



An  
Bord  
Pleanála

## Inspector's Report ABP 310958-21.

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| <b>Development</b>         | Demolition of existing buildings and construction of an eight storey over basement building with setback seventh floor with landscaping, ancillary development and site works. |
| <b>Location</b>            | Nos 94 and 95 Mount Street Lower, and Love Lane, Dublin 2  |
| <b>Planning Authority</b>  | Dublin City Council  |
| <b>P. A. Reg. Ref.</b>     | 2872/20  |
| <b>Applicant</b>           | Mount Way Offices Ltd.   |
| <b>Type of Application</b> | Permission   |
| <b>Decision</b>            | Refuse Permission.   |
| <b>Type of Appeal</b>      | First Party  |
| <b>Appellant</b>           | Mount Way Offices Ltd.   |
| <b>Observers</b>           | Alice Higgins<br>Palatine Designated Management Company,<br>Northumberlands Management Company<br>James Murphy and Denise O'Brien<br>Philip O'Reilly                           |
| <b>Date of Inspection</b>  | 18 <sup>th</sup> November, 2021.   |
| <b>Inspector</b>           | Jane Dennehy   |

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## 1.0 Site Location and Description

- 1.1. The site has stated area of 426.52 square metres, is that of two, interconnected three storey over basement Georgian century buildings with returns which are intact and in each of which the entrances and stairwells are retained. These buildings have frontage on Mount Street with the side elevation and boundary to the rear space extending along Love Lane East. A two-storey building, and some lock up units are located directly at the rear within the site. A café/grocery and vegetable outlet are located at the ground level and the upper floors formerly in residential use are unoccupied. A mews structure is located at the rear along with lock up units at the north-eastern end of Lower Mount Street at a corner with Love Lane East. The total stated floor area of the existing buildings is 805.7 square metres
- 1.2. The area was substantively redeveloped in the 1970s -1990s with commercial development of three, four and five storeys along both sides of Mount Street. To the north-west, north and northeast there is residential development in apartment blocks, Grattan Hall a multi storey residential block, Ashwood House, a two-storey residential block and The Northumberland a multi storey residential block at which there is a roof level amenity space for residents. The former Sir Patrick Dun's Hospital's main building is located to the north of the Northumberland. Most development on the Mount Street frontage on both sides is in commercial use whereas there is extensive residential development behind these buildings located along the street network to the rear of Mount Street.
- 1.3. For the adjoining site to the west at which there is an office building, an application for a seven-storey building was withdrawn prior to determination of a decision. (P.A. Reg. Ref 3476/20 refers.)

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for Demolition of existing buildings and construction of an eight storey over basement mixed building with a setback floor with landscaping, ancillary development and site works. The proposed use is stated to be office use and it includes at a ground floor level adjacent to the reception area a break-out coffee space.

- 2.2. The entrance for pedestrians is onto Mount Street. The development is a zero carparking proposal and cycle parking and associated facilities are included at basement level which is to have a ramped entrance from the rear. The total stated floor area of the original proposal for new build is 2,864square metres with the entirety of the existing buildings being demolished. The plot ratio is stated to be 6.7 and the site coverage is stated to be 78%
- 2.3. The planning authority on the recommendation of the planning officer issued a request for additional information in respect of concerns as to height and visual impact in some views and a requirement for further assessment of additional viewpoints, design, materials and finishes, solid to void ratios and compatibility with the historic streetscape and rhythm, daylight analysis and assessment of the VSC for adjoining residential developments at which loss of light may be significant; Overlooking potential toward residential development to the north, lack of active ground floor use which would animate the streetscape and clarity as to the proposed coffee area and access to it, maximisation of pedestrian facilities, footpath width and prevention of obstruction by street furniture and avoidance of construction over public space; cycle parking, a minimum of 29 spaces and associated facilities and visitor parking being required having regard to section 16.39.5 of the CDP, and requirements for submission of a servicing management plan, operational management plan and outline construction management plan and mobility management plan.
- 2.4. A further information submission was lodged on 18th May, 2021 in which:
- 2.5. one floor, the seventh floor is omitted, and the sixth floor is setback, the black external finish is replaced by a lighter shade which includes a red tone and the solid is increased in the solid to void ratio with glazing and window opens reduced in size. Images and verified views are included in the submission.
- 2.6. A daylight analysis and Overshadowing study is included to provide an assessment of vertical sky component (VSC) for residential developments to the north of the site according to which the majority of the windows assessed would have VSC in excess of the minimum standard recommended in BRE's *Site Layout for daylight and sunlight: A guide for Good Practice*. (BRE guidelines)

- 2.7. A southwest and northeast elevation drawings in which the increased solid to void ratio is shown, which it is claimed reduces any undue overlooking potential with it being claimed that the level still attainable is appropriate to the central urban and commercial use.
- 2.8. Confirmation that a break-out coffee space is to be an extended reception area incorporating a kiosk style window ope which is to be accessible to occupants and visitors during working hours.
- 2.9. Clarification and revisions to provide for unobstructed footpath provision, revisions to the cycle parking for occupants and staff, Outline Construction management, Service and Operational Waste Management and Preliminary Travel Plans.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

By order dated, 30<sup>th</sup> June, 2021 the planning authority decided to refuse permission based on the following reason:

*“Having regard to the scale, bulk, height and massing of the proposed development and taking into account the established character and pattern of development in the vicinity of the site, the proposed development would constitute a visually discordant feature in the landscape and impact adversely on the residential amenities of nearby properties in terms of overlooking and overshadowing. The development would constitute an incongruous feature and would detract from the visual amenities of the area. As a consequence the proposal would depreciate the value of property in the vicinity, set a precedent for similar type undesirable development and would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area”*

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

- 3.2.1. The report of the Roads Transportation Planning Division on the original application indicates acceptance of the zero carparking proposal and includes recommendations

for additional information on cycle parking facilities, pedestrian facilities and circulation, and for a servicing management plan, mobility management and construction management plans to be requested. It is stated that some details on the application drawings are unclear. No supplementary report is available.

- 3.2.2. The report of the City Archaeologist notes the site location within a zone of archaeological constraint for a recorded monument (DU018-052) and includes a recommendation for a condition for archaeological monitoring be attached if permission is granted. (Excavation to provide for the basement is to be noted.)
- 3.2.3. The report of the Drainage Division indicates no objection subject to standard conditions.
- 3.2.4. The Planning Officer in his report on the original application in which he notes the recommendation in the technical reports, indicated concerns about:
- the height of the structure and related to the external finishes and the solid to void ratio were deemed unacceptable for the existing historic streetscape
  - Concerns as to overshadowing and obstruction of daylight access to adjoining properties. The adequacy of the submitted shadow analysis and lack of daylight analysis a comprehensive VSC assessment for adjoining residential properties is stated to be warranted.
  - Potential for overlooking of residential properties to the rear having regard to height and the floor to ceiling height glazing and separation distances from adjoining apartment blocks to the north and north-west.
  - While good quality contemporary design is acknowledged, concerns as to the colour of finishes, (mostly black,) extensive glazing and steel mesh solid to void ratios glare and light dominance at night. Also indicated are concerns as to compatibility with the historic character of the surrounding area although Mount Street buildings were demolished in favour of office blocks in mid twentieth century which are uniform in height and in external finishes.
  - Concerns having regard to the provisions for transitional zones. (Section 14.7 of the CDP) residential development within the more sensitive Z1 zoned area being adjacent to the application site within the Z6 zoned area

3.2.5. The Planning Officer in his supplementary report, having considered the further information submission concluded that permission should be refused on grounds relating to design, height, massing selection of materials, overlooking and overshadowing of adjoining development, adverse visual impact and deficiencies in the sunlight and daylight assessment. With regard to other issues, namely, entrance arrangements, pedestrian circulation, cycle parking, servicing and footpath provision, construction stage matters that the planning officer indicated that there were no outstanding concerns that would warrant a refusal of permission.

### 3.3. **Third Party Observations**

3.3.1. Submissions were lodged by eight parties, five of which have submitted observations on the appeal. The issues of concern raised relate to lack of justification for demolition of early nineteenth century buildings and for additional office development instead of other uses, overdevelopment and excessive intensity, excessive site coverage, scale, height, mass and inappropriate design resulting in serious negative impact on the visual amenities and incompatibility with the architectural character and historic buildings in the area and overbearing impact, overshadowing and overlooking resulting in serious adverse impact on residential amenities of adjoining properties having regard in particular to the transitional zoning provisions of the CDP.. The adequacy of the planning application submission in particular the daylight and sunlight analysis are questioned

## 4.0 **Planning History**

4.1. There is no record of relevant recent planning history for the application site. However, there is prior history dating back to the 1990s. P. A. Reg Refs 2691/91, 1813/91 and 1788/92 refer.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022. Variation 7 incorporates the National Planning Framework and Regional Spatial Economic Strategy (RSES). It provides for identification and reuse of brownfield land and underutilised land well served by transport purposes; for building upwards rather than outwards and achievement of consolidation and compact city.
- 5.1.2. The site location is within an area subject to the zoning objective: Z6 to provide for the creation and protection of enterprise and facilitate opportunities for employment creation”
- 5.1.3. The area to the rear of the site to the north and west in which there are several apartment developments is subject to the zoning objective Z1. To provide, protect and improve residential amenities.
- 5.1.4. The provisions of section 14.7 are applicable as the site location is in a transitional zonal area. It provides for avoidance of abrupt transitions in scale and in use in contiguous transitional zone areas with avoidance of development detrimental to the amenities of the more environmentally sensitive zone, such as residential areas abutting mixed use areas. of the CDP.
- 5.1.5. The following policy objectives are among those which are relevant.

Policy SC7: To protect important views and view corridors into, out of and within the city, and to protect existing city landmarks and their prominence.

Policy SC18: To promote a co-ordinated approach to the provision of tall buildings through local area plans, strategic development zones and the strategic development and regeneration areas principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline

Policy SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in chapter 15 and Chapter 16 (development standards). Sensitivity for established residential areas, civic and recreational space and the historic city is required.



- 5.1.6. Policy Objectives CEE 1, CEE3, CEE4, CEE11 provide for the facilitation, encouragement, and enhancement of development of commercial enterprise, employment, and international competitiveness within the city through the supply of quality commercial space suitable for indigenous and global occupancies.
- 5.1.7. Policy QH8 promotes sustainable development of vacant or underutilised infill sites and favourably consider higher density which respects the character and design in the area
- 5.1.8. The site location is within the area of the Zone of Archaeological Constraint for the Recorded Monument DU018-052 (grave slab)
- 5.1.9. Section 16.10.17 provides for consideration for historic buildings not on the record of protected structures and which make a positive contribution to the character and historic the streetscapes. Demolition can be considered for buildings poor condition where a high-quality proposal protecting the streetscape and amenity and nearby residential development is shown
- 5.1.10. Development management standards are set out in Chapter 16. The indicative plot ratio for Z6 zoned lands according to section 16.5 is 2.0-3.0 and indicative site coverage according to section 16.6 is sixty per cent.
- 5.1.11. Building heights are set out in section 16.7.12 in which a maximum for commercial development in low-rise, inner-city areas is 28 metres and nine storeys for residential or seven storeys for office use.
- 5.1.12. According to section 16.10.2 Residential Quality Standards, in residential developments development should be guided by Site Layout Planning for Daylight and Sunlight, A guide to Good Practice (BRE, 2011)
- 5.1.13. The site location is in Area 1 for carparking standards having regard to Section 16.1 and Table 1 the standard for which is one space per 400 square metres gross floor area. For cycle parking the standard is one space per 100 square metres gross floor area and for associated facilities such as showers and lockers to be provided.

## 5.2. National Planning Framework

- 5.2.1. The National Planning Framework (NPF) It is an objective of the NPF (NPO2a) that at least half of future population and employment growth will be focussed on the five

existing main cities and their suburbs. This development should take place in well-serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.

- 5.2.2. Objective NPO4 provides for creation of attractive, liveable, well designed, high-quality urban places, which are home to diverse and integrated communities enjoying a high quality of life and wellbeing; Objective NPO5 provides for development of cities and towns of sufficient scale and quality to compete internationally and to be drivers of regional growth, investment and prosperity.
- 5.2.3. Objective NPO6 provides for regeneration and rejuvenation of cities, towns and villages of all types and scales as environmental assets, which can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality. Building height is seen as an important measure for urban areas to deliver and achieve compact growth as required.
- 5.2.4. Objective NPO 13 provides that in urban areas, planning and related standards, including building height and car parking, will be based on performance criteria that seek to achieve well designed high-quality outcomes to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

### 5.3. **Strategic Guidance.**

- 5.3.1. Policies and standards for building heights are in “Urban Development and Building Heights: Guidelines for Planning Authorities”, 2018, (Building Height Guidelines) particularly the criteria set out in section 3.2 issued under Section 28 of the Planning and Development Act, 2000 as amended.
- 5.3.2. Section 2.7 of the guidelines states that, in order to give effect to these broad policy directions and a more active land management centred approach as set out in the NPF, the preparation of development plans, LAPs and SDZ planning schemes and their implementation must become more proactive and more flexible in securing compact urban growth, through a combination of facilitating increased densities and building heights, while also being mindful of the quality of development and balancing amenity and environmental considerations. In identifying areas suitable for

increased density and height, planning authorities will need to consider the environmental sensitivities of the receiving environment as appropriate.

In identifying locations suitable for additional height, issues to be taken into account are:

- Central and accessible locations and intermediate urban locations.
- Potential contribution to the development of new homes, economic growth and regeneration in line with the compact urban growth principles as set out in the NPF and Project Ireland 2040.
- Reliance of locations from a public access and egress perspective in the event of major weather events or emergencies.
- Ecological and environmental sensitivities of the receiving environment;
- Visual, functional, environmental and cumulative impacts of increased building height.

5.3.3. Special Planning Policy Requirement (SPPR) 1. Provides for policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

5.3.4. SPPR 2 provides that in driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing

5.3.5. For development proposals it is the requirement of the Guidelines that the following criteria be satisfied:

*“At the scale of the relevant city/town*

- *The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.*
- *Development proposals incorporating increased building height, including proposals within architecturally 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.*

- *Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.*
- *On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.*

*At the scale of district/ neighbourhood/ street*

- *The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape*
- *The proposal avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered*
- *The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).*
- *The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.*

*At the scale of the site/building*

- *The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.*
- *Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research*

*Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.*

- *Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.”*

## **6.0 The Appeal**

6.1.1. An appeal was lodged by Hughes Planning on behalf of the applicant on 27<sup>th</sup> July 2021. Attached is, in the appendices, are photomontages and a revised daylight and shadow study. The appendices include an alternative option for amendments to the design of the proposed development for consideration, if necessary, as the applicant's preference is for the proposal as shown in the further information submission to the planning authority. In the alternative option, an additional floor, (further to the reduction in the further submission) is omitted. The floor area is reduced from 2,380 square metres to 2,067 square metres and the plot ratio to 4.92. A copy of an amended daylight and overshadowing analysis report for this alternative option is also provided. According to the appeal the modification in the alternative design directly addresses the refusal reasons attached to the decision to refuse permission by the planning authority.

6.1.2. According to the appeal:

- The revised proposal in the further information submission in which the building height over basement level was reduced from 30.325 metres, from eight storeys with a recessed seventh storeys to 26.7 metres at seven storeys is the only feasible modification accommodating a reduction in the building height and efficient land use which accords with national policy. The planning authority's

requirement for a reduction to five to seven storeys would have resulted in an inefficient development contrary to national and local policy in which increased height in redevelopment at appropriate locations should be sought and facilitated. (Section 16.7.2 of the CDP providing for 28 metres maximum height refers.)

- The proposed development (as revised) accords with the Building Height Guidelines, as amended which supersede the CDP and provide for implementation of the rationale for consolidation and densification in accordance with national policy. Several strategic objectives for sustainable development, urban regeneration, and higher intensity within the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midland Region are also included in the submission in support of the appeal grounds. In this regard the current seven storey proposal at the Lower Mount Street location is very well served by public transport options. Reference is made to Policy SPPR 1 in the Building Height Guidelines and extracts are included.
- An application for an adjoining site (to the west side) under P. A. Reg. Ref. 3476/20 was withdrawn following a request by the planning authority to reduce the structure to a maximum of five storeys. Opportunities for increased on the north side of Mount Street and developers have been deterred from proposing redevelopment of opportunity sites whereas proposed development would set positive precedent for underutilised site redevelopment in the area. (The references in the appeal are to a development in Donnybrook and not to the proposed development in Mount Street.)
- Contrary to the view the planning officer who has disregarded the merits of contemporary design as the immediate environs is characterised by modern commercial buildings of no merit the subject proposal would represent an improvement to the visual amenity of the streetscape, at the eastern end of Mount Street, especially if constructed in tandem with the proposed development the application for which was withdrawn.
- The proposal responds to Objective SC 25 and SC 26 of the CDP for promotion of exemplary standards of urban design and form benefiting the city and promotion and facilitation of innovative design producing contemporary buildings. The revised external finish increases the relationship to the streetscape. The six-

storey height at street level with the modest recess seventh floor and is consistent with the Building Height Guidelines and responds to the criteria in section 3.2 thereof.

- With regard to the city, the location is well served with high-capacity public transport options. The building successfully integrates into and enhances the public realm and massing and height to achieve required densities, it responds to the context and makes a positive contribution of visual interest  
With regard to the scale of the street there is a positive contribution to the building environment and neighbourhood, the structure is not monolithic, contributes to legibility and enhances the urban design context in sense of place, scale and enclosure and to land use mix and building typologies. It accords with the Flood Risk Management Guidelines, 2009.
- With regard to the site location of the site, the structure minimises associated impacts to having regard to the central city location. Discretion should be applied in considering potential for shadowing or overbearing impacts. The planning authority reason for refusal compromise the capacity of the central urban site location to accommodate the densities sought in national policy and delivery of consolidation and avoidance of sprawl. In this regard the surrounding sites are opportunity sites due to the limited density.
- With regard to overlooking potential the separation distances are appropriate for the urban location. A separation distance of 18.7 metres is achieved between the north elevation and the south elevation of a two-storey residential block to the north (Ashwood House.) Grattan Hall and Northumberland Apartment developments are in excess of 6.5 metres from the rear elevation of the building to the northwest and to the northeast. The revised proposal increases the solid to void ratio in the rear elevation ensuring no undue overlooking impacts. The applicant is open to design revisions which could be implemented by condition if required.
- With regard to overbearing impact, the block is suitably scaled and in a contemporary design with suitable materials to avoid any visual obtrusiveness and it sets precedent for regeneration at the eastern end of Mount Street. The revised height in the further information submission is definitive in visual impact

which is positive in the context of a central urban location. The block provides an interesting backdrop to the streetscape of visual interest. This is demonstrated in the photomontages from vantage points of Macken Street, Albert Place East and Love Lane included in Appendix C of the appeal.

- With regard to overshadowing impact, the building to the north will be affected. (Grattan Hall, 113 Love Lane and Ashwood House.) In the submitted daylight analysis and overshadowing report it is shown that the VSC 93% of ninety-eight windows on adjoining buildings exceeds the recommended level for built up areas and is not reduced to less than 0.8 times the existing value having regard to the standards in BRE *Site Layout for Daylight and Sunlight – A Guide to Good practice*. The four windows at a ground floor and first floor apartments which failed to achieve the minimum standards for VSC are at Ashwood House, but adequate sunlight would be achieved post development. The daylight and sunlight impact of the proposed development on adjoining properties are marginal
- It is requested that the future development potential of the site at Ashwood House as an opportunity site with scope for intensification be taken into consideration in assessment or impact on residential amenities. However, for the revised design the amended Daylight analysis and Overshadowing Report included with the appeal can be taken into consideration.
- Reference is made to a prior proposal permitted following appeal at North Circular Road and Dorset Street which is more prominent than the current proposal and is located close to protected structures and residential development in a conservation area and in which there was an inevitable element of overshadowing impact. (P. A. Reg Ref 3377/18 refers.)
- Reference is also made to an application at Clonliffe which would have significant visual impact on the established streetscape of two storey period buildings in a residential conservation area. (P. A. Reg. Ref. 2935/20 PL 308193 refers.) These two applications in which increased building height is permitted within a lower height existing built form in sensitive areas are appropriate precedent development and in respect of SPPR 1 and SPPR 2 in the Building Height Guidelines. (The submission contains references to development in Donnybrook in



referring to the current proposal instead of the subject proposal at the Mount Street/Love Lane location.)

- Devaluation of property is not a valid planning consideration. However, the proposed development would have an effect of increasing property value to do the contemporary aesthetic form of development proposed and in setting precedent for comprehensive redevelopment of adjoining sites in the Mount Street Lower area.

## 6.2. Planning Authority Response

There is no submission from the planning authority on file.

## 6.3. Observations

- 6.4. Submissions were lodged by the following five parties, four of which are by or on behalf of residents at adjoining apartment developments.

Alice Higgins, Grattan Hall,

James Murphy and Denise O'Brien, Northumberlands

Northumberlands Management Company.

Palatine Designated Activity Company.

Philip O'Reilly

- 6.5. There is considerable overlap in the issues raised and concerns expressed in these submissions. To avoid overlap and repetition, a combined outline summary of the issues in the five submissions follows: -

- The applicant in the appeal does not adequately address the issues raised in the planning officer report. The planning authority's advice and recommendations were disregarded in the further information submission. The planning authority was right in rejecting the proposed development.
- The alternative design option provided in the appeal should be disregarded. This proposal should be submitted as a new application and not included with the appeal.

- The original, further information and alternative option proposals are demonstrably inconsistent with the CDP due to overdevelopment and excessive site coverage and plot ratio having regard to section 16.7.2 in which for 'Z6' zoned lands within the canal ring the indicative range is 2.0-3.0 site coverage indicative maximum for Z6 zoned lands is 60% The planning authority calculates 100% site coverage, and the applicant calculates 78% site coverage.
- The proposal conflicts with the transitional zoning provisions (section 14.7 of the CDP) and fails to address and relate to proximate Z8 zoned areas, the Georgian core, protected structures, protected views and an ACA. Sensitivity is required in transitional zonal areas with avoidance of abrupt transitions, particularly adjacent to residential development. There are serious consequences for the surrounding residential developments which are high density not low density, and which is on three sides. There are several Z1 residential developments in the area an Z8 zoned areas. Little regard has been paid to existing development and its character and form of the four and five storey office blocks.
- The proposal is totally at odds and incompatible with the established character and form of development in the Mount Street area which has considerably uniformity. The proposal erodes the continuous and coherent consistency of height between Trinity College and the Canal and is contrary to objective SC18. It would be visually oppressive and is excessive and out of proportion in height, scale, mass and bulk are at variance with the surrounding built environment which it would dominate. The proposals all fail to comply with the Building Height Guidelines having regard to the criteria in chapter 3.
- The development does not contribute to high quality liveable urban places and to a residential population as referred to in NPF's Policy objective; NPO 4, It will adversely affect existing residential amenities. There is a need for more retail development and residential capacity as opposed to a single used commercial building. There is strong emphasis on residential development in the inner city in the Building Height Guidelines.
- Another single use building is not required especially with the change to hybrid working arrangements further to covid. The proposed development is not a

mixed-use development as contended on behalf of the applicant. Instead, it is to replace a mixed-use building with an office development.

- The proposed development would have serious negative overbearing, overshadowing, and overlooking impacts on the adjoining residential developments.
- The area has not been designated as a strategic development zone or for regeneration or redevelopment and no “opportunity sites” have been specified. Reliance in the applicant’s case on national policy and redevelopment of surrounding properties is not acceptable. Lowering of qualitative standards and amenity at residential properties cannot be justified by an argument as to suitability of adjoining development for regeneration and redevelopment.
- The two examples referred to in the appeal are no way appropriate or relevant for taking precedent. (P. A. Reg Ref 3377/18 and P. A. Reg. Ref. 2935/20/PL 308193 refer.)
- The daylight and overshadowing reports (for the original, further information and alternative option proposals) are incorrect and unreliable, having regard to BRE’s *“Site Layout planning for Daylight and Sunlight: A guide to good Practice, 2<sup>nd</sup> edition, 2011* as required in section 16.10 of the CDP These reports are incomplete and reliant in incorrect methodology and standards. The contention in the appeal that acceptance of twenty per cent VSC instead of the minimum recommended in BRE guidance of 27 per cent is not acceptable and a significant percentage of affected windows were not assessed. There will be significant deterioration in daylight levels at the surrounding apartments resulting in serious injury to residential amenities.
- Insufficient regard has been given to pedestrian facilities and footways should be at the appropriate width as provided for in DMURS standards and for ease of access. The footpath width should be increased as part of the development.
- At construction stage the hours of work should cease at 6 pm and Saturdays should be excluded and a plan for Noise monitoring and management should be included due to the proximity of residential development.

- Impacts on property value is a planning issue and is included among the reasons for which there is no scope for compensation having regard to 10 (c) of Schedule 4 of the Planning and Development Act, 2000, as amended. It is a legitimate consideration and should not be disregarded.

## 7.0 **Assessment**

7.1. The application is for demolition of existing Georgian buildings in retail café use at ground level with vacant apartments on the upper floors and for construction of an eight-storey office building with a setback top floor. One floor was omitted, and the design and external finishes were modified in a further information submission to the planning authority and an additional floor is omitted in an alternative option included in the applicant's appeal against the planning authority's decision to refuse permission. There are five observer submissions in connection with the appeal in which there are multiple issues of objection to the proposed development.

7.2. The issues central to the determination of the decision can be considered below under the following subheadings.

Development in Principle

Nature of Use

Roads and Transportation.

Scale, Mass, Height and Design. Visual Impact.

Impact on Residential amenities of adjoining properties.

Demolition and Construction stage impacts.

Environmental Impact Assessment Screening

Appropriate Assessment Screening.

### 7.3. **Development in Principle.**

7.3.1. The existing Georgian buildings which are to be demolished, based on external visual inspection and the documentation available with the application and appeal, while in need of repair and conservation works would appear sound and worthy of retention and continuation of use notwithstanding the observations in the structural report submitted with the application. These buildings are good intact surviving

examples of the Georgian architecture characteristic of the Mount Street and the surrounding area prior to the redevelopment in the second half of the twentieth century. Their architectural heritage interest and scope and retention and adaptation for continued use merit serious consideration especially as they are among the last surviving Georgian buildings in the vicinity in that they were not replaced with commercial development in the late twentieth century.

- 7.3.2. Although not subject to statutory protection by way of inclusion on the record of protected structures, notwithstanding the 'Z6' zoning for the location, it is questionable as to whether it can be established that their demolition and removal to facilitate the proposed development is fully justified. The option and scope for their retention and incorporation in future development consistent with current policy relating to development potential of underutilised sites and, sensitive delivery of intensification and consolidation of the city in the interest of sustainable development does not appear to have been considered. that Further assessment and consideration of options for their retention would be desirable. In this regard it is noted that it is the policy of CDP, in section 16.10.17 to facilitate and provide for retention and reuse of buildings of significance not in the record of protected structures. However, it is noted that the planning officer has not objected to outright demolition and replacement of these buildings.
- 7.3.3. Separately, the case made on behalf of the applicant as to the application site and the sites of various adjoining developments being open to consideration as "opportunity sites" whereby the delivery of the national strategic policy objectives for high intensity contemporary commercial development contributing to the City's economy have been reviewed. While the case made is potentially appreciable, it cannot be accepted as means to justify any lessening of the weight or importance of consideration of potential impacts on standards of amenity currently enjoyed at adjacent residential properties and as justification for potential overdevelopment and a departure from an established building and parapet height among other considerations. In this regard, while the feasibility of a project from an investment and operational perspective is appreciated, a resultant substandard development regarding consideration of the effects of the receiving environment cannot be justified.

- 7.3.4. As has been widely pointed out in the planning officer and third-party submissions, there is no policy framework providing for redevelopment and regeneration within the area or for taller buildings within the area in which the site is located within the CDP. Within such a framework, opportunity sites or sites subject to specific objectives such as landmark sites suitable for taller buildings would have been identified along with inclusion of specific objectives relating to their scope for redevelopment within a local area plan or alternative framework with a statutory basis.
- 7.3.5. As the application for the redevelopment to provide for a larger more intensive and development for the adjoining site to the west at a similar height to that of the proposed development was withdrawn prior to determination of the decision it is considered that the references to that proposal to support of the applicant's case in the appeal for the proposed development are irrelevant and should be disregarded (P. A. Reg. Ref 3476/20 refers.)
- 7.3.6. Therefore, it is considered that there is no scope for a departure from application of and correct, mandated approach having regard to the relevant statutory framework to consideration for development for the application site and the current proposal and the planning context for the surrounding environment.

#### **7.4. Nature of use**

- 7.4.1. The ground floor use of the existing building benefits the amenities of the residential properties in the vicinity in providing for local retail services and facilities including café use. It is noted that the now vacant upper floors have been in residential use. The substantively larger and more intensive development proposal is essentially a single use commercial/office development. The breakout coffee space proposed at ground floor benefits the occupants as an extended reception area but the small opening for members of the public to purchase coffee, (during working hours) is of little or no benefit to receiving mixed use environment in terms of animation of the street frontage and night- time economy in which there is considerable relatively high-density residential use. As such in nature of use, it is considered that the proposed development is less beneficial to the receiving environment than the retail and café use to be replaced.

#### **7.5. Roads and Transportation.**

7.5.1. There is no objection to the zero parking proposals for the development. In this regard, it is accepted that the site location is consistent with the criteria in the Building Height Guidelines and CDP with regard to a range of travel and transport options and services and facilities and as such no issues arise with regard to intensive development. A such no issues arise in this regard.

7.5.2. The outstanding matters arising from the assessments and recommendations in the Roads Transportation Division in its reports, in relation to unobstructed pedestrian use of the footpaths, servicing management, cycle parking and construction traffic management could all be addressed by condition.

#### **7.6. Scale, Mass, Height and Design – Visual Impact.**

7.6.1. While it is considered that to some extent, the revised proposal provides for some amelioration of the negative impacts of the original proposal in height, scale, form and mass and selection of materials and finishes the proposed development remains unacceptable as indicated in the report of the planning officer and reflected in the reasoning attached to the decision to refuse permission. The adverse visual impact on the streetscape is evident in Views 2-5 in the submitted verified images.

7.6.2. The further reduction of a second floor in the alternative option included in the appeal also reduces but it does not overcome the concerns a to adverse impact on the integrity and character of the streetscape. This is very evident in the amended verified images included with the appeal. The continuity of the parapet line and heights over the front building line is interrupted and eroded and the setback floor above also dominate the views in both directions. It appears that with omission of a further floor, as also appears to be the view of the planning officer, it may be possible for avoidance of interruption to the continuity of the parapet and roofline to be avoided. As such the proposed development plot ratio would be considerably reduced to a ratio close to the indicative range of 2.0 – 3.0 for Z6 zoned lands provided for in the CDP.

7.6.3. However, it is clearly stated in the submissions made on behalf of the applicant that further reductions would render the development unviable and therefore not feasible. As such to consider a grant permission subject to the omissions and reductions in the alternative option included with the appeal and an additional reduction of a floor by condition would not be consistent with the recommendations in the development

management guidelines further to the legislative provisions whereby matters of detail of a minor nature only. Furthermore, the development proposal would have needed to have been acceptable in all other respects and there are serious considerations regarding impact on residential amenities.

- 7.6.4. Separately the proposed glazing, although reduced in its solid to void ratio in the revised submissions is considerable and dominant particularly in views from the residential developments. It is agreed with the planning officer that while the black finish to the facades initially proposed is of quality it is totally unsuited to the frontage in the streetscape of Mount Street Lower. The external finishes proposed in the further information submission and alternative option would warrant further consideration in detail and this could be addressed by agreement with the planning by a condition which would include a requirement for display of samples at the site.
- 7.6.5. However, if it were to be concluded that the development proposal is substantively acceptable in all other respects, the Board could consider issue to the applicant of a Section 132 notification in this regard. should be addressed by condition. The views of the planning officer generally as reflected in the reasoning for the decision to refuse permission, along with those of the observer parties are supported.

#### **7.7. Impact on Residential Amenities of Adjoining properties.**

- 7.7.1. The application site as previously stated is circa eight metres to the southwest of Grattan Court a multi storey block, eighteen and a half metres directly to the south of Ashwood House, a two-storey building and six and a half metres to the south-east of Northumberlands a multistorey block with roof level communal amenity space. These blocks have been benefitted from relatively neutral impacts in terms of unobstructed daylight and sunlight access across the site and its existing structures.
- 7.7.2. Assuming that it is agreed that there is no case for relaxing relevant standards for protection of standards of residential amenity at existing developments within inner urban location in that there are no strategic objectives for regeneration and redevelopment, these residential developments would be subject to radical change in their environs, with the proposed development as initially proposed and as shown in supplementary submissions in place.
- 7.7.3. There is no dispute that dwellings within these blocks with windows and /or external amenity spaces facing towards the proposed block would experience diminution in



outlook and skylight access as represented in Vertical Sky Component (VSC) and overshadowing or sunlight access.

- 7.7.4. The applicant has submitted daylight and shadow analysis studies at application stage and a supplement and in respect of the alternative option included with the appeal. However, the potential impacts in terms of effects on vertical sky components. (VSC) at relevant windows in at adjoining developments are not satisfactorily assessed so that the potential effects impacts having regard to the minimum standards provided for in BRE "*Site Layout planning for Daylight and Sunlight –a guide to good Practice*", 2011 to which reference is made in respect of residential development in section 16.17.10 of the CDP is assessed. Impacts on external private or communal spaces were not assessed.
- 7.7.5. As pointed out by the planning authority the test, in terms of perceptible loss of light is that a VSC in excess of 27% is acceptable and that where there is a reduction to less than 27% with the difference being not less than 0.8 times the pre-existing value, the effect can be deemed acceptable. The assumption is that 20% VSC is acceptable in the assessments in the applicant's submissions. As stated in the planning officer report, with application the 27% VSC a considerably larger number of windows in the adjacent residential developments would result in a substandard VSC and perceptible loss. Probable Average Sunlight Hours (PASH) to interiors do not appear to have been comprehensively assessed or impacts on external amenity spaces.
- 7.7.6. Furthermore, as also previously stated in the planning officer report, there is a lack of survey information with regard to the windows in adjoining properties and the accommodation to be lit and, no design mitigation is included to address impacts. The Analyses submitted, (but considered unreliable) indicated failure of a small number of windows to meet minimum standards post development in VSC. As such it is concluded that it has not been satisfactorily demonstrated that the proposed development would not have undue adverse impact on the residential amenities of adjoining properties having regard to daylight access and sunlight access.
- 7.8. **Demolition and Construction Stage Matters.**
- 7.8.1. An Outline Construction Management Plan was submitted with the application. The concerns for the occupants of the adjoining apartment developments are

understandable given the proximity of the adjoining application site. However, the impacts on residential amenities during demolition and construction which occur over a limited period and intermittently, are managed through best practice as provided for in Demolition and Construction Management Plans, usually prepared post planning following appointment of a contractor with a requirement for agreement in writing with the planning authority in which provide for compliance with relevant statutory codes of practice in addition to planning requirements and standards.

- 7.8.2. The proposed development involves significant demolition, and excavation for the basement to be provided at a lower level than the existing houses, and extensive site preparatory works to facilitate the construction of the development. It is reasonable that preparation and finalisation of a methodology for these works be provided within a comprehensive demolition and construction management plan to be agreed following appointment of a contractor if permission is granted.
- 7.8.3. Owing to the location within the Zone of Archaeological Constraint for the Recorded Monument DU018-052 (grave slab) and the deeper excavation required for basement provision it is recommended that an archaeological monitoring condition be included if permission is granted.
- 7.8.4. Control of noise disturbance and air pollution, noise disturbance having been referred to in the observer submissions comes under separate specific codes compliance with which are standard requirements and are addressed in a comprehensive demolition and construction management plan, and construction traffic management. These are supplemented by planning requirements, such as management of hours of works, specifically to ensure, clarity as to protection residential amenities as is the case with the subject proposal and the wider interests of proper planning and sustainable development.
- 7.8.5. It is considered reasonable that the hours of operation provided for in a standard condition be attached, should permission be granted although the request in one of the observer submissions that works not be permitted on Saturdays and that work should cease at 1800 hrs and not 1900 hrs on weekdays has been noted but these reduced hours are not considered to be warranted.

**7.9. Environmental Impact Assessment Screening.**

7.9.1. Having regard to the nature and scale of the development 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.

#### 7.10. **Appropriate Assessment.**

7.10.1. Having regard to the scale and nature of the proposed development and to the serviced suburban 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.

### 8.0 **Recommendation**

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld and that permission be granted based on the reasons and considerations set out below: -

### 9.0 **Reasons and Considerations**

Having regard to Dublin City Development Plan 2016-2022 according to which the site location is subject to the zoning objective: *“Z6 to provide for the creation and protection of enterprise and facilitate opportunities for employment creation”*: to the statutory guidance: *“Urban Development and Building Heights: Guidelines for Planning Authorities”*, 2018”; to the existing development on the site and to, to the established architectural character, form and height of development in the streetscape along Mount Street Lower and to the existing residential developments to the north east, north and north west of the site, it is considered that to proposed development would constitute over development which would seriously injure the visual amenities of the area and the residential amenities of the adjoining residential development by reason of overbearing and overshadowing impacts. As a result, the proposed development would be contrary to the proper planning and sustainable development of the area.

**Jane Dennehy**

Senior Planning Inspector

25th November, 2021.