



An
Bord
Pleanála

Inspector's Report ABP 309549-21

Development	Demolition of existing buildings and construction of a four, five and six storey mixed use development (restaurant retail at ground level, short-term letting residential units. (24 No) at first to fifth floors.
Location	Nos. 13 & 13A Merrion Row and Nos. 12A, 12B and 12C Merrion Court. Dublin 2.
Planning Authority	Dublin City Council
P. A. Reg. Ref.	2464/20
Applicant	Aviva Life and Pensions Ireland DAC.
Type of Application	Permission
Decision	Grant Permission.
Appellants	<ol style="list-style-type: none">1. Aviva Life and Pensions Ireland DAC.2. Boston College Ireland.3. Simon Broadhead.

*(Continued
overleaf.)*

Observers

Phillip O'Reilly

Patrick O'Reilly

Frank McDonald

South Georgian Core Residents

Association

Transportation Infrastructure Ireland.

Date of Site Inspection

31st May, 2021.

Inspector

Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The site is that, has a stated area of 420 square metres and comprises a group of buildings which are or, have been in a range of uses primarily restaurant, (the former Unicorn restaurant) commercial (estate agent) and public house uses on Merrion Row and three of the five former coach units on the east side of Merrion Court, (Nos 12a 12b and 12c). There is a two-storey building at the corner of Merrion Row and Merrion Court, and those on the east side of Merrion Court are stable/coach buildings. Nos 12d and 12e the remaining two outside of the application site, are also in the applicant's ownership.
- 1.2. Also, within the application site is a separate as a small area at the southwest corner of Merrion Court at the rear of Nos 44/45 St Stephen's Green and No 17 Hume Street. It is in third party ownership from which consent to the application has been provided. Merrion Court is a narrow cul de sac lane off which there are several services entrances to the existing buildings and a vehicular entrance to carparking at the rear of the Boston College premises at Nos 42 and 43 St Stephen's Green.
- 1.3. There is a four-storey building facing onto Merrion Row on the corner to the west side of Merrion Court on Merrion Row the ground floor which is occupied by "Bang" restaurant.
- 1.4. The street hierarchy, layout and urban grain established during the Georgian period is substantially intact in the block formed by Ely Place to the east Hume Street to the south, St Stephen's Green to the west and Merrion Row to the north. Within it, Merrion Court (formerly Stable Lane) along which the stable buildings dating from the eighteenth century have been located, served as rear access to the properties on the principal streets in the block but was subsequently closed off at the southern end. Alterations and changes attributable to evolving changes in land use, occurred in the nineteenth and twentieth centuries, notably discontinuation of use of stable buildings and gardens at the rear of the large Georgian townhouses and adaption for commercial and similar uses.
- 1.5. There are yellow line marking of Merrion Court along which there are no pedestrian footpaths. It has primarily been used as a service access and as a vehicular route to the rear access and carparking area at the rear of Nos 42 and 43 St Stephen's Green, (Boston College) one of the third-party appellants. At the time of inspection,

works were being undertaken on Merrion Row providing for vehicular transport along a single carriageway only, new cycle paths and, widening of footpaths.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for demolition of the existing buildings and construction of a part four, five and six no. storey mixed-use development, (including setback upper floors with sedum roof and PV panels at roof level) providing for retail/restaurant use at ground floor level and short-term let residential accommodation on each of the upper floors. The short-term letting element consists of 11. studio units, 9 1-bedroom units and 4. 2-bedroom units, each with private amenity space. The proposed access to the short-term letting accommodation and the retail and restaurant is on the Merrion Row frontage. A separate storage unit (36.2 square metres) for 28 no. secure bicycle parking spaces and refuse store is to be provided at the space on the west side of Merrion Court; All plant and all associated site development works. The total gross floor area of the proposals is 1,979.5 square metres.

2.2. The application is accompanied by:

- an archaeological desk study indicating a recommendation for archaeological monitoring.

- Landscape Architect's report and drawings including visual impact assessment

- Architectural Conservation assessment report

- Photomontages/verified images.

- Outline Construction Management Plan

- Construction Management Plan,

- Flood Risk Assessment

- Engineering Services Report

- Operational Waste Management Plan

- Sustainability report

- An appropriate assessment screening report and.

- Planning Report

2.3. A multiple item additional information request was issued to the applicant regarding concerns of the planning authority, taking into account the technical reports of the Conservation Officer with regard to impacts on architectural heritage and protected structures and the Transportation Planning Division, with regard to vehicular and pedestrian circulation and safety and convenience on 30th June, 2020. The applicant was requested to address issues relating to height, scale and mass and visual impact, impact on pedestrian footfall, a setback from the front building line on Merrion Row being recommended for consideration, clarification on details of proposals for and extent of demolition, provision for ancillary and staff facilities, refuse storage arrangements and arrangements for extraction and services equipment.

2.4. A response along with supplementary submissions was lodged on 4th January, 2021 by the applicant's agent along with a supplementary statement by the applicant's conservation architect and revised, verified views. Two studio apartments, units are replaced with a two bed unit, modifications are made to design and massing with increased separation distances at the southern end and to the frontage onto Merrion Row, the design for the cycle refuse storage area is revised and clarification is provided on the extent of demolition proposed.

2.5. **Planning Authority Decision**

The planning authority decided to grant permission following consideration of the further information submission subject to conditions. Condition No 4, which is subject to appeal by the applicant contains requirements under (a) for omission of the fifth floor and (b) omission of Apartment 405 with the space being replaced by a terrace.

2.6. **Planning Authority Reports**

2.6.1. The report of the **City Archaeologist** contains a recommendation for inclusion of a monitoring condition, should permission be granted.,

2.6.2. The report of the **Transportation Planning Division** of 29th May, 2021 indicates acceptance of the zero-parking provision given the central city location and the constraints at the site, acceptance of the cycle parking arrangements, and the proposed arrangements for storage and collection of wastes and servicing.

Recommendations include a requirement, by condition for a detailed construction management plan and, a setback for the ground floor to allow for additional space for pedestrian circulation, there being a concern as to potential increased pedestrian footfall.

2.6.3. The report of the **Conservation Officer** dated 19th June, 2021 indicates concerns as to irreversible erosion of historic plots and loss of historic fabric and adverse impact particularly having regard to the conservation area designation and the location in the heart of the South Georgian Core. Reference is made to policy objective CHC|§ and to sections 11.1.5.6, 16.2.2.2 and 17.10. 17 of the CDP in indicating the concerns as to architectural heritage impact and it is strongly recommended that if permission is to be granted, a very high quality of design and detailing is required to that the development complements the character of the historic streetscape and the setting of protected structures in the vicinity. It is also recommended that any new structure should not exceed four storeys on Merrion Row and three storeys at the rear on Merrion Court. A request for additional information is recommended in the report.

2.6.4. The report of the **Drainage Division** indicates no objection subject to standard conditions.

2.7. **Prescribed Bodies**

The submission of Transportation Infrastructure Ireland indicates a recommendation for inclusion of a section 49 supplementary development contribution condition, if applicable, should permission be granted.

2.8. **Third Party Observations**

2.8.1. Observations were lodged by several parties in which issues of concern raised relate to objections to demolition of historic buildings, scale, height and design and consequent impacts on the historic layout and streetscape, conservation area and protected structures within the south Georgian core, the use mix, particularly the proposed short let apartment units, traffic and pedestrian safety and convenience, potential for anti-social behaviour and the amenities of the area.

3.0 Planning History

3.1. The application site has the benefit of an extant grant of permission for minor development and a prior history of grants of permission the duration of which has expired. Details follow:

P. A. Reg. Ref.3206/18: Permission was granted for the installation of new fascia boards, signage and down lighting on the front facade together with the infill of the courtyard to the front (south) of 13B providing 30square metres m of additional area at ground floor and additional 30sqm open-air terrace dining at first floor, all with ancillary works.

P.A. Reg. Ref. 052/14 Permission granted for alterations to existing two storey licensed restaurant to omit first floor kitchen and ancillary areas and to block up the existing ope in the separating wall between 13a & 13b at first floor level and to construct a new kitchen and toilets at first floor rear and to extend the terrace at first floor.

P. A. Reg. Ref. 4088/09: Permission was granted for the change of use of the existing building from the established travel agent / travel shop use to financial services with a stated floor area of 106.3 square metres. With the services being provided principally to visiting members of the public.

P. A. Reg. Ref.5437/08: Permission granted for demolition of all existing buildings and the Construction of a part 3, part 4, and part 5 storey building over basement level hotel buildings subject to twenty conditions. According to the development description, the building height fronting Merrion Row is 4 storey over basement stepping up to 5 storey southwards along Merrion Court to provide for a roof terrace overlooking Merrion Row at fourth floor level and a centrally located roof terrace and screened plant at 5th floor level (roof level). The southern portion of the building stands at a 3-storey height where it adjoins No 12e Merrion Court to the south with a roof terrace overhead. The uses comprised restaurant including private dining and retail at ground level, basement level storage, conference rooms at first floor level, and en-suite apart hotel rooms at second floor level and a cookery school at third floor level, an auditorium, club and outdoor seating at fourth floor level and at fifth level, a landscaped roof terrace and a sedum roof. Levels.

4.0 Policy Context

4.1. Development Plan

- 4.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site is subject to the zoning objective: Z5: *“To consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity.”*
- 4.1.2. 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
- 4.1.3. development’ and ‘to provide a dynamic mix of which interact with each
- 4.1.4. 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.
- 4.1.5.
- 4.1.6. The lands to the immediate south, and west comprising houses on St Stephen’s Green and on Hume Street are subject to the zoning objective Z8: - *“To protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective.”*
- 4.1.7. For development subject to the ‘Z5’ zoning objective, the indicative plot ratio is 2.5 – 3. and the indicative site coverage is 90 percent.
- 4.1.8. 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.
- 4.1.9. Development management guidance and standards are set out in Chapter 16.
- 4.1.10. Policy CHC1 provides for ‘...presentation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city’.
- 4.1.11. The site and the block in which it is located within a Conservation Area.

- 4.1.12. Several buildings within the block in which the site is located are included on the record of protected structures including the Hume Street buildings the rear facades of which overlook Merrion Court and along Stephen's Green East to the west of Merrion Court.
- 4.1.13. Section 11.1.5.3 and Policy CHC4 provide for the protection of the special interest and character of all Dublin's Conservation Areas and encourages opportunities for development to enhance and protect character and settings in these areas where possible. (Note: The development plan provides for specific objectives for designated "Conservation Areas" in addition to and distinct from statutory Architectural Conservation Areas as provided for in Part IV Chapter 2 of the Planning and Development Acts, 2000 as amended.)
- 4.1.14. The location is within the zone of Archaeological Constraint for Recorded Monument DU018-020 (Dublin City) and the Zone of Archaeological Interest.
- 4.1.15. The site location is within area 1 for carparking and cycle as identified on Map J for which there is a minimum of one cycle space per 100 square metres office space or 150 square metres' restaurant space.

4.2. Strategic Guidance

- 4.2.1. *"Urban Development and Building Heights: Guidelines for Planning Authorities"*, 2018, (The Building Height Guidelines) issued under Section 28 of the Planning and Development Act, 2000 as amended.
- 4.2.2. According to section 3.2, "..... *Development proposals incorporating increased building height, including proposals within architectural sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views....*"

5.0 The Appeals

- 5.1. There are three appeals, one by the applicant against Condition No 4 and two by third parties, each of which are outlined below.

5.2. First Party Appeal - Aviva Life and Pensions Ireland DAC.

5.2.1. An appeal was received from the applicant's agent on 25th February, 2021. The appeal is solely against the requirements of Condition No 4 for omission of the fifth floor and Unit 405 with its space being replaced by a terrace for reasons of protection of visual amenity. It is requested therefore that permission be granted for the proposed development as proposed in the further information submission on grounds that omission of a floor and a single unit is unwarranted. Included is a Landscape and Visual Impact assessment prepared for the appeal and a statement by the applicant's architect to supplement the submissions provided at application stage.

5.2.2. According to the appeal: -

- The modified proposal respects the conservation area and protected structures and does not give rise to adverse visual impact.
- The building height accords with the 28 metres' limit provided for in section 16.7.2 of the CDP, is consistent with the Building Height Guidelines, incorporates step downs/setbacks and is in a streetscape of varied building heights. The existing context of the streetscape is respected while the opportunity has been taken to optimise development on an underutilised brownfield site. There is successful integration with the heights on the south side and Merrion Court which heights range between 15 and 18 metres and the Hume Street Buildings on Hume Street reach 19.9 metres. The development fits into the block being similar in scale with buildings on Ely Place, Stephen Green West and lower than the buildings on Stephen Green North leading to Merrion Row.
- The increased setback provides for an external terrace and protects amenities at adjoining properties.
- The height is also acceptable in that overshadowing impact is minimal as demonstrated in the submitted daylight and overshadowing report.
- The proposed plot ratio is justified and complies with the criteria for higher plot ratios provided for in the CDP as accepted by the planning officer.

- With regard to visual impact reference is made to the Landscape and Visual Impact Assessment and verified views in Section 8 of the Design statement (submitted, at application stage) and the supplementary submission (LVIA) in the appeal to support the modified proposal provided in the further information submission. It shows that

The reduced massing increases separation distance mitigating visual impact. Merrion Court is not sensitive and capable of accepting the scale and nature of the proposed development as it is a side street not subject to significant footfall and at the rear.

Longer views (views 5 and 8) from Stephen Green North the building is less evident than in closer views, to top floor (below chimney stacks being observable at the Kildare Street junction (View 6) and below the Hume Street ridgelines and appearing like an extension of the Merrion Row roofscape and east side of St Stephen's Green (Views 7-9) and as a subsidiary feature. (Views 7 and 8)

There is no visibility from prominent central city locations, (Views 2 and 3) and 13 (Stephen Green East and Merrion Square) at Merrion Row/Merrion Street, (View 10) the visual impact is positive and integrates well into Merrion Row with height modulation increasing towards Merrion Court at the corner and with the upper storeys' setback mitigating adverse visual impact from street level views where the development fits the stepped roofscape and graduation of height on Merrion Row.

From Baggot Street Lower (View 11) there is integration and a good fit into the streetscape with there being superior design to the existing development.

- The parapet height (+20.42m) is appropriate to the +19.9 m buildings on Hume Street and in graduation towards Stephen's Green and in relation to the Department of Finance at +21.7 with greater heights to 25 metres towards the west. It enhances the conservation area and it complies with Section 16.2.2.2 of the CDP on respect for prevailing scale, quality and uniformity in the surrounding streetscape and shows independence of form and design as

submitted with regard to floors four and five in the Design Statement lodged with the application. The proposal complies with Policy CHC1 and SC 25 in making a positive contribution.

- Nos 12d and 12e Merrion Court were excluded from the application so that there is an appropriate separation distance to the houses on Hume Street the impact on which is further mitigated by the fifth-floor setback which increases from 23.3 metres to 26.6 metres at the top floor. These setbacks allow for the integration into Merrion Row's frontage having regard to the composition with the protected structures. The plot forms and building typologies are respected with the development merging into and enclosing the urban block as demonstrated in the submission of the conservation architect at application stage. The development is consistent with the relevant policies in the CDP especially section 11.1.5.6 with regard to conservation areas.
- There is a rationale for the use mix, providing for the short-term letting which as modified in the further information submission (in which the units are reduced to eighteen (from twenty-three) along with the retail/restaurant use at ground level according to market research as submitted at application stage and a commercially viable development

5.3. Third Party Appeal – Simon Broadhead

5.3.1. An appeal was lodged by Simon Broadhead on 24th February, 2021. Included is a sheet with details of the parapet heights on Merrion Row compared with those of the proposed development and extracts from the CDP (Chapter 11). According to the appeal:

- The height is excessive relative to the streetscape. The parapet height, those along Merrion Row being very consistent are the most important as is confirmed in the conservation officer's report. Nos 2-4 Merrion Row and Nos 7-9 (Dept Finance) over part of the west section, respects the parapet height. The heights on the south side of Merrion Row are also relatively consistent as far as Ely Place. The proposed parapet height at 17.3 metres and originally at 20.4 metres is not consistent with the 12-13 metres height, having regard to the requirements of Condition No 4. Images are included to show views west

between Nos 2/4 Merrion Road and the Huguenot Cemetery, photos taken from the upper floors at No 6 Merrion Row and of No 6 Merrion Row (protected structure) to illustrate parapet lines and the case as to adverse visual impacts of the proposed development.

- The proposed development due to the excess height, scale and volume being out of context with the streetscape has negative impact on the Conservation Area, in which the site is located and is contrary to the CDP in that it does not enhance its character and distinctiveness. Similarly, it fails to comply with the 'Z5' zoning objective as it does not strengthen and protect the civic design character and dignity of the area.
- Views towards the rear of the buildings on Hume Street are visible over the relatively low height buildings on the south side of Merrion Row from the upper floors of No 6 Merrion Row which has an open aspect which also allows for uninterrupted sunlight to the front of No 6 since original construction. The anomalous low height of opposite and the existing urban scale is worth preserving in its own right and should not be removed to provide for conformity. Permission should be refused because of the impact on the context of the protected structure and the historic urban landscape having regard to the provision for conservation areas in the CDP.
- No 6 Merrion Row would be overshadowed as the proposed development does not satisfy standards in BRE 209 for obstruction of daylight. The six-storey building have doubled in impact the obstruction angle, at 48 degrees from 25 degrees. While No 6 Merrion Row may be in office use, at a future date they could be in residential use. The obstruction angle should be no more than thirty degrees. In relation to the ground floor windows of Hugo's restaurant.
- The requirements of Condition No 5 on construction hours, noise levels etc. may be inadequate. The Merrion Row area has a history of problems of disruption which has affected business at lunchtime and in the evenings. Impacts on commercial and residential uses need consideration.

5.4. Third Party Appeal – Boston College.

5.4.1. An appeal was lodged by Feargall Kenny on behalf of Boston College of Nos 42 and 43 St. Stephen's Green on 25th February, 2021. This property has a rear access, to on-site parking off the west side of Merrion Court.

5.4.2. According to the appeal: -

- Merrion Court is forty metres long and 3.5 metres wide increasing to 4.6 metres wide at the entrance to Merrion Row where it is blind to traffic on the one-way system from the left and conditions are hazardous. Some vehicles using Merrion Court, many of which are services vehicles reverse out onto Merrion Row. Merrion Court is a 'no parking' area with double yellow lines on either side. These vehicles constantly block the area at the entrance to the parking and service are at the rear of Boston College at No 42 St Stephen's Green. As Merrion Court is lacking in width and turning space it is often congested causing difficulties in gaining access to the rear entrance of the appellant's property and onto Merrion Row, a one-way street with narrow footpaths, off Merrion Court.
- The proposed development, involving an additional restaurant and the short-let accommodation would generate additional vehicular trips and pedestrian circulation and would seriously exacerbate these congestion and hazardous conditions on Merrion Court and in the area. This is due to the absence of parking and set down areas and traffic generation and these impacts will adversely affect the amenities and use of the access at the appellant property along Merrion Court.
- With regard to parking, the site would generate a maximum requirement of seven spaces having regard to the standards section 16.38 and Table 1 of the CDP. It is unrealistic to assume that all trips generated would not require use of set down areas and parking spaces. Service parking areas within site curtilages are required according to section 16. 38.1 of the CDP which has not been taken into account. Lack of parking, set down, and service areas on Merrion Road and Merrion Court creating congestion illegal parking and hazard for all road users including pedestrians

- The cycle storage area proposed, (for twenty-eight cycles) and refuse storage area is ugly and piecemeal and unsatisfactory. No development that would cause an increase to the problems in terms of hazard and inconvenience that existing should be permitted. A solution should be found before any such development should be permitted to proceed.

5.5. Applicant Response

5.5.1. A submission was received from the applicant's agent on 29th March, 2021. It contains a detailed description of the site location, an account of and commentary on the planning context and background and the application and the planning authority's assessment and decision. Included is a copy of the daylight and sunlight analysis report submitted at application stage.

5.5.2. With regard to the **appeal by Boston College** it is submitted that:

- The proposed development is acceptable in terms of parking and traffic generation and circulation.
- It is confirmed that one, not two restaurants would be operated off Merrion Court in that a restaurant has ceased trading
- The short term let accommodation is a very low traffic generating use with no exacerbation of current conditions on the lane, Services deliveries are to be coordinated.
- The statement as to interference with access and egress from Boston College through its carpark and entrance onto the lane is rejected. No change to widths and building lines are proposed and this accords with section 16.2.1 of the CDP with regard to respect for the historic character and the setting of the mews.
- The contention that carparking (7 spaces) in the Boston College appeal should be required is not accepted and there is no quantum to serve sort term accommodation specified in the CDP. A requirement for parking in unnecessary and the zero parking is consistent with statutory guidance such as the Apartment Guidelines. It is sustainable given the available of soft and

public transport modes and has been accepted by the Transport Planning Division in its reports.

- The applicant opted not to develop the two remaining buildings (12d and 12e) on the east side of Merrion Court, in its ownership in order that the heritage value of the buildings on Hume Street to the south and to the west at St Stephen's Green East, (protected structures) could be respected through appropriate separation distances.

5.5.3. With regard to the **appeal by Simon Broadhead** it is submitted that:

- The building is appropriately scaled and designed in scale and massing to allow integration into the streetscape and, simultaneously to respect the nature and setting of the protected structures at Hume Street (with greater setbacks at top level and separation distances).
- It is an appropriate mixed-use development in uses suited to the area and visually aligned with the urban form and pattern of development in the area.
- The height respects urban design principles and allows for sustainable development of brownfield infill site respecting the heritage context of the area.
- The two buildings in close proximity on Merrion Row (north) extend over twenty-four metres and height increases towards St Stephen's Green when looking west with the proposal amounting to gradual visual graduation.
- The two remaining buildings on Merrion Row will remain undeveloped to contribute to the sense of place along Merrion Row. (12d and 12e)
- The appellant does not refer to section 16.7 of the CDP regarding the for twenty-eight metres height limit for commercial buildings in the central city, the Building Height Guidelines with the presumption in favour of higher buildings and, Objective 13 of the NPF providing for additional height subject to criteria is subject to certain criteria in city centre locations. The current proposal comfortably fits with its parapet height of +20.42 m and with sensitive integration in scale and massing to the site location ensuring visual alignment into the existing urban form and pattern of development and complementing

the environment with positive visual impact. Reference is made to the LVIA included in the appeal against condition No 4 on the streetscape described as evolving but intact and the proposed 'infill' of high-quality design.

- With regard to the plot ratio and site coverage, it the appellant has disregarded sections 16.5 and 16.6 of the CDP which notes the circumstances which allow for flexibility for higher ratios than those indicated in application of the plot ratio and site coverage to be considered.
- It is contended that the development site is near public transport termini and corridors and has a mix of residential and commercial uses; is a site in need or urban renewal, as it is a brownfield infill site in the centre of the city and can be optimised in its potential and make a positive contribution. It maintains streetscape profiles and relates to existing taller building profiles towards St Stephen's Green, on the north side of Merrion Row and the verified views and show satisfactory integration into the street profile and the site. In its current condition the site is underdeveloped in spite of high site coverage (90%) having regard to the indicative plot ratio for 'Z5' lands and the location in the city centre. Significant increases in density and intensity are encouraged in the Building Height Guidelines, the National Policy Framework.
- The proposal relates to and positively contributes to the location in the conservation area as demonstrated in the verified views and confirmed in the conservation report provided with the application. The existing buildings have no statutory protection. The modifications in the further information provide a high-quality architectural design which is in accordance with the policies of the CDP especially section 11.1.5.6 on Conservation Areas. The contention in the appeal should be rejected.
- With regard to the zoning objective 'Z5', the mix of uses is appropriate and there is no existing long term residential use on the site. A positive contribution to the civic design character and dignity will be made with a higher quality and well-placed element of short-term accommodation as a new use which is positive.
- With regard to No 6 Merrion Row, it is pointed out that there is no private right to a view and light as contended in the appeal. The objection to the insertion

of building behind the low levels of Nos 13, 13a and 14 Merrion Row is subjective and there is failure to recognise the legibility and urban structure in the streetscape. The property at No 6 Merrion Road is identical in scale to the proposed development. The grant of permission under P. A. Reg. Ref. 5437/08 demonstrates and provides affirmation of the planning authority's acceptance of demolition now proposed. It is unreasonable to expect underutilised brownfield sites such as that proposed to remain so in light of national policies for promotion of growth and efficient reuse of infill sites.

- The building height and setbacks mitigate any potential impact on streetscape and the conservation area and the development recognises and reinforces the established building line and it has twenty-six metres separation distance from Hume House to the south. The height context on the north side of Merrion Road has not been taken into consideration by the Appellant. These heights range from 21.17 to 35.5 metres towards St. Stephens Green and the buildings to the east are above the height of No 6 Merrion Row which is 14.8 metres above street level and below the established prevailing heights on the northern side and several buildings on the south side of Merrion Row.
- Overshadowing of No 6 Merrion Square arises in daytime in winter and late evenings only and there is minimal impact. This effect is reasonable for the city centre locations in which density is encouraged. The accompanying daylight a study shows some overshadowing on adjoining buildings and buildings on the north side of Merrion Row and building on the north side which are considered acceptable having regard to the level of daylight attainable and the nature of use. The average daylight factor (ADF) for internal accommodation was assessed and overshadowing was greatest on the adjoining property at No 11.
- With regard to the references to Condition Nos 4 and 5 in the appeal, there appears to be an error because it is Conditions 5 and 6 that relate to working hours and noise. The requirement of these conditions is standard and modifications at the request of the adjoining landowners' restaurants is unreasonable. The conditions attached are acceptable to the applicant.

It is requested that permission for the proposed development as modified in the further information submission, excluding the omissions required under Condition No 4. Attached to the planning authority decision

5.6. **Planning Authority Response**

There is no submission from the planning authority on file.

5.7. **Observations**

5.7.1. Submissions were lodged by the following parties:

Phillip O'Reilly

Patrick O'Reilly

Frank McDonald

South Georgian Core Residents Association

Transportation Infrastructure Ireland. (Prescribed body)

5.7.2. **Phillip O'Reilly**

According to the submission permission should be refused. It is submitted that the proposed development is not justified and totally unacceptable due to adverse impact on and elimination of the scale height, harmony and unique character and setting of the area in the Georgian core of the city along Merrion Row and the Merrion Court. It would also dominate the important buildings on St Stephen's Green, Ely Place and Hume Street and it has no regard for the scale and character of the Merrion Row streetscape.

5.7.3. **Patrick O'Reilly.**

5.7.4. According to the submission Condition No 4 should not be removed: - The proposed development does not respect the mews structures outside the application site where there is a 11.6 metres difference. The fifth and sixth floors will damage the conservation area, the negative impacts on the buildings on Hume Street do not address negative impacts. No consideration has been given to No 14 Hume Street or Policies CHC 7 and CHC2 of the CDP. The parapet heights and plot ratio are

excessive. No 11 in which there is residential use will be affected by obstruction of light to the west and northwest into the rear of the building.

5.7.5. It is also submitted that there is overreliance and misguided on residential element which will end up being transient in that tourist accommodation is already well served in the city.

5.7.6. **South Georgian Core Residents Association.**

5.7.7. According to the submission:

- The impact of the proposed development on protected structures is inadequately assessed, the emphasis in the assessment not being with regard to the buildings in the vicinity but on the buildings on St Stephen's Green and the Finance Building on Merrion Row rather than buildings in the vicinity. The former use of the Merrion Court buildings by the Unicorn restaurant is not acknowledged.
- The development is consistent with the CDP with regard to policies on mews lane coach houses and laneways the survival of which is required with demolition being unacceptable and with mews lane development is to be confined to two storeys and subordinate to main buildings.
- Although the site is zoned 'Z5' the mews lane protrudes into 'Z8' zoned lands at the back of No 13a Merrion Court and it is to protect the architectural and civic character and allow for limited expansion and Policy CHC 4 applies. The development is a major change to the landscape with consideration of the buildings from St. Stephen's Green to Ely Place has been ignored. The heights, bulk plot ratio and site coverage are excessive for 'Z8' and 'Z5' zoned lands and there is no respect for the existing buildings, character of the area or creation of sustainable neighbourhoods.
- The extensive glazing and the design details such as the balconies is incompatible with the existing buildings the glazed barrier for the roof garden and use of black zinc and solar panels being particularly inappropriate. Window separation distances fall short of the 22 metres required in section 16.10.16 of the CDP for mews development. The two remaining units (12d and 12e) on Merrion Court will be adversely affected.

- The laneway is not suitable for turning spaces for taxis and services vehicles traffic with deliveries.
- The short stay accommodation use is not properly defined and could be an apart hotel and management or supervision is required. There is no need for more short term let accommodation. A proliferation of short-term accommodation fails to contribute to neighbourhood sustainability of the historic value of the area. It could have negative impact on the Georgian core. As more than fifteen units are involved consistency with section 16.10.4 of the CDP regarding positive urban design and placemaking is required. Long stay accommodation should be encouraged in the city centre would enhance the lane.
- CDP policies for retention and reuse of older buildings as provided for in section 16.10.17 is disregarded in the proposal.

5.7.8. **Frank McDonald**

5.7.9. According to the submission:

- Permission should have been refused outright for the proposed development with it being totally overscaled, excessive in scale, height and mass, inappropriate in design and materials and, unsuited to the Georgian core of the city. The buildings between Merrion Court and St Stephen's Green do not rise to four storeys. Replacement of two storey and single storey buildings at the location with a six-storey building involving blank gables is insensitive in scale to the single storey Napper Tandy's pub, involves radical transition in and creates precedent. The scale of Merrion Row is totally disregarded reference being taken from the Dept Finance Building and Stephen's Green and Hume Street for the heights proposed but Merrion Row does not have these characteristics or height. The design features such as the louvred screens and loggias do not offset the height scale and mass. It is questionable as to whether the 'Building Height Guidelines issued in 2018 could be used to justify the proposal. The proposal is insensitive, fails to integrate with the character of to contribute to the public realm, and views.
- The Unicorn restaurant was legendary and had a long-established cultural context, being opened at No 11 Merrion Row in 1938. It is totally

inappropriate to characterise the site as a brown field infill site in a central city location as submitted in the application. With the zinc clad setbacks and towering over the Napper Tandy Bar as proposed it is excessive in plot ratio (4.7.) inappropriate to the Conservations Areas objectives and Policy CHC4 in the CDP. It should be acknowledged the two-storey height which although unusual contributes to the character of the area and the linkage to the Georgian townhouses on Hume Street.

- It is inappropriate to reference the housing supply issues in providing for short let accommodation in the proposal, which causes damaging effects in cultural and historic areas and in that short-term letting has aggravated the lack of supply of long-term letting accommodation

5.7.10. Reference is made to campaigns by local business owners to have Merrion Row converted to a pedestrian only zone to create an enhancement and allow restaurant to provide for outdoor dining. The proposed development would fundamentally change the character of Merrion Row and the mews lane.

5.7.11. Mews Lanes in Georgian Dublin are very vulnerable to development but are of intrinsic importance. Those on Merrion Court are worthy of inclusion on the record of protected structures, should not be demolished and should be retained and conserved as provided for in section 16.10.16 of the CDP. These stable buildings, in a terrace along Merrion Row would be decimated, Merrion is unique in being perpendicular to rather than parallel to the main streets and direct off Merrion Row.

5.7.12. **Transportation Infrastructure Ireland (prescribed body)**

According to the submission, should permission be granted, a condition with a requirement for payment of a section 49 development contribution towards the cost of the LUAS Cross City line would be applicable.

5.8. **Further Responses**

5.8.1. A further submission was received from Simon Broadhead, Third Party Appellant on 23rd March, 2021 according to which:

- With regard to the first party appeal, A parapet height of 20.4 metres has not been justified and is inconsistent with the parapet height established on both sides of Merrion Row of 12.5 to 13.7 metres which respect the streetscape. The 25.5 metres height referred to for Stephen's Green is the ridge height for the Shelbourne Hotel and the Dept Finance height of 21.7 metres is for where the building addresses St Stephen's Green. The parapet height would be 7.5 Metres height than No 6 Merrion Row. The case made as to being directly opposite the Dept of Finance (21.7 metres) is incorrect as it is partially opposite it because Nos 13 and 13A Merrion Row are directly opposite Nos 5 and No 6 Merrion Row.
- The design is not meaningful with regard to height/parapet heights, mass, scale and does not address the CDP policies (extracts included) for the conservation area status and the Georgian Core. The conservation officer's recommendation for reduction in height to a maximum of four storeys was ignored. The building would not integrate with the existing building line character and setting of protected structures and the street character.
- The arguments to justify the plot ratio and site coverage do not take into account the conservation area status of Merrion Row and the protected structures which are four storeys or less. There is good reason for the indicative plot ratios and site coverage.
- The impacts for overshadowing are considerable – the angle of daylight to No 6 Merrion Row would be double the 25 degrees allowable for daylight access. The submitted report demonstrates the need for setbacks. There will be insufficient daylight – which would be considerable in Winter (November to February). It is excessive with regard to the standards in BRE 209.
- Minor consideration only has been given to views from the street level or upper floors from existing buildings in the visual impact study. References are made to View No 4, 10 and 5 as demonstrating that the structure would “loom over the streetscape”. Other contemporary buildings are four storeys or less.
- With regard to the third-party appeal by Boston College, it is submitted that inevitably, there will drop off and pick up on the Merrion Row increasing

hazard and congestion. Loading bays/facilities on Merrion Court itself should be a requirement for the development. should be a requirement.

6.0 Assessment

- 6.1. The applicant in the appeal against Condition No 4 and in the responses to the two third party appeals confirm the acceptability of a grant of permission for the modified proposal in the further information submission lodged with the planning authority on 4th January, 2021, subject to the removal of the requirements of Condition No 4, that is, (a) for omission of the fifth floor and (b) omission of Apartment 405 with the space being replaced by a terrace.
- 6.2. The objections in the third-party Appeal by Simon Broadhead are mainly based around concerns as to excessive height, form and design, overdevelopment having regard to plot ratio and site coverage visual impact, having regard to architectural heritage considerations namely protected structures and the conservation area designation, the nature and mix of use and, precedent.
- 6.3. The objections in the third-party Appeal by Boston College, occupant of No 32-43 St Stephen's Green which has a rear access to onsite parking on the west side of Merrion Court are mainly based on vehicular safety and convenience on along Merrion Court and at its junction with Merrion Row.
- 6.4. The issues central to the determination of a decision, taking the issues of objection raised in the appeals and the observer submissions into account can be considered below under the following subheadings.

The Proposed Development in Principle.

Overdevelopment

Height, Scale, Form and Design.

Overshadowing and Overlooking: - No 6 Merrion Row.

Nature of Use

Pedestrian and Vehicular Safety and Convenience.

Environmental Impact Assessment Screening

Appropriate Assessment Screening.

6.5. The Proposed Development in Principle

6.5.1. It should be borne in mind, that the site had the benefit of a prior grant of permission, now expired) for demolition of the existing buildings and construction of a large-scale mixed-use development which was not taken up. (P. A. Reg. Ref. 54327/08 refers.) The application was assessed and determined in the context of the statutory planning policy and provisions applicable at the time and during the lifetime of the Dublin City Development Plan, 2005-2011.

6.5.2. The proposed demolition is regrettable having regard to the historic significance of the plots and original buildings, the stable buildings as part of a group and Merrion Court, (historically known as Stable Lane) along which stables and stable yard survive all of which is functional to the integrity of the context of the Georgian block although the significance of the more recent use by the Unicorn restaurant should be acknowledged. However, it cannot be disputed that the site is underutilised having regard to achievement of the objectives of current strategic policy for central city locations and whereby a balance should be reached with regard to the desirability for the retention, adaptation and incorporation of historic buildings in urban renewal and sustainable development at a high intensity but it is agreed that this may not be a feasible and practicable option at the subject location. The applicant's case based on the retention of the remaining two of the five former stable units, (Nos 12d and 12e) at the southern end of Merrion Court which are in the applicant's ownership to allow for distinct separation from the protected structures on Hume Street and some retention of historic fabric and recognition of the built character of the lane is noted.

6.6. Overdevelopment

6.6.1. In principle, a development of the nature proposed responds to current national policy as provided for in the National Planning Framework 2040 (NPF) and specifically Objective 11 which encourages appropriate opportunities for

intensification and consolidation of development, employment creation and sustainable use of underutilised serviced sites in the city. Similarly, it would, in principle, be in accordance with the Building Height Guidelines but consideration having the provisions of section 3.2 therein regarding increased building height in architecturally sensitive areas would be required in the case of the subject site location. As such there is a case for consideration of high plot ratios by reason of the desirability of high intensity of development in the central city the consolidation of which, in the interests of sustainable development is to be encouraged, having regard to national and local strategic policy in the CDP including the criteria for consideration of proposals in excess in indicative plot ratios and site coverage such as proximity transport termini and routes.

6.6.2. Furthermore, there is clear precedent by way of the predisposition towards higher site coverage and plot ratios than those within the indicative range for 'Z5' zoned lands for several other central city commercial developments on underutilised sites permitted during the lifetime of the current CDP. For the proposed development, the site coverage at 97 percent is above the maximum of 90% in the indicative range and the plot ratio for the proposed development which is considerable is well in excess of the indicative range of 2.5 - 3 for 'Z5' zoned lands. The proposed development satisfies several criteria providing for flexibility with regard to the maximum limits for the indicative ranges having regard to section 16. of the CDP. and the proposed development should not be rejected outright on grounds of exceedance of the indicative plot ratio.

6.6.3. In considering flexibility with regard to plot ratio and site coverage consideration of the architecturally sensitive built environment in the city's Georgian core undoubtedly, is a significant constraint to the development potential of the site. The proposal is located within a built environment within the south city Georgian Core, subject to a conservation area designation involving historic plot forms and an historic streetscape character along Merrion Row and Merrion Court along with the surrounding buildings, (included on the record of protected structures) notably on Hume Street and St Stephen's Green.

6.6.4. To this end, determination as to whether the proposal, (as shown in the further information submission) amounts to overdevelopment dependent on consideration of heights, scale, form, mass and design, separation distances, and visual impacts and, separately, the nature and intensity of use, impact on pedestrian and vehicular circulation, which are central to the objections in the appeals.

6.7. Height, Scale, Form and Design.

6.7.1. It is considered that there is capacity to accept a multi storey building incorporating setbacks, by reason of the corner site location of the existing two storey building at Merrion Row opposite the four-storey corner site building on the opposite side of Merrion Court. However, it would be subject to appropriate connectivity with or recognition of the characteristics of the surrounding buildings to facilitate integration into the established streetscape in form and mass and simplicity in design and materials. The Department of Finance Building on the opposite, north side of Merrion Row roughly opposite the site is a relevant insertion into established streetscape character in this regard.

6.7.2. Further to review of the LVIA submissions lodged at application stage and the supplementary submission included in the appeal it is considered that in views along Merrion Row from the west to the east of St Stephen's Green East and from the east, west of the junction with Merrion Street and Ely Place, the proposed building, subject to the omission of the fifth floor is acceptable in its contemporary design and form and, compatible within the streetscape views.

6.7.3. However, although the views along St Stephen's Green North, towards Merrion Row are not included among protected views within the CDP, they are considered important and worthy of preservation, by reason of the significance of St Stephen's Green within the Georgian Core, the conservation area designation, in the city centre and the protected structure status of the buildings, particularly with regard to the dominant parapet lines on St Stephen's Green East in these views. It is considered that by reason of dominance of the proposed building as a backdrop in height and mass above the chimney stacks along Merrion Row in these views, the proposed development adversely affects the integrity of character and the setting of the

protected structures at Nos 39, 40 and 41 Stephen's Green and the Conservation Area. This impact is very evident in the applicant's revised verified views included in the further information response submitted to the planning authority at application stage. To ameliorate this impact, the modification to the height and form by way of omission of the fifth floor is required.

6.7.4. It is considered that subject to the omission of the fifth floor as discussed above, the concerns as to adverse impacts having regard to the height and definitive parapet line of No 6 Merrion Row, the property of Mr. Broadford, (third party appellant) and having regard to the building heights along both sides of Merrion Row satisfactory integration and compatibility is achieved.

6.7.5. In view of the foregoing, the views of the planning officer leading to the inclusion of the requirement under Condition No 4 of the decision to grant permission for omission of the fifth floor is fully supported.

6.7.6. In order that the primacy of the large townhouses on Hume Street in relation to those along Merrion Court and the scale and low profile of the buildings on Merrion Row beyond is not eradicated by the proposed development, it is considered that in addition to the separation provided for by retention of Nos 12 (d) and 12(d) Merrion Court, the height of the proposed building, even with the fifth floor omitted as discussed above, remains excessive but that sufficient mitigation of this effect is achievable by omission of Unit 405 on the fourth floor.

6.7.7. As a result, the height and mass immediately adjacent to Nos 12 (d) and 12 (e) Merrion Court is ameliorated and the stepping away, towards the north increases the separation from the Hume Street buildings at the southern end of Merrion Court. In addition, with the omissions required under Condition No 4 (a) and (b) attached to the planning authority decision in place, the amenity potential of Merrion Court, bearing in mind its narrow width, as a public circulation and amenity space primarily confined to pedestrian use would not be adversely affected and would be enhanced.

6.7.8. The argument in the appeal of Mr Broadford for the retention of the low profile of the adjoining building to the site and to the open views beyond southwards towards

the Hume Street buildings from No 6 Merrion Row on the opposite side, is noted. However, as previously stated there is a requirement for a balance between the status quo and heritage protection and higher intensity development in the interests of sustainable development contributing to the consolidation of central urban areas. Furthermore, there is no entitlement to protection of a view from the interior of private property.

6.8. Overshadowing and Overlooking: — No 6 Merrion Row.

- 6.8.1. With regard to the concerns as to potential overshadowing and loss of light to the interior accommodation at No 6 Merrion Row it is considered that it was satisfactorily demonstrated in the submitted sunlight and daylight study that the standards attainable ADF for the relevant front elevation windows would exceed the minimum standards in BRE 209. Furthermore, the extent of any reduction to existing predevelopment standards would be reduced by the modifications required under Condition No 4 attached to the planning authority decision.
- 6.8.2. The appellant also asserts that the possibility of residential use at No 6 Merrion Row should be taken into consideration. Although not necessarily within the scope of consideration in connection with the current proposal it is not accepted that any material issues in this regard would arise with regard to light, sunlight, overshadowing or overbearing impact, particularly having regard to the central city location and mixed-use zoning objective.

6.9. Nature of Use.

- 6.9.1. Given the city centre location, the 'Z5' zoning objective and the associated policies provided for in section 14.5 of the CDP and the policy objectives within the CDP for facilitation of tourism infrastructure and accommodation at appropriate locations, it is considered that short-term letting accommodation is responsive to these policy objectives and is reasonable use for the specific site location within the South City's Georgian core. It is agreed with the planning officer that the internal accommodation provided is at a satisfactory standard, including access to light to the interior of the units as demonstrated in the submitted sunlight and daylight study.

Omission of communal external amenity space provision is acceptable, given the centre city site location and extensive range of external public amenity spaces within close proximity of the central city location.

6.9.2. However, while the planning authority's concerns as an insufficient provision for two/three room units as indicated in the planning officer's report are noted, it is considered that the current proposal which according to the applicant is response to market requirements for short-term letting are reasonable. There is no objection to the dwelling mix in terms of unit size and number of rooms per unit. In the event of possible change of use for long-term letting purposes, residents would be reliant, in the absence of communal external space, on the off-site public amenity spaces.

6.9.3. The application does not include details of proposed arrangements for the management of the short-term letting apartments. It would appear that remote/off site management is being considered. It would be reasonable for the applicant, by condition, to provide details of the arrangements for management and security and arrangements for visitors to obtain access to the units on arrival. This should allow for assurances in the unlikely event of potential for disturbance, dispute or anti-social behaviour. The location is not specifically zoned for residential use and is in the centre of the city in which there is a night-time economy contributing to the amenities and vitality consistent with the 'Z5' mixed use zoning objective and the objectives for the tourism sector.

6.9.4. The proposals for restaurant/retail use at ground floor is considered both appropriate, positive and compatible for the site in an area in which some clustering of restaurants has developed and these uses would contribute to daytime and night-time activity and vitality.

6.10. **Pedestrian and Vehicular Safety and Convenience.**

6.10.1. The concerns in the appeal of Boston College of No 44 and 45 St Stephen's Green are about the convenience and safety of access to and from the entrance at the rear of the property off Merrion Court. It is not evident from review of the documentation available in connection with the application and the appeal that the lane is to be

altered or reduced in width or, that its capacity would deteriorate with the proposed development in place. Merrion Court, an eighteenth-century service lane was designed for its current vehicular but it is considered that safety by reason of traffic calming is facilitated by virtue of the narrow width and dominance of pedestrian circulation and multiplicity of entrances off it.

- 6.10.2. Short-let apartments at a central city location would not generate a significant quantum of demand for long term parking, vehicular trips involving drop offs and pick-ups along the lane or a significant amount of services traffic. The restaurant and retail uses are substantively similar to the former use and it is not apparent that it would be a significant increase in services traffic and pick up and drop off of patrons.
- 6.10.3. The cycle parking facilities serving the proposed development are ample and it is considered that subject to adherence to good standards by cyclists, no undue risk by reason of conflict with vehicular or pedestrian circulation on the lane should arise. Some provision could be made to prohibit parking of cycles anywhere on the lane, other than in the dedicated cycle parking/storage area
- 6.10.4. The zero-carparking proposal for the overall development which is acceptable to the Transportation Planning Division is reasonable, given the location in the city centre, the limitations of the site itself and, the prior restaurant use for which there was no on-site parking provision.
- 6.10.5. Pedestrian circulation and cyclist trips along the lane are likely to increase and it is agreed that conditions at and close to the junction with Merrion Row are somewhat hazardous. However, an element of traffic calming is created by the conditions of the lane and the range and mix of pedestrian, cyclist and vehicular circulation on it. Given the central city location and mixed use, the proposed development is considered reasonable in this regard and relatively limited in the extent of trip generation. Traffic movement is one way, east to west along a single carriageway with segregated cycle and footpaths to the side on Merrion Row. Given the central city location not accepted that the development proposal, having regard to the nature of use proposed would cause any undue deterioration in safety and convenience at operational stage.

6.10.6. It is noted that the Transportation Division has included a recommendation for a comprehensive construction management plan for the demolition and construction stage. Given the confines of the site, the plan, including construction traffic routing and management, compounds etc. require careful consideration in preparation and in assessment by the planning authority. It is recommended, that the plan be prepared and submitted for agreement, by condition on appointment of a contractor and prior to commencement of development should permission be granted.

6.11. **Environmental Impact Assessment – Screening.**

6.11.1. Having regard to the minor nature of the proposed development and its location in a serviced inner suburban 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.

6.12. **Appropriate Assessment.**

6.12.1. The application is accompanied by an appropriate assessment screening report in respect of the site at Nos 13 and 13A Merrion Row which has been consulted.

6.12.2. The project comprises demolition of existing structures and construction of a mixed-use development in retail/restaurant use and short term let accommodation units. The nearest European sites are the South Dublin Bay SAC (000210) the qualifying interest for which is *Tidal Mudflats and sandflats* and the South Dublin Bay and River Tolka SPA (0004024) the conservation interests for which are a range of bird species. There are no direct source-pathway receptor links between the site and the European sites. Indirect source pathway links area hydrological, via the surface and wastewater flows to Dublin Bay via the Ringsend plant the capacity of which is being increased and along with the implementation of the Greater Dublin Drainage Study surface water drawing infrastructure is being improved. There is potential risk of contamination of waters during construction. However, no change in run off from the site is anticipated post development relative to pre-development rates but they may be a slight increase in foul water drainage from the site.

6.12.3. Having regard to the scale and nature of the proposed development and to the serviced central city location, 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.

7.0 Recommendation

7.1. In conclusion, it is recommended that the planning authority decision to grant permission be upheld and in addition, having taken into consideration the appeal by the applicant, it is recommended that the requirements of Condition No 4 (a) and (b) be attached. Reasons and Consideration and conditions follow.

8.0 Reasons and Considerations

Having regard to the location on an underutilised, serviced site in the city centre, to the Dublin City Development Plan, 2016 – 2022 according to which the site is within an area subject to the zoning objective Z5: *“To consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity”*, to the nature of the proposed uses and the form, height, design, materials and finishes of the proposed new build, it is considered that subject to compliance with the conditions set below, the proposed development would not seriously injure the visual amenities or the integrity, character and setting of the protected structures and the conservation area for the south Georgian core of the city, would integrate into the surrounding streetscape, would be acceptable in terms of vehicular and pedestrian safety and convenience and amenity and would be in accordance with the proper planning and sustainable development of the area.

9.0 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 submitted on 4th January, 2021, except as may otherwise

be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The fifth floor shall be omitted in entirety and Unit No 405 shall be omitted and replaced with a terrace. Prior to the commencement of the development, revised, plan, section and elevation drawings shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of the protection the visual amenities and character of the streetscape and the setting and context of adjoining historic structures.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, (or displayed on the site for inspection), and agreed in writing with, the planning authority prior to commencement of development.

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

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. 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.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological

materials or features which may exist within the site. In this regard, the developer shall:

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

The assessment shall address the following issues:

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

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

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

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

- 7. The construction of the development shall be managed in accordance with a Construction 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:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction waste storage.
- (b) Location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of on-site car parking facilities for site workers during the course of construction.
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works. Where a road closure is in operation, suitable diversionary signage to existing uses on Saint Andrew's Lane shall be provided on the public road. Such signage will indicate the duration of the road closure.
- (i) Provision of parking for existing properties during the construction period.

- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A 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 amenities, public health, and safety.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

9. Site clearance and development works shall be carried only out during the construction phase between the hours of 07.00 to 18.00 Mondays to Fridays

excluding bank holidays and 08.00 to 14.00 hrs Saturdays unless otherwise agreed in writing with the planning authority.

Reason: In the interest of clarity and to ensure the full implementation of the Mobility Management Plan.

10. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site or attached to the glazing unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

11. Proposals for a name and associated signage for the proposed block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and orderly development.

12. The sound levels from any loudspeaker announcements, music or other material projected in or from the premises shall be controlled so as to ensure the sound is not audible in adjoining premises or at two metres from the frontage.

Reason: In the interest of environmental amenity.

13. 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 amenities of property in the vicinity and the visual amenities of the area.

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, as amended. 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 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.

16. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City 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 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 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.

Jane Dennehy
Senior Planning Inspector
14th June, 2021.