 2017) utilise more detailed survey information in relation to the topography of surrounding gardens and in particular those of houses at Dartmouth Square West.
- The last iteration of the sunlight and daylight analysis submitted in response to sc. 132 request of the parent permission was the relevant sunlight and daylight assessment for the grant of that permission. A further report was submitted for the previous grant of an amendment under 4755/19. The report submitted with the current application provided the comparative results for the baseline condition and the amendments now proposed.
- The accompanying ARC response report document the impact of the proposed development would be materially similar to the parent pretermission as amended by 4755/19. It also includes a detailed assessment of the impact on No. 5 Dartmouth Square and confirms the rear windows of the property will benefit from more than 25% Annual Probable Sunlight Hours. In fact in most cases the rear windows received more than double the BRE recommendation. The rear garden will retain a level of sunlight in accordance with the BRE Guidance. The vertical sky component will continue to considerably exceed the BRE recommendations of 27% VSC ensuring rooms are adequately daylit.
- Massing, Scale and Design Alternative
- The application in no way sought to rely on the requirement for an additional stair access to justify the principle of the development.
- The appeal response is accompanied by a response note from MSA Fire Safety Engineers outlining the inaccuracy of several of the statements made withing the appeal. It is clear a reduction in floor space would not be a solution to the Fire Officers conditioning of a second egress route. The matter of obtaining a fire certificate is a separate process which regularly follows the

attaining of planning permission and it is best practise to carry out development in compliance with conditions of a fire certificates as exempted development under class 41 of the planning regulations 2001-21 (as amended) or through amendment applications.

- The alternative design solution put forward by the appellant does not represent a realistic or persuasive design alternative and would not be considered good design practise.
- The Visual Impact Assessment submitted concludes that there will be no significant impact vis a vis the permitted development on site.
- Amendments to Site Boundary
- The alteration to the site boundary is minor in nature. It facilitates the provision of an additional ramped pedestrian access / egress route to the rear of the permitted development, with a width of c. 2m
- The extension is contained entirely within the same ownership boundary as outlined in blue on the site location map.
- Land Use Intensification
- The appeal claims there has been an attempt to over intensify the land use by stealth. This is not the case. The proposal has been subject to full planning applications and public consultation. The appellants have participated in same undermining their argument.
- The practise of amendments to permitted schemes is common.
- The proposal results in an increase in floorspace of 298 sq.m or 2% and is not a significant level of intensification.
- The site is strategically located adjacent to an existing Luas stop and planned Luas Metrolink interchange at Charlemont and represents an appropriate location for the maximisation of land use intensity.
- The proposal will result in a modest height and intensity of development. It does not represent overdevelopment. Both plot ratio and site coverage are below the indicative maxima set out in the development plan i.e. 2.1 and c.33%. The development plan recommends 2.0-3.0 and 60%

- The claim the height of the development will increase is incorrect. The overall height will remain unchanged albeit with slightly greater extents of floorspace / structure to be provided at 4th and 5th floor levels.
- The claim the develop/ applicant acted in bad faith is strongly repudiated. The developer has carried out extensive consultation with neighbouring residents in good faith and has made significant changes to the original submissions sent to residents.
- Transitional Zone
- The site is not zoned as a transitional zone.
- The design maintains a significant buffer between the office building on site and the house on Dartmouth Square West and their curtilages. The development steps back significantly from the eastern boundary of the site allowing for a distance of over 29m between the closest element of the new office building. The Board previously accepted the proposed height and transition of scale and buffer provided for the scheme in the parent application.
- The height and scale of the proposed development and parent permission steps down repeatedly to ensure a gradation of heights away from Dartmouth Square West. The proposed amendments will not have any detrimental impact.
- In relation to overbearing on the streetscape of Dartmouth Square West the Visual Impact Assessment details there will be no material change to the landscape character of the proposed development or its surroundings. This is further demonstrated within the photomontages submitted with the application.

7.3. Planning Authority Response

- None Received

7.4. Observations

- None Received

7.5. Further Responses

A further response has been received from the third party appellant and relevant planning matters can be summarised as follows-

- It is perfectly clear who the third party objectors were to Dublin City Council and it is not accepted that the developer was under any confusion in this regard.
- It is not accepted that the changes proposed are minor. They are material and require planning permission. The proposals are also unnecessary.
- ABP's Planning Inspector recommended a refusal of permission to the parent permission. The material changes to the parent permission are now posited outside that statutory process.
- The material increase to the scale of development is contra to the spirit and intent of the Planning and Development Acts and are materially significant. They would result in increased overlooking. It is not accepted that separation distances are a significant distance.
- The planning history of the parent permission contradicts the applicants attempted dismissal of the intermittent design process. This is the 5th design put forward after four different consent decisions within a period of 2 years and 10 months. This has resulted in an intermittent and project splitting design process, where the design has not been conceptualised as whole. The impact on adjacent residents could not be mitigated by avoidance through design.
- The applicant has now submitted an appropriate assessment screening.
- In a consenting context it is suggested that the making of amendments to a consented design through an amendment planning permission can be treated in the same way as amendments to a physical structure. Adding a storey and a floor to an existing structure in the same way as adding same to a consented structure is significantly flawed as the physical constraints and

existing environmental impact is completely different for an existing built structure than for a consented structure. This constitutes 'project splitting' and leads to the idea of dealing with a small component of a development in isolation. This assumes the impact is minor and ignores all components of a development and overall impact on the environment. Environmental impact is not dividable. The design, consent and environmental impact must be considered together from a holistic point of view and not by focusing on ad hoc design components.

- The AA screening in the parent permission is irrelevant. It is submitted the applicant did not submit an AA Screening Report and subsequently failed in its statutory duty to provide adequate environmental information to the competent authority. It is the appellants view the competent authority did not have adequate information to make a finding. The validity of DCC's Planners finding is in serious question.
- The AA screening assessment uses the isolated and ad hoc proposed amendment component instead of the overall development. This implies project splitting.
- The change of the site redline boundary area did not form part of the public consultation process when consent was originally given. As a result distances from site boundaries to adjacent properties have changed. The potential for consideration of increased impact on adjacent properties have changed without the knowledge of the community.
- In relation to increased overlooking the appellants refer to the original 3rd party appeal report on comments on same.
- In relation to Sunlight and Daylight report discrepancies, the appellant acknowledges the reference to the correct report that followed amendments sought by ABP under the parent permission.
- The appellant remains concerned in this regard and would have sought an independent assessment of their properties but due to time constraints this was not possible.

- The appellants project architect raises concerns that the images in the report appear to still show the shadows cast from three-dimensional models onto a flat plane outside the site with no clear indication of the differences in elevation between the applicant site and surrounding properties which are lower on Dartmouth Square side. The indicative image of the rear elevation to 5 Dartmouth Square shows the garden as a flat plane. The project architect advises the proposed development remains a significant reduction in daylight especially in the evenings. Even a small reduction is significant and unnecessary.
- The appellant refers to the original third party appeal in relation to comments on Massing Scale and Alternative Design.
- It cannot be the case that best practise dictates repeated applications for planning permission for the purpose of compliance with fire certification. The fact fire certification is required does not suggest planning permission must be granted.
- The appellant refers to the original third party appeal in relation to comments on proposed mitigation through design.
- It is contended by the appellants that the transition between city centre and urban residential areas needs to be gradual. A nominal setback of 29m or narrow landscaped lane way is not in any way sufficient to act as an actual land use buffer between what is a city centre transitional area to an urban residential area.
- The landscape architect limits his assessment to the amended design only. This illustrates project splitting where individual pieces have limited impact while the sum of the pieces have a significantly large impact.
- The proposal constitutes overdevelopment beyond the consensus decision that ABP reached under the parent permission.

8.0 Assessment

8.1. Introduction

- 8.1.1. I have examined the application details and all other documentation on file, including the third party appeal, the response received on the appeal and the subsequent further response from the appellant. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I have also examined and considered the planning history of the site including the parent permission 2373/17, ABP-300873-18 and subsequent amendments permitted by DCC under 4755/19.
- 8.1.2. In the interest of clarity and as the application is for amendments to the parent permission 2373/17, ABP-300873-18 as subsequently amended under 4755/19, this assessment only relates to the proposed amendments set out in this application and will not reconsider the previously permitted developments on the site.
- 8.1.3. I consider the substantive issues arising from the grounds of this appeal, and for the purpose of assessing the appeal, relate to the following matters-
- Zoning and Principle of the Development
 - Project Splitting and Incremental Design
 - Residential Amenity
 - Built Heritage and Visual Impact
 - Overdevelopment
 - Other Matters
 - Appropriate Assessment

8.2. Zoning and Principle of the Development

- 8.2.1. The majority of the appeal site is zoned 'Z6 - Employment/Enterprise' within the Dublin City Development Plan 2016-2022, with a stated objective *'To provide for the creation and protection of enterprise and facilitate opportunities for employment creation'*.

- 8.2.2. A small area of the southern part of the site fronting onto Dartmouth Road has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' with a stated objective *'to protect, provide and improve residential amenities'*.
- 8.2.3. The northern part of the site generally including the area of the Carroll's Building is located/zoned within a Conservation Area (Red Hatching on zoning map). Lands directly to the east of the site are identified within an Architectural Conservation Area around Dartmouth Square.
- 8.2.4. The application is generally for amendments and extension of office accommodation at fourth and fifth floor levels, resulting in 298 sq.m of additional office floor space over both levels. Office use is listed as an Open for Consideration Use on Z6 zoned land in the City Development Plan. Having considered this and the permitted development on the site I am satisfied the development as proposed is an acceptable use in this context.

8.3. Project Splitting and Incremental Design

- 8.3.1. The appellants have raised considerable concerns in relation to the incremental nature of the overall design and that this approach has led to a scenario they consider to be 'Project Splitting'.
- 8.3.2. The application site has clearly been the subject of a number of planning applications including a number of iterations of the original design approved by the Board under ABP-300873-18 and throughout that application. That permitted design was also subsequently amended under 4755/19 which was approved by Dublin City Council. The subject application represents a further design or iteration and it is this overall approach that has raised the appellants concerns in relation to environmental impacts and the assessment of same.
- 8.3.3. In section 5.67 of their response to the appeal the applicants have identified a desire for a more marketable floor plate at 4th and 5th floor and fire safety requirements to justify the need for the application.
- 8.3.4. This approach to development is not considered unusual and amendments to permitted planning applications are common. General references to the proposed development being minor are not in my opinion suggestions that the development applied for is not material, as is clearly the case in this instance i.e. the applicants

have applied for a permission. In doing so, they have opened the proposal up to the statutory public consultation processes including the advertisement of the proposal to the wider public. The appellants have clearly engaged with this process. In this regard I do not accept the proposals are being made in 'stealth'. General references to the proposed development being minor are instead understood to refer to the impacts of the proposal in a planning context. Such impacts will be considered further in this assessment.

- 8.3.5. Changes to a parent permission through a series of planning applications is not the same as a deliberate splitting of a large project as suggested by the appellant. In this regard 'Project Splitting' in a planning context generally, relates to developments that when combined would otherwise exceed a threshold of development that would require the preparation of an Environmental Impact Assessment (EIA) and whereby a number of applications individually would not exceed such EIA thresholds.
- 8.3.6. Having regard to section 6.5 above and having considered schedule 5 of the Planning and Development Regulations 2001-21 (as amended) in relation to requirement for EIA and subthreshold developments, I am satisfied the proposed development and that already permitted are not 'project splitting' as described by the appellant and the need for EIA has been excluded at preliminary examination and a screening determination is not required in this instance.
- 8.3.7. As mentioned above, it is not unusual for an existing permission to be the subject of an application for amendment, modification and what could be considered incremental design changes, whatever the reason for such changes may be. Accordingly it clearly would not be appropriate or reasonable in this context to require the overall permitted proposal to form part of the subject application and as such this mechanism to amend approved permissions is considered entirely appropriate in this context. Should permission be granted it is appropriate that the subject application is tied to the terms and conditions of the parent permission and its permitted amendment. I recommend this be done through a condition.

8.4. Residential Amenity

- 8.4.1. The appellants have raised a number of residential amenity concerns having regard to the proximity of the site to the appellants property at No. 5 Dartmouth Square West. In particular they highlight overshadowing, overlooking and overbearing concerns.
- 8.4.2. The Planning Authority considers the proposed works will not have any significant additional impacts on the residential amenities of Dartmouth Square West.
- 8.4.3. The application proposes amendments and extension of the office accommodation at fourth and fifth floor levels, resulting in additional office floor space of 114 sq.m at fourth floor level and 184 sq.m at fifth floor level. These works are to the rear of the site towards Dartmouth Road. In this regard the main impacts of the development are considered to be along the southern and south eastern boundaries of the site.
- 8.4.4. At fourth floor level the proposal is for an extension of the building into the permitted terrace space. The extension will extend 6.705m south from the permitted southern elevation and will be recessed 4.57m from the permitted eastern elevation.
- 8.4.5. At fifth floor level the proposal is for an extension along the western part of the site. The extension will extend c. 23.5m from the permitted southern elevation and will be recessed c. 16m from the permitted eastern elevation.
- 8.4.6. The permitted development on site transitions in height from north to south giving a stepped down eastern elevation. The permitted development also transitions in height from west to east to give a stepped down southern elevation.
- 8.4.7. It is considered that the built form of the proposed development continues to provide an appropriate transition and stepping down in heights from north to south and from west to east.

Overlooking

- 8.4.8. In terms of overlooking the applicants have submitted a section drawing in their response to the appeal in which they show lines of sight to the upper floor windows of the rear elevations of property on Dartmouth Square West. These lines of sight are indicated as 48.05m to the proposed 4th floor and 58.49m to the fifth floor. I estimate the line of sights from the rear gardens to be c. 35-40m.

8.4.9. Having considered the permitted developments, the proposed development including reduction in the identified and permitted terrace area at fourth floor, the nature of the proposed use, the sites location and the separation distances to the rear gardens and houses on Dartmouth Square I do not consider that the development as proposed will have a significant impact in terms of overlooking.

Overshadowing

8.4.10. The appellants raised concerns of overshadowing from the proposed development and in particular were concerned by discrepancies between the sunlight daylight report of the original application of 2017 and the 2020 report submitted with the subject application.

8.4.11. The applicants in their response to the appeal have clarified the confusion in relation to the sunlight and daylight reports that formed the basis of the submitted Sunlight and Daylight Access Analysis. In this regard the correct report was the one submitted in response to a section 132 request be ABP and as permitted under ABP-300873-18. It is noted that the appellants further response has accepted this position but still raise concerns in this regard.

8.4.12. I have reviewed the Sunlight and Daylight Access Analysis report submitted with the application and the Sunlight and Daylight Impact Response to the appeal. This includes a qualitative analysis of the potential impact of the proposed development on sunlight and daylight access to windows to the rear of No 5 Dartmouth Square and on sunlight access to the rear garden of No. 5. This report details that there is little or no difference between the impacts of shadow cast by the development previously permitted and amended.

8.4.13. In the third party response to the appeal concerns are still raised in relation to the ground levels used for assessment to 5 Dartmouth Square West.

8.4.14. I have examined the permitted developments, the proposed development, the location within the site off the proposal and the sites orientation. I have reviewed the Sunlight and Daylight Access Analysis report submitted with the application and the response to the appeal as well as the third party concerns raised in relation to both. I do not consider that the development as proposed will have a significant impact in terms of overshadowing and access to daylight and sunlight upon No. 5 Dartmouth Square West or any other residential property along this road.

Overbearing

- 8.4.15. The appellants have raised concerns in relation to overbearing on the streetscape of Dartmouth Square West.
- 8.4.16. The applicants have submitted a Visual Impact Assessment with the application including a number of photomontages showing the permitted and proposed development.
- 8.4.17. I have examined the permitted and proposed drawings for the application site including the Visual Impact Assessment. I have inspected the site including observing the site from a number of surrounding public areas including Dartmouth Square and Dartmouth Square West. I do not consider the development as proposed will have any significant overbearing impact in this context.

Conclusion

Overall, and having particular regard to the existing permissions on site I consider the proposed amendments and extensions to the permitted development will not have a significant or negative impact upon residential amenities in the area.

8.5. Built Heritage and Visual Impact

- 8.5.1. The application site accommodates the former Carroll's building which is an 8 storey building and is identified on Dublin City Council's Record of Protected Structures as RPS Ref 3280 Carroll's Building.
- 8.5.2. The row of terraced houses numbered 1-17 along Dartmouth Square West are all also protected structures (Ref No's 2147-2163). These houses and the general area around Dartmouth Square are identified as an Architectural Conservation Area in the Dublin City Development Plan.
- 8.5.3. The proposed development is for amendments and an extension to an already permitted office development to the rear of the Carroll's building comprising of a part 3 to part 6 storey office development.
- 8.5.4. The proposed fourth and fifth floor extensions are located to the southern side and rear of the permitted sixth storey office building and in this context will be set back and remote from the protected Carroll's Building. In this regard I am satisfied that the

proposed development will have no material impact upon the protected structure and accordingly I have no concerns in this regard.

- 8.5.5. I note the proximity of the application site and in particular its eastern boundary to the rear gardens of houses on Dartmouth Square West. These gardens form part of the curtilage of Protected Structures along Dartmouth Square West and are also identified within the Dartmouth Square Architectural Conservation Area in the Dublin City Development Plan.
- 8.5.6. The appellants raises visual impact concerns relating to the design, built form and mass including that the bulk of the building as proposed has increased against the skyline and is no longer broken up by a stepped down design which increases the visual impact to an unacceptable level. They argue that the proposal represents an abrupt transition in building height between different land use zones.
- 8.5.7. Having particular regard to the permitted development on site I do not share the appellants contention in this regard. I have examined the permitted and proposed drawings for the application site including the Visual Impact Assessment and in my opinion the proposed development involves minor changes to the permitted development which I consider respects the permitted transition in scale between the adjoining land uses as well as the sites proximity to an Architectural Conservation Area. I consider the development as proposed and in the context of the permitted developments on site, will not have any significant visual impact or a negative impact upon the identified built heritage of the area.

8.6. **Overdevelopment**

- 8.6.1. The appellant has raised concerns in relation to the intensification of use of the land and consider the proposal to be overdevelopment of the site.
- 8.6.2. The applicants argue that the proposal will result in a modest height and intensity of development and does not represent overdevelopment of the site. They refer to both plot ratio and site coverage standards with the Dublin City Development Plan and detail the proposal is below these standards at 2.1 and c.33%. The development plan recommends 2.0-3.0 and 60%
- 8.6.3. Having regard to National Policy Objective 11 of the National Planning Framework and Policy CEE11, the Z6 zoning objective for the site and sections 16.5 Plot Ratio &

16.6 Site Coverage as set put in the Dublin City Development Plan, I consider the nature of the proposed use in very close proximity to an existing Luas line with a proposed Metrolink interchange entirely appropriate. I do not consider a 298 sq.m extension of office floor space in this context to be overly intensive use of these lands nor do I consider it overdevelopment of the site.

8.7. Other Matters

- Consideration of proposal from the appellants architect
 - The appellants have questioned the rationale and need for the proposed development. In this regard they refer to the requirements to comply with a condition of a fire safety certificate as the applicants justification for the proposed development.
 - To counter this justification they have put forward a design amendment based on analysis and advise by Sean Mahon Architect. It is argued that there are alternative ways that an increase in floor area could have been designed without having such a negative effect on the adjoining residents.
 - The applicants have detailed in section 5.67 of their response to the appeal that they seeks a more marketable floor plate at 4th and 5th floor and fire safety requirements to justify the need for the application. As already discussed amendments to permitted planning applications are not unusual and the reasons for this application as submitted by the applicants are considered reasonable.
 - Notwithstanding any merits of the design amendment put forward by the appellant, the proposal for assessment in this appeal is the one put forward by the applicants. It is the proposal applied for that forms the basis of this assessment.

- Amendment to Site Boundary and Public Participation
 - The application proposes a change to the application site boundary of previous permissions to accommodate the additional access / egress

route at ground level. This will facilitate an additional ramped pedestrian entrance to the rear of the permitted development, with a width of c. 2m.

- The appellants appear to argue that this change did not form part of the public consultation process when the parent permission was originally given. They refer to distances from site boundaries to adjacent properties have changed and as result the potential for consideration of increased impact on adjacent properties have changed without the knowledge of the community.
- Similar to section 8.3 above, an application for changes to site boundary is not unusual. The fact that this change has been provided for in the development description and advertised accordingly ensures the public/community are adequately informed and may enter the public participation should they desire. This is exactly what the appellants have done. I am satisfied there are no concerns in this regard.

8.8. Appropriate Assessment

8.8.1. The Planning Authority have considered that-

‘Having regard to the nature and scale of the proposed development and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.’

8.8.2. In response to the third party appeal the applicants have submitted an AA Screening Report.

8.8.3. The appellants have raised considerable concerns in relation to the Environmental Impact of the development and in their further response to the applicants appeal response they contend that the AA screening in the parent permission is irrelevant to the subject application. They argue the applicant by not submitting an AA Screening Report with the original application failed in its statutory duty to provide adequate environmental information to the competent authority. They also contend the AA

screening assessment uses the isolated and ad hoc proposed amendment component instead of the overall development.

8.8.4. **Stage 1 – Screening**

The applicants have submitted an 'Appropriate Assessment Screening Report' (AASR) in response to the appeal. The AASR has been compiled by EnviroGuide Consulting. The contents of this report appear reasonable and robust. It is noted that the site is not located within or directly adjacent to any Natura 2000 area. The site is generally composed of artificial habitats such as buildings and hard surfaces. The Grand Canal is located close to the northern boundary of the site and flows from west to east.

8.8.5. The submitted screening report concludes '*on the basis of objective information; the possibility **may be excluded** that the Proposed Development, either alone or in combination with other plans or , will have a significant effect on any of the Natura 200 sites listed.....Accordingly a stage 2 Appropriate Assessment is not required to be carried out in relation to the Proposed Development.*'.

8.8.6. Notwithstanding the AASR submitted in response to the appeal the following sets out my Appropriate Assessment Screening of the proposed development.

8.8.7. **The Proposed Development and Receiving Environment**

The proposed development generally comprises amendments of a previously granted permission with a subsequent permitted amendment and includes the extension of office accommodation at fourth and fifth floor levels, resulting in 298 sq.m of additional office floor space over both levels.

The site is currently under construction but can be described as brownfield and previously developed. It is not located within or adjoining a designated European site.

Taking account of the characteristics of the proposed development in terms of its context, nature, location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites-

- discharge of surface water from the site

- discharge of foul water from the site.

8.8.8. European Sites

Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites as set out in Table 1 to be within the zone of influence of the subject site-

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
South Dublin Bay SAC [000210]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 3.2km to the east
North Dublin Bay SAC [000206]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalwort <i>Petalophyllum ralfsii</i> [1395]	c. 6.2km to north east
South Dublin Bay and River Tolka Estuary SPA [004024]	Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046] Oystercatcher <i>Haematopus ostralegus</i> [A130] Ringed plover <i>Charadrius hiaticula</i> [A137] Grey plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143]	c. 3.2km to the east

	<p>Sanderling <i>Calidris alba</i> [A149]</p> <p>Dunlin <i>Calidris alpina</i> [A149]</p> <p>Bar-tailed godwit <i>Limosa lapponica</i> [A157]</p> <p>Redshank <i>Tringa totanus</i> [A162]</p> <p>Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]</p> <p>Roseate Tern <i>Sterna dougallii</i> [A192]</p> <p>Common Tern <i>Sterna hirundo</i> [A193]</p> <p>Arctic Tern <i>Sterna paradisaea</i> [A194]</p> <p>Wetland and waterbirds [A999]</p>	
<p>North Bull Island SPA [004006]</p>	<p>Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046]</p> <p>Shelduck <i>Tadorna</i> [A048]</p> <p>Teal <i>Anas crecca</i> [A052]</p> <p>Pintail <i>Anas acuta</i> [A054]</p> <p>Shoveler <i>Anas clypeata</i> [A056]</p> <p>Oystercatcher <i>Haematopus ostralegus</i> [A130]</p> <p>Golden Plover <i>Pluvialis apricaria</i> [A140]</p> <p>Grey Plover <i>Pluvialis squatarola</i> [A141]</p> <p>Knot <i>Calidris canutus</i> [A143]</p> <p>Sanderling <i>Calidris alba</i> [A144]</p> <p>Dunlin <i>Calidris alpina</i> [A149]</p> <p>Black-tailed Godwit <i>Limosa</i> [A156]</p> <p>Bar-tailed Godwit <i>Limosa lapponica</i> [A157]</p> <p>Curlew <i>Numenius arquata</i> [A160]</p> <p>Redshank <i>Tringa totanus</i> [A162]</p> <p>Turnstone <i>Arenaria interpres</i> [A169]</p> <p>Black-headed Gull <i>Chroicocephalus ridibundus</i> [A179]</p> <p>Wetland and Waterbirds [A999]</p>	<p>c. 6.2 km to the north east</p>

I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent

of marine waters or given the absence of any direct hydrological or other pathway to the appeal site.

8.8.9. **Test of Likely Significant Effects**

The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Based on the source-pathway-receptor model, the nearest downstream pathway to designated sites from the appeal site would appear to be the Grand Canal to the north of the site which flows into Dublin Bay.

8.8.10. **Potential Effects**

Having regard to the urban context and the nature of the proposed use of the site, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. I consider standard best practise measures would generally be sufficient to address these considerations during both the construction and operational phase.

Due to the nature of the application site and the proposed development, there is no direct pathway to a European site, however there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.

The proposal development is to utilise previously approved drainage infrastructure and in terms of surface water the submitted Screening Report refers to proposed Sustainable Urban Drainage Systems (SUDs) techniques.

The proposed increase in floor area of 298 sq.m is considered minor in this context and will have a minimal impact on the foul sewer connections. All foul water from the proposed development would be discharged via the public system to the Ringsend Wastewater Treatment Plant (WWTP). Permission has also been granted (ABP Ref. 301798-18) for works that would increase the capacity of the plant.

I note there is evidence to suggest that some nutrient enrichment is benefiting winter birds for which the SPAs have been designated in Dublin Bay (Nairn & O' Halloran

eds, 2012). Increased flows from this project to Ringsend WWTP, individually or cumulatively are therefore not likely to have a significant impact on protected sites.

I consider that the distances are such that any pollutants in discharge post treatment from the Ringsend WWTP would be minimal and would be sufficiently diluted and dispersed. Therefore, there is no likelihood that pollutants arising from the proposed development, either during construction or operation, could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

8.8.11. In-combination Impacts

Notwithstanding the permitted developments on site, and having regard to the above findings of no likely significant effects from the minor increase in floor area from the proposed development, I am satisfied that likely significant in-combination impacts would not arise in this context.

8.8.12. Conclusion

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024),
- South Dublin Bay SAC (Site Code: 000210),
- North Bull Island SPA (Site Code: 004006) and
- North Dublin Bay SAC (Site Code: 000206),
- or any other European sites, in light of the sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I did not consider any possible mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 Recommendation

9.1. I recommend that permission is granted subject to the following conditions

10.0 Reasons and Considerations

Having regard to the permitted developments on site, the sites proximity and siting to the Carroll's Building a Protected Structures (RPS Reference Number: 3280) and the Dartmouth Square Architectural Conservation Area both as identified in the current Dublin City Development Plan, 2016-2022 it is considered that the proposed development, subject to compliance with the conditions as set out below, would not negatively impact upon the built heritage of the area and would not seriously injure the visual or residential amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 26th day of January 2021, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The developer shall comply with all conditions of the parent application Reg. Ref.: 2373/17 & ABP Ref. ABP-300873-18 as subsequently amended under Reg. Ref.: 4755/19 save for amendments made by this application.

Reason: In the interest of clarity.

3. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other

external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

4. Drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to commencement of development

Reason: In the interest of public health

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

6. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning

authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Adrian Ormsby
Planning Inspector

26th April 2021