



An  
Bord  
Pleanála

## Inspector's Report ABP-311618-21

### Development

Permission for office redevelopment including: a 4 to 8 storey office building and all associated and ancillary site works. Demolition of existing 5 to 7-storey office complex.

### Location

Stokes Place, St. Stephen's Green South, and Harcourt Street, Dublin 2

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

2062/21

### Applicant(s)

KW Investment Funds ICAV

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

1. First Party vs. Condition
2. Third Parties vs. Grant

### Appellant(s)

1. KW Investment Funds ICAV
2. Olive English  
Padamul Limited  
Davy Target Investments Limited

**Observer(s)**

None

**Date of Site Inspection**

27<sup>th</sup> May 2022

**Inspector**

Stephen Ward

## **1.0 Site Location and Description**

- 1.1. The appeal site adjoins the city centre area and is located opposite the southwest corner of St Stephen's Green, at its junction with Harcourt Street. It is bounded to the north and east by St Stephen's Green (south), including no.'s 92-100; to the west by Harcourt Street; to the south by mixed-use development along Harcourt Street and Clonmel Street; and to the southeast by the Iveagh Gardens.
- 1.2. The use context of the site and surrounding area is predominantly characterised by commercial and office uses, mixed with some residential uses. St Stephen's Green and the Iveagh Gardens provide high-quality recreational spaces of significant scale, while the Grafton Street area contains an extensive retail/food offering. The LUAS line provides an important public transport link along Harcourt Street to the west.
- 1.3. The area includes development of a wide range of scale and character which has evolved significantly over time. The streetscapes around St Stephen's Green and along Harcourt Street include a significant presence of terraced period properties with a variety of brick finishes, heights and massing, some of which was subject to comprehensive redevelopment in the late 20<sup>th</sup> century. There are also more substantial civic buildings, including churches and educational establishments, as well as more modern office and retail developments. Building heights generally vary between 3-7 storeys.
- 1.4. The site itself has a stated area of 0.7ha and accommodates a substantial commercial office development of 5-7 storeys. The site is arranged in 3 blocks, with the major north and south blocks being divided by Stokes Place, a gated street off Harcourt Street that was provided in conjunction with the office development in the early 1980's. The site also includes a gated access off St Stephen's Green South, known as 'Stokes Passage'. The site is generally level, with only a gradual fall over the site of c. 1m towards the southeast corner.

## 2.0 Proposed Development

2.1. In summary, the proposed development, as amended by the applicant's further information response, comprises the demolition of existing 5-7 storey office complex, including basement (c. 17,550m<sup>2</sup> gross floor area) and the construction of a new office development (c. 37,677 m<sup>2</sup> gross floor area). The new development is comprised of the following:

- 4-8 storey office building (31,112m<sup>2</sup>) over double basement (4,973m<sup>2</sup>) with setbacks at 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> floors, insert terraces at 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> levels, and roof terraces at 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> levels
- 1 no. retail / café / restaurant unit (465m<sup>2</sup>)
- Vehicular and pedestrian access to site and basement car park at existing site entrances from St Stephen's Green and Harcourt St
- New double basement to accommodate 40 no. car parking spaces, 600 no. bicycle spaces (including 10 no. non-standard cycle spaces), 12 no. motorbike spaces, storage, plant, and office welfare facilities
- 32 no. surface level visitor cycle parking spaces
- Planting and hard landscaping of circulation and amenity spaces
- Ancillary plant and stair/lift core at roof level
- ESB substation
- 6 no. 300mm microwave link dishes on a steel pole support structure, together with associated equipment on the rooftop of Block A
- Construction management measures at the interface with protected structures, including No. 100 St Stephen's Green and No. 91 Harcourt St.

2.2. The design concept attempts to address a range of different settings and contexts. Block A at the western edge is intended to provide a strong corner which mediates between the grander assembly of civic buildings fronting onto St Stephen's Green and the more everyday character of terraces on Harcourt St. At the eastern edge Block B will sit behind existing terraces and aims to strengthen the permeability along Stokes Place with the potential to extend a new pedestrian link to Iveagh

Gardens. A link between Blocks A and B is intended to further strengthen the connection along Stokes Place.

2.3. Foul drainage would discharge to the existing combined sewer along Harcourt St. Storm water drainage will be collected in a separate network including a SuDs roof system, an attention tank at basement level, and rainwater harvesting for reuse, but will connect to the foul manhole prior to discharge to the combined sewer. Provision will be made for a future separate surface water network. Water supply will be via an existing watermain on Harcourt Street.

2.4. In addition to the normal drawings and requirements, the application and appeal is supported by the following reports:

- Planning Application Report
- Architectural Design Statement
- Architectural Heritage Impact Assessment
- Traffic Assessment and Mobility Management Plan
- Civil Engineering Infrastructure Report (including Flood Risk Assessment)
- Outline Construction Management Plan
- Arboricultural Report
- Construction and Demolition Waste Management Plan
- Technical Note on noise impacts
- Hydrological & Hydrogeological Qualitative Risk Assessment
- Operational Service Plan
- Operational Waste Management Plan
- Wind Microclimate Modelling
- Part L Compliance Report
- Telecommunications Impact Assessment
- EIA Screening Report
- Archaeological Assessment

- Appropriate Assessment Screening
- Ecological Impact Assessment
- Landscape & Visual Impact Assessment
- Daylight & Sunlight Access Impact Analysis
- Landscape Planning Statement.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By order dated 16<sup>th</sup> September 2021, Dublin City Council (DCC) issued notification of the decision to grant permission subject to 17 conditions. The conditions are generally standard in nature, with the exception of condition no. 5 which states as follows:

*The 6th floor level (top floor office level) within the proposed building shall be removed in its entirety and, as a result, the proposed building shall be a total of 7 storeys in height. Revised drawings shall be submitted to and agreed with the Planning Authority prior to the commencement of above ground works.*

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

#### 3.2. Planning Authority Reports

##### 3.2.1. Further Information

The planning authority issued a request for further information on 18<sup>th</sup> March 2021. The points raised can be summarised as follows:

1. Submit photomontages of the proposed scheme when trees are not in full bloom.
2. (a) Request to review the scale and massing of the development in order to address concerns about daylight and sunlight impacts on surrounding properties, which may involve the omission of 1 floor from the 8-storey element and setback of elevations at upper floor levels.

(b) Clarification of impacts on Annual Probable Sunlight Hours, to include the percentage impact on the existing value and details of the nature of use of the relevant windows (i.e. residential or commercial).

3. Request to review the proximity of the development to neighbouring properties in order to avoid overbearing impacts or restrictions on the development potential of adjoining sites.
4. Proposals for screening and mitigation to address overlooking concerns relating to properties along St Stephen's Green.
5. Proposals to address the concerns of the Roads Division as follows:
  - The extent of staff parking to be significantly reduced
  - Clarification of access strategy and trip generation for commercial/delivery vehicles
  - Clarification of the access strategy for cyclists
  - Clarification of height clearance for Harcourt St entrance
  - Clarification of various cycle, access, and parking requirements.

### 3.2.2. Planning Reports

The assessment outlined in the planner's final report (12<sup>th</sup> May 2021) can be summarised as follows:

- The site is zoned as 'Z8', where office and retail/café/restaurant uses are considered acceptable.
- The 'site coverage' and 'plot ratio' would exceed the indicative standards outlined in the Development Plan, although no actual upper limit applies, and each case can be assessed on its merits. Given the scale of existing development on site, the central and accessible nature of the site, and the proposal to incorporate a landscaped area, the proposed plot ratio is acceptable.
- Regarding the assessment criteria outlined in the Urban Development and Building Height Guidelines (DHPLG, 2018), it is concluded that, apart from the issue of overall height, the proposed design, layout, and materials are

generally acceptable and significantly enhance the streetscape, accessibility, and vitality at this location.

- Taking into account the amendments introduced at further information stage and the suggested removal of the 6<sup>th</sup> floor, the proposal will likely have less impact on daylight and sunlight access for surrounding properties. Given the context of the site and the positive impact of the scheme on the site, together with the fact that nearby properties will be impacted irrespective of the scale and design of any replacement proposal, the proposed development is considered acceptable.
- The setback of the building from the eastern boundary will facilitate the future development potential and maintenance of adjoining sites.
- Solid and opaque panels have been included in openings to satisfactorily mitigate the potential for direct overlooking of properties.
- The proposed open space is likely to provide an engaging space for occupants and will not detract from the amenity of neighbours.
- In conclusion, it is stated that, subject to further height reduction (as per condition no. 5), the proposal would upgrade a prominent location close to public transport etc.; contribute to employment and provide a high-quality office development which would not detract from the streetscape; and would not seriously injure existing buildings or the surrounding location.
- The report recommends a grant of permission subject conditions, and this forms the basis of the DCC decision.

### 3.2.3. Other Technical Reports

- Drainage Division: No objections subject to conditions.
- Conservation Officer: No report completed.
- City Archaeologist: No objections subject to condition requiring Archaeological Impact Assessment (including test trenching).
- Air Quality Monitoring and Noise Control Unit: No objections subject to conditions.



- **Transportation Planning Division:** The initial report requested further information on a range of issues, while the subsequent report (13<sup>th</sup> September 2021) outlined that there were no objections subject to conditions. The main issues discussed can be summarised as follows:
  - The reduced parking proposals of 40 no. car spaces and 12 no. motorbike spaces is acceptable subject to 10 no. car spaces being designated for car share/fleet uses and 20% of car spaces being provided with EV charging points.
  - The access strategy for cyclists and associated upgrades to the road network is welcomed.
  - Access improvements to the basement cycle parking spaces are welcomed.
  - Proposals for cycle parking and associated facilities; footpaths around the perimeter of the site; interface with the LUAS; and operational service requirements are acceptable subject to conditions.

### 3.3. **Prescribed Bodies**

Transport Infrastructure Ireland: Recommends conditions to ensure the protection of Luas infrastructure and states that Section 49 Supplementary Development Contribution Scheme applies (LUAS Cross City – St Stephen’s Green to Broombridge).

An Taisce: The submission raises concerns about the scale and height of the proposed development and its impact at this prominent St Stephen’s Green/Harcourt Street location. It also contends that refurbishment of the existing building would be a more environmentally preferable solution and questions the need for additional office space given the increase in remote working.

### 3.4. **Submissions / observations**

Several third-party submissions were received. The issues raised are largely covered in the grounds of appeal and can be summarised as follows:

- Detrimental impact on neighbouring properties, including loss of light, air quality, and privacy
- Construction disturbance associated with noise, dust, excavation, and stability
- Excessive height and scale and adverse impacts on neighbouring properties
- The proposed design is not suitable to the context
- Excessive proximity to neighbouring properties and overbearing impacts, including impacts on development potential of adjoining lands
- Concerns about health and safety and access to the site
- Inadequate notification procedures
- Inadequate information on tenancy and hours of operation
- Traffic impacts and safety
- The requirement for EIA as part of the planning process/permission
- Inadequate proposals for tree protection.

## 4.0 Planning History

Following the redevelopment of the site in the 1980's, the planning history of the site would appear to be as follows:

**P.A. Reg. Ref. 0363/98:** Permission refused (July 1998) for change of use of an existing storage area to use as offices for the following reason:

*The proposed development would be located in the basement of a seven storey over basement office building. The proposed change of use from storage to offices would, by reason of the non-provision of natural lighting and ventilation, constitute substandard development and would be seriously injurious to the amenities of occupants of the proposed offices. The proposed development would therefore be contrary to the proper planning and development of the area.*

**P.A. Reg. Ref. 3214/98:** Permission granted (February 1999) for change of use of the existing basement storage and service areas to use as offices, and for the construction of a ground floor entrance lobby/reception area, additional office space

at first floor with associated toilets and kitchen, and for a new lightwell and an enlarged lightwell.

**ABP Ref. PL29S.122087:** A split decision was issued (June 2001) which granted permission for the addition of 2,013 square metres of offices in a new six-storey over basement block behind Block A and linked to it by a six storey atrium, the addition of a two-storey link block of 220 square metres over open ground and first floor over Harcourt Street entrance to Stokes Place and the relocation of 20 car parking spaces from surface at rear of Block A to new basement car park of proposed addition to Block A and provision of eight additional car parking spaces.

Condition no. 2 stated as follows:

*The proposed office extension and atrium shall be reduced in height to include only five floors (including ground floor).*

*Reason: In the interest of visual amenity.*

Permission was refused for the revised elevation and new windows to Block A, the new entrance to Block A, the addition of 538 square metres penthouse offices over Block A, the addition of a penthouse level of 444 square metres to Block B facing Harcourt Street, the addition of an infill office floor of 158 square metres to Block C at sixth floor level, the addition of a penthouse level of 865 square metres and 316 square metres over Blocks C and D respectively, the relocation of plantrooms above the proposed penthouse level of Blocks A, B and C and the associated minor works. The reasons for refusal were as follows:

1. *The proposed addition of an extra floor onto Blocks A, B, C and D would be out of character with Saint Stephen's Green, Iveagh Gardens and Harcourt Street, which are designated as conservation areas in the current Dublin City Development Plan, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and development of the area.*
2. *The land use zoning objective for the site in the Development Plan is Z8, where it is the policy of the planning authority to protect the existing architectural and civic design character and to allow only for limited expansion*

*consistent with the conservation objectives of the Development Plan of primarily residential and compatible office and institutional uses. This objective is considered reasonable. The proposed development would not protect the existing character of the area, would conflict with the zoning objective for the area and would, therefore, be contrary to the proper planning and development of the area.*

3. *The site of the proposed development is adjacent to existing protected structures on Saint Stephen's Green, and would, by reason of its height and scale, detract from the setting of these important buildings, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and development of the area.*
4. *The proposed new windows in Block A would result in the loss of the existing vertical emphasis of the fenestration, which is compatible with the traditional Georgian streetscape in the vicinity. The proposed development would, therefore, be contrary to the proper planning and development of the area.*

**P.A. Reg. Ref. 2276/16:** Permission granted (May 2016) for minor modifications to the existing building, site, and signage.

## **5.0 Policy Context**

### **5.1. National Policy/Guidance**

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;

- NPO 5 aims to develop towns and cities of scale and quality to compete internationally and drive national and regional growth;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development that can encourage more people and generate more jobs/activity within existing settlements;
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.

5.1.2 Following the theme of ‘compact urban growth’ and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**, hereafter referred to as ‘the Building Height Guidelines’, outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 The **Architectural Heritage Protection Guidelines for Planning Authorities**, hereafter referred to as the ‘Architectural Heritage Guidelines’, sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

## 5.2. Development Plan

5.2.1 The operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The site is zoned as Z8 ‘Georgian Conservation Areas’, the objective for which is *‘To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective’*.

5.2.2 Chapter 6 of the Plan deals with the ‘City Economy and Enterprise’ and outlines the need to develop Dublin as a dynamic city region and the national economic engine. Section 6.5.2 states that a choice of good quality cost-competitive commercial space is critical and there is a need to redevelop outdated office stock. The following economic/enterprise policies and objectives are relevant to the current appeal:

**CEE1** promotes Dublin and the city centre as the national economic growth engine, promotes competitiveness and existing/new jobs.

**CEE3** promotes a pro-active approach to the economic impact of major planning applications with regard to economic development and employment.

**CEE4** promotes global links and competitiveness, jobs which provide quality of life.

**CEE5** recognises the importance of innovation and states that the Z5 zone and inner-city area, including the Docklands, is the crucial metropolitan and national resource for innovation, promoting the proximity and diversity of uses that foster innovation.

**CEE11** aims to promote and facilitate the supply of commercial space including offices, where appropriate, as a means of increasing choice and competitiveness, and to consolidate employment provision in the city.

**CEE18(iv)** recognises the major economic potential of the café/restaurant sectors, including employment generation and making the city more attractive for workers, residents, visitors, and business.

5.2.3 Chapter 7 outlines the central importance of a healthy retail sector to the city's success. The site is in close proximity to the designated 'city centre retail core' and Category 1 & 2 streets in the Grafton Street area.

5.2.4 Chapter 11 of the Plan deals with Built Heritage and Culture and section 11.1.4 outlines a strategic approach to protecting and enhancing built heritage based on the existing and ongoing review of Protected Structures, ACA's, Conservation Areas and Conservation Zoning Objective Areas. The site is not located within a designated ACA or Conservation Area and does not contain any Protected Structures. However, it does adjoin several Protected Structures along St Stephen's Green and Harcourt Street, as well as the larger 'conservation area' covering this area and the Iveagh Gardens. In summary, relevant policies of the current plan include:

**CHC1** Seek the preservation of the built heritage of the city.

**CHC2** Ensure that protected structures and their curtilage is protected.

**CHC4** To protect the special interest and character of all Conservation Areas

5.2.5 Chapter 4 outlines the shape and structure of the City and provides for taller buildings in designated areas. Outside these designated areas and SDRAs it is otherwise policy to retain the remaining areas of the city to a maximum height of between 16m and 28m depending on location. Section 4.5.4.1 (Approach to Taller

Buildings) outlines that the spatial approach to taller buildings in the city is in essence to protect the vast majority of the city as a low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller buildings to deliver the core strategy. Section 16.7.2 includes height limits for 'low-rise' commercial development in the 'inner city' (up to 28m), 'rail hubs' (up to 24m) and the 'outer city' (up to 16m). Relevant policies can be summarised as follows:

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

**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, including the demonstration of sensitivity to the historic city centre.

**SC28:** To promote understanding of the city's historical architectural character to facilitate new development which is in harmony with the city's historical spaces and structures.

**SC29:** To discourage dereliction and to promote the appropriate sustainable re-development of vacant and brownfield lands.

5.2.6 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 "Design, Principles & Standards" provides design principles outlining that development should respect and enhance its context. Section 16.10.17 deals with older building of significance which are not protected and supports the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.

### 5.3 Natural Heritage Designations

The Grand Canal Proposed Natural Heritage Area is located c. 750m to the east of the site. The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC, both located in Dublin Bay at a distance of c. 3km from the site.

## 5.4. EIA Screening

### Project types and mandatory thresholds

5.4.1. An Environmental Impact Assessment (EIA) Screening Report was submitted with the application. With regard to EIA thresholds, Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Class 10(b)(iv): Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- Class 13(a): Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:
  - (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of part 2 of this Schedule, and
  - (ii) result in an increase in size greater than 25 per cent, or an amount equal to 50 per cent of the appropriate threshold, whichever is greater.
- Class 13 (c): Any change or extension of development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, which would result in the demolition of structures, the demolition of which had not previously been authorised, and where such demolition would be likely to have significant effects on the environment, having regard to the criteria set out under Schedule 7.
- Class 14: Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- Class 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of



development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

- 5.4.2. It is proposed to construct an office development of 37,677m<sup>2</sup> on a site area of 0.7 hectares, within the 'business district' of Dublin City Centre. Therefore, the size of the site is significantly below the lower threshold area of 2 hectares for 'business district' locations and Class 10(b)(iv) does not apply.
- 5.4.3. Class 13(a) does not apply as the proposal does not involve a change or extension of development and it would not result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of part 2 of this Schedule. With regard to Class 13(c) and Class 14, I acknowledge that the development involves substantial demolition works. However, the proposal does not involve the change or extension of a development and neither the existing or proposed development is of a class listed in Part 1 or 2 of the Schedule. Therefore, Class 13(c) and Class 14 do not apply.

Sub-threshold development

- 5.4.4. Given the nature of the proposed development, i.e. an urban development of significant scale within the 'business district', it can be considered a project as listed in Class 10(b)(iv) of Part 2. Accordingly, Class 15 must be considered with regard to the potential for likely significant effects on the environment. Furthermore, the applicant's EIA Screening Report includes the information specified in Schedule 7A of the Regulations and, accordingly, the Board is required under Art. 109 (2B)(a) of the Regulations to carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination.
- 5.4.5. I am satisfied that the information provided by the applicant is in accordance with Schedule 7 and 7A of the Regulations. It also includes further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.
- 5.4.6. It is noted that one third-party submission to the planning authority briefly raised the question of EIA. However, the planning authority raised no concerns regarding EIA or the cumulative impact of development in the wider area.

- 5.4.7. As previously outlined, the subject site (0.7 hectares) is significantly below the relevant threshold of 2 hectares. It is already developed and serviced, and there is development of similar nature and scale in the wider surrounding area. Therefore, the proposed development is not exceptional in this context. There is significant excavation involved in the proposed basement levels, but this is not uncommon in the city centre, and it is not envisaged that groundwater flows will be impacted. Otherwise, the proposed construction and resource impacts are typical of urban development.
- 5.4.8. The construction stage has the potential to result in impacts related to noise, dust, emissions, and other disturbance. However, it is considered that the implementation of a Construction Management Plan will satisfactorily address these potential impacts.
- 5.4.9. The site is not located within any sensitive locations as outlined in Article 109 (4)(a) of the Regulations and it has been concluded that the proposed development, along or in combination with other plans and projects, would not be likely to have significant effects on the Natura 2000 network (see section 8.0 of this report for further details). Potential impacts relating to Bats and Herring Gull will be satisfactorily addressed as outlined in the Ecological Impact Assessment.
- 5.4.10. It is acknowledged that the site is located within a 'Zone of Archaeological Interest' and adjoins Protected Structures and a designated Conservation Area. However, this is typical for the city centre and suitable assessments have been included in the application, accompanied by design and mitigation measures to prevent significant environmental effects.
- 5.4.11. The proposed development would not be likely to place significant pressure on infrastructural services such as water, wastewater, or transportation. Nor would it result in any significant impacts or demands on social infrastructure in the area.
- 5.4.12. I have completed an EIA screening determination as set out in Appendix A of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or

reversibility. In these circumstances, and having considered the criteria in Schedule 7 and 7A, I consider that it has been demonstrated that the proposed sub-threshold development would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the information provided in the applicant's EIA Screening Report.

- 5.4.13. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the considerations outlined in Appendix A.

## **6.0 The Appeal**

### **6.1. First Party Appeal**

The decision of DCC to grant permission is the subject of a First Party appeal against condition no. 5 only, which requires the removal of the 6<sup>th</sup> floor level. The grounds of appeal can be summarised under the following headings:

#### Visual Impact

- The applicant fails to see how the removal of the top floor would achieve 'a more mannerly and measured building' as stated by the planning authority.
- A revised Landscape and Visual Impact Assessment (LVIA) has been completed to consider the impact of the removal of the top floor from relevant view locations. Although there would be noticeable impacts from Harcourt St, Iveagh Gardens and Heystbury St, it is submitted that there would be no significant adverse impacts in the key views.
- Substantial amendments were made to the upper floors at further information stage to reduce visual impact. Where visible, the materials, finishes, colours and setbacks ensure that the upper floors do not dominate the overall building and suggest a visual connection in views to and from surrounding public parks.
- The removal of the top floor would also have little impact on views from the surrounding streets.

- The condition would result in the removal of a significant quantum of office floor space that could otherwise be reasonably achieved at this brownfield, under-utilised, city centre site.
- The removal of the top floor would not significantly change the visual presence or overbearing impacts of the building.

#### Sunlight/Daylight Analysis

- The removal of the 6<sup>th</sup> floor would not have any further significant effect on sunlight/daylight access to Russell Court or 91 Harcourt St.
- An updated sunlight/daylight analysis has been prepared to consider the impact of the removal of the 6<sup>th</sup> floor. It concludes that on daylight and sunlight would not be less perceptible or less negative and that there would be little or no difference to Vertical Sky Component or Annual Probable Sunlight Hours received at Russell Court or 91 Harcourt St.
- The existing dwellings are already compromised by their setting and design, which must be expected in a city centre location. The proposed development strikes an appropriate balance by effectively improving daylight impacts for neighbouring residents while achieving the appropriate redevelopment of the site.

#### Architectural Design & Intent

- The amendments at further information stage, including those relating to the top floors, result in a development which sits comfortably in its surroundings, while retaining architectural integrity.
- The building campus consists of a composition of related blocks which create an appealing architectural arrangement and complexity, visual interest, and richness.
- The 6<sup>th</sup> floor removal would result in the design intent being lost in the view from Iveagh Gardens, resulting in a 'dumbed down' version with all brick facades. While the top floor will be visible in places, the overall impression on the streetscape and legibility will be positive.

## Planning Policy

The appeal outlines that the removal of the 6<sup>th</sup> floor would not be justified in the context of planning policy considerations including:

- Consolidation of high-density employment-related development at an underutilised, brownfield, city centre site which is well served by public transport facilities.
- Provision of increased height while complying with the criteria outlined in the 'Urban Development and Building Height Guidelines'.
- Buildings of similar height and scale have been permitted within the Z8 zoning objective.
- Delivery of office accommodation which is consistent with the employment, economy, and enterprise policies of the Development Plan, while also supporting the concentration of a working population to sustain investment in public transport and sustainable travel.

### **6.2. Third Party Appeals**

The DCC decision to grant permission has been appealed by several third parties. The grounds of appeal in each case are outlined in the following sections.

#### **6.2.1. Davy Target Investments Limited**

The appellant is stated to be the owner of No. 97-100 St Stephen's Green (Protected Structures) and 91 Harcourt St. It requests the Board to consider the issues raised and any mechanisms available to condition further mitigation measures and design revisions. The concerns raised can be summarised as follows:

#### Daylight/Sunlight

- The application has not adequately assessed the daylight and sunlight impacts on No.'s 97-100, particularly the residential unit and associated external space at the lower level of No. 100.
- The applicant's analysis states that the proposal would have a 'moderate to significant' daylight impact on the window closest to the residential unit in No.

100, and the Shadow Study would suggest significant negative impacts on the adjoining rear garden space.

- The applicant's further information response does not acknowledge or assess impacts on the residential unit and garden space at No. 100.
- The applicant's analysis concludes that the removal of the top floor would have only a marginal impact. Therefore, there are concerns that the permitted development will continue to adversely impact this residential unit and external space.

#### Overlooking of No. 100

- While the further information response included some mitigation measures, the revised design continues to include clear glazing tight to the western boundary of no. 100, which is unacceptable.

#### 6.2.2. Padamul Ltd

The appellant is the stated owner of an apartment in Russell Court (95/96 St Stephen's Green). It contends that all residents of the complex will be adversely affected by the development. The concerns raised can be summarised as follows:

- The applicant's reports outline how daylight and sunlight to the units will be drastically curtailed, including moderate to 'very significant' impacts.
- The impacts would be without precedent in a Conservation Area.
- The scale will also restrict access to fresh air and radically reduce the enjoyment of the properties.
- The owners have invested in the properties and are committed to the protection of heritage. The proposed development would be detrimental to the neighbourhood and way of life.
- The permitted building height and its compliance with the Development Plan policy has not been clarified.
- The EIA (*sic*) has identified potential adverse impacts on neighbouring properties but there is no reference to dust impacts in the conditions of the DCC decision.
- The application has not clarified who the tenants will be or the hours/days of operation of the offices, which will impact on privacy.

- The construction hours permitted under condition 8 are too long and will adversely affect the enjoyment of homes.
- The existing building could be acceptably adapted, without enlargement, to suit the applicant's needs while protecting the heritage and amenity of the area.

### 6.2.3. Olive English

The appellant is stated to be the joint owner of 16 Russell Court. It requests that the Board refuse permission and the concerns raised can be summarised as follows:

#### Noise

- The application and conditions (No. 9) of the decision do not adequately address concerns about noise during the construction phase, including methods for compliance with BS 5228.
- It is inappropriate that only the hours of working have been conditioned (No. 8). Noise limits should also have been imposed to respect sensitive receptors, particularly given the increased practice of working from home.
- Condition 9(b) is too vague and arbitrary without a specific noise limit (as recommended by the Environmental Health Officer).
- The matter is indicative of a lack of regard for the protection of residential amenity.

#### Visual Amenity and Light

- The applicant's reports outline how daylight and sunlight impacts to the units will be 'moderate' to 'very significant'.
- The daylight/sunlight effects have not been adequately addressed by the applicant and the effect of the removal of the 6<sup>th</sup> floor has not been assessed/mitigated.
- It is not clear whether the daylight assessment for Russell Court (which should have a higher sensitivity as a residential development) has been treated as less important than a non-residential development.
- Given the increased practice of home working, it is more important than ever to ensure that impacts on residential properties are adequately assessed, as the applicant and DCC have both acknowledged.

- DCC had outstanding concerns about the visual impact of the development and the decision to grant permission, subject to the removal of the top floor, no longer allows for an assessment of the significance of impacts.

#### AA Screening

- The AA Screening Report concludes that the indirect connections to Natura 2000 sites have no potential impact from the development, but it does not explain how this conclusion is reached.
- A pathway, indirect or direct, indicates potential for an impact, no matter how small or unlikely.
- The AA Screening has not properly identified potential impacts and significance, or whether mitigation is required through an NIS. Permission should not be granted on this basis alone.

### **6.3. Observations**

None.

### **6.4 Planning Authority Response**

None.

### **6.5 Applicant Response**

6.5.1. The applicant has responded to the 3<sup>rd</sup> Party appeal by Davy Target Investments Limited. Other than points already submitted as part of the 1st party appeal, the grounds of response can be summarised as follows:

- The residential use at basement level is acknowledged, including the south-facing glazed door to the bedroom area via a sunken external stairwell and the adjoining shared external space.
- A 'further addendum' daylight/sunlight report is included which confirms that No. 100 was assessed in the original analysis, which would not be changed whether the use was residential or office. Sample windows at basement level



were not included in the application analysis on the basis that they were not serving 'main rooms'.

- The original analysis identified 'moderate to significant' impacts on a sample window above the basement apartment, but it cannot be inferred that results for the basement would be similar and the amendments at further information stage would likely have improved test results for all windows.
- The 'further addendum' assessment now outlines that daylight (VSC) results for the original proposal would show a 'slight' impact for the basement door. The further information changes would have improved this result to 'imperceptible to not significant', and no further significant improvement would result from the removal of the 6<sup>th</sup> floor. The results for the east-facing bathroom window would be 'imperceptible' at all stages of the application.
- The 'further addendum' assessment now outlines that the impact on sunlight access (APSH) to the basement windows (as per the original application and further information changes) would range from 'imperceptible to not significant', and no further significant improvement would result from the removal of the 6<sup>th</sup> floor.
- The external area was not originally assessed as it was not recognised as a 'garden'. The 'further addendum' assessment now outlines that the impact on sunlight access to the external area (excluding overshadowing caused by existing trees). Impacts remain virtually identical between the existing scenario and the further information proposal. The impact of the further information proposal is considered 'significant' due to impacts between 13:00 and 15:00, and the removal of the top floor would reduce this to 'moderate' due to improvements between 13:00 and 14:00. There would be good sunlight access in June, when the space is more likely to be used.
- The existing external space is not considered a quality residential amenity space and residents/workers also have quality public open spaces nearby.
- Due to the alterations submitted as further information and the extent of existing development/screening, the proposal will not result in direct overlooking of the windows or amenity areas of No. 100.

6.5.2. The applicant has responded separately to the appeals by Padamul Ltd and Olive English. Other than points already submitted as part of the 1st party appeal, the grounds of response can be summarised as follows:

- The overall height of the building submitted as further information ranges from 35m to 37m and the omission of the top floor would reduce this by 3.9m. Either way it would exceed the 28m height policy of the Development Plan, but this is superseded by national guidance on building height.
- The planning authority is satisfied with the visual impact of development at the permitted height and massing (i.e. top floor removed), and that it will comply with the other relevant objectives of the development plan. The 1<sup>st</sup> Party appeal includes a LVIA which compares the impact of the scheme design submitted as further information with the permitted development. The removal of the 6<sup>th</sup> floor does not change the overall positive impression of the development.
- The 1<sup>st</sup> Party appeal also includes an updated Sunlight/Daylight analysis which outlines that the 'slight' to 'moderate' impacts of the scheme (submitted as further information) would not be significantly altered by the removal of the 6<sup>th</sup> floor.
- The proposed replacement building has been generously setback from Russell Court. Together with the recessed balcony design on the south elevation of Russell Court, there will be no significant additional overlooking.
- The interface of the permitted building with No. 100 St Stephen's Green includes solid/opaque panels and the building core, which would be setback 27m from Russell Court west elevation (which includes no living room windows). Therefore, no undue overlooking will occur.
- The Z8 zone allows a range of uses, including residential and office. The proposal would expand the established office use in a manner that would not significantly detract from residential amenity, while respecting the conservation setting of the surrounding area. The proposal is fully compliant with the development plan objectives.

- The development will operate in a similar manner to the existing office campus and therefore are no restrictions on the hours of operation as per the DCC decision and development plan. It is not reasonable to impose restrictions on tenants or hours of operation, but it is not expected that there would be significant noise emissions and the applicant has no objection to the inclusion of a reasonable condition to this effect.
- Condition 15 (g) of the DCC decision would adequately deal with dust management through the agreement of a construction management plan.
- Condition 9 (and condition 15(g)) of the DCC decision adequately deals with noise control at construction and operational stages.
- The Technical Note by Awn Consulting assesses noise associated with building services plant. It confirms that levels will be designed to not exceed the prevailing background noise level at the nearest off-site noise sensitive locations and will not emit tonal or impulsive characteristics.
- The AA Screening Report deals with the potential indirect connections with the Natura 2000 network via the Ringsend WWTP. It presents empirical evidence concerning the relationship, the qualifying criteria, and the likely environmental effects of the development. It is submitted that Appropriate Assessment may be screened out on this basis.

## 6.6 Other Responses

Davy Target Investments ICAV has responded to the First Party response to its appeal. In addition to points already submitted, the issues raised can be summarised as follows:

- The further information analysis of daylight/sunlight impacts included the glass door to the rear of the basement unit (window 'f') and concluded that the impacts would be 'imperceptible to moderate' with a considerable sunlight reduction in the winter period. This is of concern to the owners of the residence.
- It is incorrect to suggest that the application was adequately assessed with regard to daylight/sunlight impacts on the residential unit at No. 100.

- The basement unit at No. 100 is fully fitted for residential use and the external space provides a rare quality amenity space for this unit. Any negative impacts on the space will impact on the enjoyment of the apartment and would not be compensated by the availability of public open space.
- Suggestions that the basement unit is not occupied and does not warrant proper consideration are incorrect.
- The 'further addendum' analysis for sunlight impacts on the glass door (Win 02 – 'imperceptible to not significant') is different to the analysis of the same window at further information stage (i.e. analysis of window 'f' outlined in 1<sup>st</sup> bullet point above, which is of concern to the appellant).
- The proposed development will have a noticeable overbearing impact on the rear of no. 100.
- The scheme design at all stages of the application would reduce the area of the external space (rear of no. 100) that would receive 2 hours of sunlight on 21<sup>st</sup> March to less than 0.8 times its former value. The appellant has significant concerns in this regard.
- Despite the alterations submitted at further information stage, the permitted scheme includes clear glazing windows which will result in significant overlooking of the external amenity space to the rear of no. 100, in particular from ground and 1<sup>st</sup> floor level.
- Permitting glazing close to a boundary may establish future rights to light. It is not typical or considered to be good practice.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. This appeal case relates to a First-Party appeal against condition no. 5, as well as three Third-Party appeals against the DCC decision to grant permission. Therefore, notwithstanding the provisions of section 139 of the Planning and Development Act 2000 (as amended) regarding the limited consideration of appeals against conditions, the determination of the case as if it has been made to the Board in the

first instance is required. Therefore, I will carry out a *de novo* assessment of this case, while also considering the provisions of condition no. 5, where relevant.

7.1.2. The application involves several versions of the proposed scheme, namely the original application, the revised design submitted as further information, and the permitted scheme as per the DCC decision (i.e. including the removal of the 6th floor). Unless otherwise stated, my assessment and any references to the 'proposed development/scheme' is based on the revised scheme submitted as further information, that being the scheme on which the DCC decision is based.

7.1.3. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeals, and having regard to relevant local/national policies and guidance, I consider that the main issues for assessment in this appeal case are as follows:

- The principle of the development
- Height, scale, and visual amenity
- Daylight/Sunlight
- Impacts on surrounding properties
- Traffic and Transport.

## **7.2. The principle of the development**

7.2.1. The proposal involves the replacement of an existing office development on a site within a 'Z8' zone as per the current Development Plan, the objective for which is '*To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*'. In this zone, 'office' uses are specifically classified as 'permissible uses', while 'restaurant' and 'retail' uses are 'open for consideration uses'.

7.2.2. Section 14.8.8 of the Plan further states that lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian Squares and streets. The aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time. Offices may be permitted where they do not impact negatively on the architectural character and setting of the area and do not result in an over-

concentration of offices. In the south Georgian core where residential levels are low, it is the aim to encourage more residential use in the area.

- 7.2.3. I have also outlined that the economic/enterprise policies of the Development Plan support the increased supply of office space in the city centre, while Policy CEE 18(iv) recognises the important contribution that the café/restaurant sector makes to the city centre, both alone and in combination with employment, tourism, and residential uses.
- 7.2.4. Regarding the demolition of the existing building, I note that section 16.10.17 of the Development Plan supports the retention and reuse of older buildings of significance which are not protected and which area of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city. I consider it clear that the existing building is of a modern late 20<sup>th</sup> Century vintage which does not contribute to the heritage, interest, or character of the area. This has not been contested in the appeal and I have no objections on these grounds.
- 7.2.5. I note that some submissions have questioned the rationale for demolition and replacement on environmental grounds, suggesting that a proposal to refurbish the building would be more sustainable. This must be balanced against the 'Z8' zoning for the site at this accessible city centre location and local/national policies to increase building height and density in the pursuit of compact urban development. In this context and having considered the particular characteristics of the building and the site, I feel that there would be considerable challenges in achieving an appropriately increased quantum of development on the site while also retaining the existing building.
- 7.2.6. It must also be acknowledged that new-build projects can be designed to be highly energy-efficient. The application includes an 'Part L Compliance Report' which demonstrates that the proposed building would have a provisional BER rating of A3 and would achieve the NZEB performance specification for energy and carbon dioxide emissions, matters which are ultimately dealt with separate to the planning code under the Building Regulations. Accordingly, I have no objection to the demolition of the existing building.

- 7.2.7. Having regard to the above, I consider that the proposal to replace the existing office development on this accessible city centre site would be acceptable in accordance with the Z8 zoning objective and local and national policy to promote compact, sustainable urban development. Therefore, I have no objection to the principle of the proposed development.

### 7.3. Height, scale and visual amenity

#### Building Height Policy

- 7.3.1. I have previously outlined Development Plan policy in relation to building height in the city. In particular, I note that section 16.7.2 of the Plan includes height limits for 'low-rise' commercial development in the 'inner city' (up to 28m), 'rail hubs' (up to 24m) and the 'outer city' (up to 16m). The appeal site is located within the 'inner city' as defined in the Development Plan, albeit that it is immediately adjacent to the Z5 'city centre' zone. Therefore, the 28m height policy applies.
- 7.3.2. The maximum height of the proposed development extends to c. 35m above ground level measured from the St Stephen's Green side of the site. This height measurement would be reduced to exclude plant, flues, lift overruns etc as per 16.7.2 of the Development Plan, but would still be c. 33m in height. The overall height is greater within the internal courtyard area, extending to a maximum height of c. 37m (or 35m omitting rooftop plant etc). Therefore, as has been accepted by the applicant, the proposed height clearly exceeds the Development Plan policy limits, even with the omission of the 6<sup>th</sup> floor (c. 4m high) as per condition no. 5.
- 7.3.3. Notwithstanding this and having regard to Ministerial Guidelines and specific planning policy requirements (SPPRs) under section 28 of the Act, the Board may grant permission in accordance with section 37(2)(a) of the Act, even if the proposed development contravenes materially the development plan.
- 7.3.4. In terms of national policy, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good

public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights.

#### Quantum of Development

- 7.3.5. It is proposed to provide a gross floor area of 37,677m<sup>2</sup> on a stated site area of 0.7 ha. The Development Plan outlines that 'plot ratio' is a tool to help control the bulk and mass of buildings, and that it is calculated excluding basement floorspace (i.e. a nett area of 32,704m<sup>2</sup> in this case). It states that 'site coverage' is a control for the purpose of preventing the adverse effects of over-development. An assessment of the Development Plan standards in relation to the proposed development is outlined below.

	<b>Development Plan Standard for Z8 zone</b>	<b>Proposed Development</b>
<b>Plot Ratio</b>	1.5	4.67
<b>Site Coverage</b>	50%	69%

- 7.3.6. It is acknowledged that the proposed development significantly exceeds these indicative standards. However, the development plan does not place a maximum threshold on these standards and allows for such exceedances in certain circumstances depending on accessibility, the need for redevelopment, streetscape and existing site circumstances. The proposed quantum of development will therefore be considered on its merits in the following sections of this report.

#### Assessment

- 7.3.7. Section 3.1 of the Building Height Guidelines outlines the broad principles that planning authorities must apply in considering development proposals for buildings taller than prevailing building heights in urban areas. In this regard I would generally concur that the proposal assists in securing the NPF objectives of focusing development on the inner city and fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres. In this case the proposed development is not in line with building height policy of the development plan in



force. The DCC Development Plan 2016-2022 pre-dates the Guidelines and, therefore, it must be considered whether the implementation of the pre-existing policies and objectives of the plan align with and support the objectives and policies of the NPF.

- 7.3.8. SPPR 3 of the Building Height Guidelines sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise. The proposal must therefore be assessed against the criteria outlined in Section 3.2 of the Guidelines, which sets out the criteria that a development proposal must satisfy at various scales.
- 7.3.9. ***At the scale of the city/town*** and with regard to public transport service, I note that the appeal site adjoins the LUAS line and there is a 'stop' at St Stephen's Green, within c. 200m of the appeal site. The line operates at 3-5 min frequency during peak hours and at 12 – 15 mins in off-peak hours. It is within 1.5km walking distance of Pearse Station, which is a major transport hub providing DART, commuter and InterCity services. Other public transport links to Pearse Station are available, including the LUAS Green Line, as are links to Connolly Station and Heuston Station via the LUAS Red line connections. Connolly Station provides commuters services to Dundalk, Rosslare, and Mullingar, while Heuston Station provides a service to Kildare Town.
- 7.3.10. It is also within a short walk of frequent bus services in the area, including the Rathmines – Rathgar – Terenure Line (No. 15) and the Moorehampton Rd – Merrion Road – Blackrock line (No.s 39a, 46a, and 145). These routes run at a frequency of 10 to 15 mins.
- 7.3.11. The site is on the edge of the city centre area and is within convenient walking distance of a wide variety of city centre amenities and services. There is a good network of cycle facilities in the surrounding area, including 2 no. Dublin Bikes stations on St Stephen's Green South (total of 70 stands) and another one at Clonmel St (35 stands).
- 7.3.12. In addition to these existing transport facilities, I note that the Bus Connects project would provide the A, E, and F Spine routes in close proximity to the site, involving a

general frequency of 3-4 mins, 4-5 mins, and 5 mins respectively. The Greater Dublin Area Cycle Plan also proposes several primary radial routes running to and from the St Stephen's Green area. It is acknowledged that these planned bus and cycle facilities will provide improved sustainable transport options for the site. Notwithstanding this however, I am satisfied that the site is currently well served by public transport with high capacity, frequent service and good links to other modes of public transport.

- 7.3.13. In terms of integration with the character of the area, I note that the applicant has prepared an Architectural Design Statement, Architectural Heritage Impact Assessment, and a Landscape and Visual Impact Assessment (LVIA).
- 7.3.14. The Architectural Heritage Impact Assessment outlines the historical development of St Stephen's Green, including the replacement of several 18<sup>th</sup> century buildings on its south side. It also traces the development of Harcourt Street in the 1770's and the evolution of the appeal site, including the development of the Russell Hotel and its subsequent replacement by the existing office development. It acknowledges the designated protected structures and conservation area which adjoin the site, including the importance of streetscapes and the parks at St Stephen's Green and Iveagh Gardens. It concludes that the proposed development would reflect the scale of the existing buildings, with height increases being insignificant in the context of other recent developments. It also considers that the buildings would sit comfortably within the historic streetscapes through the use of surface modelling and the setback of upper floors, and that it would have minimal impact on architectural heritage.
- 7.3.15. The LVIA is based on views from 18 locations in the surrounding area. In the first instance, I have considered the more distant and/or obscured views from viewpoints 3, 7, 8, 10, 14, 15, 16, 17 and 18. In this regard, and having considered the potential of differing summer and winter visibility, I would concur with the LVIA conclusion that the impacts from these locations would range from 'none' to 'slight'. Accordingly, I would have no objection to these impacts.
- 7.3.16. Otherwise, I would assess the impact from the remaining viewpoints as follows:
- 1 & 2** – These views are taken from the west side of St Stephen's Green, which is a busy public transport corridor and has been subject to significant change as outlined in the Architectural Heritage Impact Assessment. Due to the significant tree cover

within St Stephen's Green, the proposed development would be only partially visible, particularly from the more distant viewpoint 1. It is acknowledged that the proposed development would be more visible from viewpoint 2, particularly during winter months, and that it would be of greater height and scale compared to the existing building.

However, I consider that the setback of the upper floors helps to mitigate the visual impact and that the proposed development would integrate comfortably with the existing tree cover and the emerging scale of development in the area. I consider that the proposed development would form an appropriately strong focus at the termination of these views, which would not result in any significant adverse impacts. I do not consider that the removal of the 6<sup>th</sup> floor would have any perceptible impact.

**4** – View 4 is from the south side of St Stephen's Green on the approach to the site from the east. Therefore, the proposed development would be viewed in the context of the existing Protected Structures and Conservation Area within No.'s 92-100 St Stephen's Green. The proposed development would be visible at the end of this terrace, and it is acknowledged that it would increase building height and scale above the adjoining buildings at 95-100. However, the setback of the upper floors mitigates the impact and ensures that the proposed development would assimilate with the height and scale of No. 94 (former chapel) in the foreground. Accordingly, I consider that the proposed development would provide a strong focal point at the termination of this view and would not significantly detract from the visual amenity or character of the area. I do not consider that the removal of the 6<sup>th</sup> floor would have any perceptible impact.

**5 & 6** - These views are from within St Stephen's Green, which is an important public amenity and the central focus of the surrounding square. Due to the significant tree cover during the summer, it is noted that both existing surrounding development and the proposed development would be almost entirely screened. The winter views submitted as further information represent a 'worst case' scenario impact and show that existing development is still largely screened by tree cover. In view 5, I consider that the proposed development would still largely assimilate with existing development and tree cover. I consider that view 6 demonstrates that the proposed development becomes significantly more visible due to its proximity.

However, consistent with the LVIA classifications, the sensitivity of the impact and the emerging trends must be considered. In this regard, I consider that the existing protected structures and streetscape (conservation area) along St Stephen's Green South would remain largely screened by tree cover and would not be prominently viewed in context with the proposed development. I also consider that the height and scale of the proposed development would be largely consistent with emerging trends on the western side of Stephen's Green/Harcourt Street. The proposed development would certainly be more visible, but this in itself should not necessarily be considered an adverse impact given the urban context of the park. Accordingly, I would agree that the overall impacts would not be significant. I consider that the removal of the 6<sup>th</sup> floor would result in a perceptible height reduction from these viewpoints, but I do not consider that it would have any significant positive impact on visual impact.

**9** – View 9 is taken from the west of the site facing north along the curved Harcourt Street façade, within the context of Protected Structures and the Conservation Area. The proposed development would replace a substantial extent of the existing streetscape and it is acknowledged that it would increase building height and scale above the adjoining buildings at 90-91 Harcourt Street. However, the new façade reflects the materials and proportions of the historical context and the setback of the (green core) upper floors would mitigate the visual impact. And while there would be localised impacts at this northern end of the street, I am satisfied that the overall character of the street will not be affected as demonstrated in views 7 & 8. Accordingly, I consider that the proposed development would provide a strong focal point at the termination of this view and that the overall impacts on the street would not significantly detract from the visual amenity or character of the area. The removal of the 6<sup>th</sup> floor would result in a slight height reduction, which would not significantly impact on visual impact.

**11 & 12** – These views are from within the Iveagh Gardens, another important public amenity. Due to the significant tree cover during the summer, it is noted that both the existing and proposed development would be largely screened, apart from the upper floors of the proposed development in View 11. The winter views submitted as further information represent a 'worst case' scenario impact and show that the proposed development would be significantly more visible, particularly in View 11.

However, consistent with the LVIA classifications, the sensitivity of the impact and the emerging trends must be considered. In this regard, I consider that this 'rear' view of the existing protected structures and streetscape (conservation area) is not particularly sensitive to built heritage. The proposed development would certainly be more visible, but this in itself should not necessarily be considered an adverse impact given the urban context of the park. Accordingly, I would agree that the overall impacts would not be significant.

From these views, I would also concur with the applicant's contention that the removal of the 6th floor would adversely affect the overall design concept, resulting in reduced complexity and visual interest and a brick-dominated façade.

**13** – This view is from Cuffe Street to the west and encompasses only the northwest corner of the site. The proposed development, particularly the upper floors, would be screened by dense tree cover during the summer months. The 6-storey corner element would be visible in this view and would comfortably assimilate with existing development, while the recessed upper floors would only be marginally visible. Accordingly, I would agree that the overall impacts would not be significant. I also consider that the impact of the removal of the 6<sup>th</sup> floor would be imperceptible.

7.3.17. The Guidelines also state that proposals on larger urban redevelopment sites should make a positive contribution towards place-making. In this regard I consider that the site size of 0.7 hectares would not be exceptionally large as an urban redevelopment site. The nature and configuration of the site is also one which requires a strong streetscape along the site perimeter, thereby largely restricting the potential for the creation of new public streets and/or public spaces. The proposed layout does however include significant open spaces consisting of a courtyard and sunken garden, which are linked to St Stephen's Green to the north and Harcourt St to the west, along with a potential linkage to Iveagh Gardens to the southeast.

7.3.18. The proposal involves the redevelopment of the existing office develop to achieve higher density in accordance with the Guidelines. With regard to place-making and heritage, the concept of 'restoration' lies at the heart of the design approach. This is based on a light-coloured stone cube at the corner of St Stephen's Green and Harcourt Street which recalls the former Russell Hotel. An articulated brick façade also runs along Harcourt Street, echoing the scale and form of the historical houses

on the site and the adjoining streetscape. Behind these external facades (i.e. the conservation set-piece) is the modern green core, framed in polished green concrete and planting. Accordingly, while the proposed development seeks increased density on the site, I am satisfied that it would be achieved by using massing and increased height with sufficient variety in scale and form to respond to the streetscape and create visual interest.

- 7.3.19. ***At the scale of district / neighbourhood / street***, the prominent corner volume aims to signal the main entrance to the scheme, while drawing on the rhythms and proportions of the surrounding streetscape to form a contemporary interpretation of the 'Grand House'. Generous bay widths and proportions incorporate a variety of layers and a solid to void ratio which cumulatively reflect the grand scale and richness of the surrounding built heritage.
- 7.3.20. The transition between this corner element and the Protected Structure at No. 100 (and adjoining Conservation Area) is successfully achieved through the lower, recessed 'green core' with planted terraces, which provides a suitable break between old and new, while also reflecting the urban greening of St Stephen's Green and Iveagh Gardens.
- 7.3.21. The Harcourt Street elevation follows the curvature of the street and incorporates materials and rhythms to respect the pattern of terraced development. Double bays at the base reflect the traditional arrangement of large ground floor shop units and provide a suitably active frontage at street level. The lower brick frontage is 4-storeys high, marginally higher than the adjoining no. 91 but consistent with the height of other buildings on the street. The upper floors are suitably setback and incorporate different colours and materials to mitigate the visual impact. A planted terrace is also incorporated centrally within the Harcourt Street façade, above Stokes Passage, which helps to break up the overall scale of the proposed development.
- 7.3.22. The rear of the development (i.e. Block B) is most visible from Iveagh Gardens, where three volumes would form the new interface with the park. The lower volumes consist of the brick facades with strong bays and rich layers, some of which is screened by existing trees. The upper floors are again recessed with contrasting colours/materials to reduce its visual presence.

- 7.3.23. Having regard to the above, I am satisfied that the proposed development responds well to the natural environment consisting of the surrounding public parks, as well as the built environment and its rich heritage value. It would replace a development of lesser quality and make a positive contribution to the urban neighbourhood and streetscape.
- 7.3.24. The Guidelines also aim to avoid a monolithic design approach. In this regard I note that there is a variety of building elements which have been well considered to integrate with the existing streetscape. The corner feature is proposed as a prominent and distinctive cubic form with predominantly light grey, silver granite finishes. Otherwise, the street façade would be predominantly composed of brick to match the Georgian character of the area. The ‘green core’ generally sits behind/above the main facades and is comprised of polished green concrete, planting and bronze metalwork. The green core helps to ease the transition with development along St. Stephen’s Green South and provides a central breakage in the Harcourt St façade. The setback upper floors of the green core also provide an important vertical relief to mitigate the overall building height. Cumulatively, I am satisfied that these design elements successfully avoid a monolithic approach.
- 7.3.25. As previously outlined, I am satisfied that the proposal responds appropriately and positively to St Stephens Green and Iveagh Gardens, thereby enhancing the urban design context for these important public spaces. I have also outlined the key transport corridors and thoroughfares in the area and the proposed development would similarly enhance the context for Harcourt Street and St Stephen’s Green. Internally within the site, Stokes Place and the adjoining link development will give legibility to the two blocks and provides a high-quality thoroughfare with open spaces and several linages to the surrounding public realm.
- 7.3.26. There is no waterway/marine frontage on the site. However, consistent with the requirements of the Building Height Guidelines, a Flood Risk Assessment (FRA) is included with the application. Due to its distance from water courses and the coast, the FRA concludes that there is no risk of fluvial or coastal flooding. Together with the results of the Greater Dublin Strategic Drainage Study, which concluded that the site would not flood for a 30-year storm event, the FRA concludes that the proposed development is within Flood Zone C where the probability of flooding is low and a ‘justification test’ is not required for ‘less vulnerable’ development as proposed. I am

satisfied that there is a negligible flood risk, and that further assessment of this issue is not required.

- 7.3.27. As previously outlined, I am satisfied that a well-considered architectural design is proposed to provide a strong corner feature that would improve the urban legibility of the area. It would also reflect the historical presence of the Russell Hotel, and the replacement streetscape along Harcourt Street would provide an improved understanding of the former Georgian terrace that was removed to facilitate the existing development. Suitable design elements are also incorporated at the interface with No. 100 St Stephen's Green and No. 91 Harcourt Street, to ensure that the proposed development integrates in a cohesive manner, while appropriately distinguishing between the old and the new. There would be improved activity at street level and the building shoulder heights are maintained at 4-5 storeys, which is appropriate for this historic setting.
- 7.3.28. With regard to the mix of uses and building typologies, it is acknowledged that the proposed development largely replaces the existing office development on site. The addition of the café / retail / restaurant use at ground floor level would improve and complement the existing range of uses in the area, providing an attractive and active frontage space for employees, visitors and residents. The proposed office use would also complement the predominant uses in the area, including retail, other offices, civic uses, and hospitality. The proposed building would provide an increased density of commercial floorspace within a distinctive building which appropriately balances contemporary requirements with its historical setting. Accordingly, I am satisfied that the proposal would positively contribute to the mix of uses and building typology in the area.
- 7.3.29. ***At the scale of the site/building***, the Guidelines outline that 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. In terms of the detailed design and layout of the building, I am satisfied that substantial glazing and terraces have been provided to maximise ventilation and views, including those of quality open spaces at St Stephen's Green and Iveagh Gardens. The other requirements in relation to daylight and overshadowing are considered separately in section 7.4 of this report.



- 7.3.30. The Guidelines also outline that **specific assessments** may be required to support such proposals, including assessments of micro-climatic effects, bird/bat impacts, telecommunication channels, air navigation, urban design and the historic built environment, and relevant environmental assessment.
- 7.3.31. The application includes a Wind Microclimate Modelling report which involved a qualitative and quantitative assessment of the proposed development. In summary, it concludes that:
- The proposed development will produce a high-quality environment that is attractive for pedestrians of all categories.
  - Wind flow speeds at ground level will be within tenable conditions. Some high velocity, funnelling, and recirculation effects may be experienced, but these would not be at unacceptable frequency, would not be caused by the proposed development, and would be mitigated by the proposed tree planting.
  - Higher velocities may be experienced on the terraces, but this will be successfully mitigated.
  - Good shielding is achieved everywhere on the balconies.
  - The proposed development does not impact or give rise to negative or critical wind speeds at nearby roads or buildings.
  - According to the Lawson criteria, all areas are suitable for 'long term sitting' and no critical conditions were identified for vulnerable users or otherwise.
- 7.3.32. An Ecological Impact Assessment (EclA) is included which concludes that no flora or terrestrial species of habitats of National or international conservation importance were found in field or desk studies. A bat survey was carried out and there is no evidence of past or current use of any of the onsite buildings by bats, but there are foraging bats proximate to the site. It is stated that Herring Gulls were present but there was no evidence of nesting on the building. Mitigation measures are included to address any potential adverse ecological impacts, including measures to address bird nesting or bat roosts within the site.
- 7.3.33. A report is included from 'Independent Site Management' regarding the potential impacts on telecommunication channels. It acknowledges that the proposed development will impact on two existing microwave links on the roof of the Stephen's Green Hotel. It is proposed to approach the operators with a view to realigning the

link dishes to alternative locations, or otherwise that their requirements would be accommodated on the 3m pole included on the top of Block A. It also states that the site is located in close proximity to several large telecommunication sites with ample capacity to provide mitigating infrastructure in the unlikely event that the proposed mitigation measures are deemed insufficient. I am satisfied that these proposals are acceptable and that, having regard to the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (DoELG, 1996), the need for the proposed pole would be justified and acceptable in accordance with guidance for the location of such infrastructure on tall buildings in urban areas.

7.3.34. The Planning Report confirms that the site is not located within any designated noise or safety zone for an airport. I am satisfied that the proposed development would not have any impact on air navigation safety.

7.3.35. As previously outlined, the application includes an Architectural Design Statement and an Architectural Heritage Impact Assessment, which satisfactorily address the implications for urban design and the historic built environment.

7.3.36. And with regard to other relevant environmental assessment, the application includes an EIA Screening Report which has been addressed in section 5.4 of this report. An EcIA has been included as previously outlined and an AA Screening report is also included, which will be addressed in section 8.0 of this report.

7.3.37. Accordingly, I am satisfied that the application has appropriately addressed the need for any specific assessment sets out in section 3.2 of the Building Height Guidelines.

### Conclusion

7.3.38. In conclusion regarding height, scale, and visual amenity, I consider that the height and quantum of development proposed would comply with the provisions of the Building Height Guidelines and NPF policies regarding the provision of increased height and density at accessible urban locations. And while the proposed development is of a height and scale that is greater than stated Development Plan standards, I consider that the massing, form and detailing of the proposal has been suitably designed to ensure that the proposed development will successfully integrate with the traditional and emerging character of development in the area. I have considered condition no. 5 of the DCC decision but I do not consider that the removal of the 6th floor would result in any significant reduction of visual impact or

improvement of the proposed design. Therefore, subject to further assessment of other matters, I would have no objection to the proposed development.

#### 7.4. Daylight/Sunlight

##### Policy

- 7.4.1. I have previously outlined the provisions of SPPR 3 of the Urban Development and Building Height Guidelines (2018) with regard to the departure from development plan building height provisions, and the criteria outlined in Section 3.2 of the Guidelines regarding maximising access to natural daylight and minimising overshadowing and loss of light. The Guidelines state that ‘appropriate and reasonable regard’ should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE ‘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.
- 7.4.2. The Development Plan also highlights the value of daylight and sunlight in ‘Standards for Residential Accommodation’ (Section 16.10) and states that development ‘*shall be guided by the principles of*’ the BRE Guide. It states that a sunlight/daylight analysis of the different units may be required and modifications to be put in place where appropriate.
- 7.4.3. At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that ‘*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*’. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to

consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

#### Information & Assessment

- 7.4.4. The original application included a 'Sunlight & Daylight Access Impact Analysis' report (December 2020) prepared by 'ARC Architectural Consultants Ltd'. The report states that the standards and assessment methodologies suggested in the BRE guide have been referenced in the analysis but highlights the advisory nature of the standards and the difficulties in achieving higher densities based on strict compliance with these standards. It contains a daylight (VSC) and sunlight (APSH) analysis of impacts for surrounding properties, as well as the results of a shadow study. An addendum to the report (July 2021) was submitted as further information, which assesses the changes to the proposed design, as well as providing additional information on the nature of existing uses and the proportion of APSH impacts compared to existing values.
- 7.4.5. A further addendum analysis (October 2021) was submitted with the First Party appeal, which assesses the VSC and APSH impacts of the removal of the 6<sup>th</sup> floor as per the DCC decision. Finally, the applicant's response to the Third-Party appeal by Davy Target Investments includes a further addendum (November 2021) which assesses VSC and APSH impacts to the basement residential unit at No. 100 St Stephen's Green, as well as sunlight impacts on the adjoining external space.
- 7.4.6. I have considered the reports submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party appeals/observations which have raised concerns in relation to daylight and sunlight.

#### Daylight impacts on neighbouring properties

- 7.4.7. The BRE guide acknowledges that, in designing new development, it is important to safeguard the daylight to nearby buildings. The Development Plan also outlines the need to avoid excessive impacts on existing properties.

- 7.4.8. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight.
- 7.4.9. The applicant's VSC assessment covers a total of 64 windows in surrounding properties. At the outset it must be acknowledged that only 8 (or 12.5%) of these windows currently comply with the 27% BRE standard. The analysis outlines that the impact of the proposed development would result that only 5 of the windows (or 8%) would continue to be above 27%. However, a further 9 windows would retain more than 0.8 times their former value. Therefore, a total of 14 (22%) of the windows would strictly comply with the BRE standards.
- 7.4.10. In considering those windows which do not comply, I note that Zone 1 (west side of Harcourt St) would not experience a reduction to less than 0.67 times the former value. Similarly, when compared to their former value, the results for Zone 4 (Clonmel Street) would not be less than 0.68, Zone 6 (Rear of 94 St Stephen's Green) would not be less than 0.71, and Zone 8 (90 St Stephen's Green) would not be less than 0.76. In this city centre context, I consider that these results largely comply with the 0.8 target and the effects would not be significant.
- 7.4.11. In Zone 2 (90/91 Harcourt St) it is noted that none of the existing windows exceed the 27% target and that all windows would be reduced to less than 0.56 times their former value, resulting in moderate to significant effects. Three of these windows (02E, 02F, 02G) are stated to be in residential use.
- 7.4.12. Similarly, in Zone 3 (87/88 Harcourt St) none of the existing windows meet the 27% target and all but 2 windows would be reduced to less than 0.4 times their former value, resulting in moderate to significant effects.
- 7.4.13. In Zone 5 (98-100 St Stephen's Green), none of the existing windows meet the 27% target and only 2 windows would be reduced to less than 0.7 times their former value, resulting in moderate to significant effects. One of these windows (05 A) is within No. 100 St Stephen's Green, a property which has been the subject of debate

in this appeal. However, the relevant window does not serve the basement residential unit in No. 100, which has been the subject of a Third-Party appeal. The applicant's response to the appeal includes an updated report (November 2021) assessing the basement residential windows and confirms that the impacts of the proposed development would not reduce daylight levels to less than 0.8 times their former value.

7.4.14. Zone 9 relates to Russell Court, which has also been the subject of 2 no. Third-Party appeals. The BRE Guide highlights the impact of balconies on daylight and the applicant's report contends that the relevant windows of Russell Court are setback behind deep balconies which block daylight, as shown in the analysis of the 'existing' scenario where the values for the window surfaces do not exceed 4.3%. A further analysis is provided for the existing building surface façade, where improved values generally range from 15-27%. The applicant's report of July 2021 outlines that the revised development would generally reduce the VSC for windows to 0-1.7%, while the building surface values would be reduced to 9-19%, which would generally exceed 0.6 times the former value.

7.4.15. In conclusion regarding daylight impacts, I have acknowledged that moderate to significant impacts would occur in zones 2, 3, 5 and 9. However, it must also be acknowledged that this is a prime inner-city location where increased height and density should be encouraged and where strict compliance with BRE standards is extremely challenging. The vast majority of existing windows do not currently meet BRE standards and are in commercial use, which significantly reduces the sensitivity of the impacts. The main concentration of residential use is within Russell Court, and I consider that the impacts of the development would be acceptable given that the existing windows are severely compromised by the overhanging balcony and the building surface façade would retain reasonable values which exceed 0.6 times their former value. I also consider that the impacts on No. 100 St Stephen's Green will be acceptable, particularly given that there are no living room windows involved.

7.4.16. I acknowledge that significant effects have been clearly identified which do not comply with the BRE guide standards, largely as a result of the specific site constraints. Consistent with BRE guidance regarding the flexible application of standards, I note that section 2.2.3 of the guide confirms that the numerical values given regarding daylight impacts on existing buildings are purely advisory, and that

different criteria may be used based on the requirements for daylighting in an area viewed against other site layout constraints. Having regard to this flexibility, I consider that the impacts on daylight standards are satisfactorily compensated by the central and accessible location of the site, where wider planning objectives would be achieved. These objectives include the comprehensive redevelopment of this site at a higher density in accordance with national planning policy, as well as an enhancement of the urban design and streetscape context as previously outlined in section 7.3 of this report.

#### Sunlight Impacts for neighbouring properties

- 7.4.17. The applicant has included a sunlight analysis for windows using measurements of annual probable sunlight hours (APSH) and annual probable sunlight hours for the winter period (WPSH). The analysis for all windows was updated in the July 2021 report based on the revised design proposals. The BRE guide states that living room windows facing within 90° of due south may be adversely affected if the centre of the window receives less than 25% of APSH or less than 5% of WPSH; and receives less than 0.8 times its former sunlight hours during either period; and has a reduction in sunlight received over the whole year greater than 4% of APSH.
- 7.4.18. The analysis of the proposed development for Zone 1 indicates that all but 1 window (01 B) exceed the 25% APSH and 5% WPSH standards. However, the proposed value for 01B would not be less than 0.8 times the former value and therefore meets the standard.
- 7.4.19. In Zone 2, only 1 window would exceed the 25% APSH and 5% WPSH standards. However, none of the other windows would be reduced to less than 0.8 times the former value and therefore meet the standard.
- 7.4.20. Only 6 of the 12 windows in Zone 3 are south-facing and require further assessment. None of these 6 windows meet the 25% APSH and 5% WPSH standards, but only 4 would be reduced to less than 0.8 times their former value, resulting in moderate to significant effects.
- 7.4.21. There are no south-facing windows in Zone 4 and no further assessment is required in this regard.

- 7.4.22. Three of the six windows in Zone 5 would not meet the 25% APSH and 5% WPSH standards. Two of these three windows would retain 0.8 times the former APSH, but none would retain 0.8 times the former WPSH, resulting in moderate to significant effects. It is noted that the applicant's response to the third-party appeal includes an updated report (November 2021) assessing the basement residential windows and confirms that the impacts of the proposed development would not reduce APSH levels to less than 25% and would not result in a reduction to less than 0.8 times the existing value, which meets the BRE standard.
- 7.4.23. Only 2 of the 6 windows in Zone 6 are south-facing and require further assessment. Neither of these 2 windows meet the 25% APSH and 5% WPSH standards. Both windows would retain more than 0.8 times their former APSH value, but both would be reduced to less than 0.8 times their former WPSH values, resulting in moderate effects.
- 7.4.24. In Zones 7 & 8, all windows would retain 0.8 times their former APSH & WPSH values, apart from 08D which would marginally fail to reach the 0.8 standard for WPSH (i.e. 0.78). Accordingly, I am satisfied that impacts in these zones would not be significant.
- 7.4.25. For Zone 9, the applicant's report again highlights the impact of the balconies in Russell Court in severely restricting sunlight to existing windows, particularly at the lower levels. Indeed, the existing levels are so restricted that I would agree that any impacts on the lower levels would be insignificant, while impacts on floors 3-5 would be moderate to significant. Given the nature of the balconies, a study has also been completed for the building surface façade which outlines that there would be slight to significant effects, with all spaces retaining at least 0.5 times the former value.
- 7.4.26. In conclusion regarding sunlight impacts, I have acknowledged that moderate to significant impacts would occur in zones 3, 5, 6 and 9. Again however, it must also be acknowledged that this is a prime inner-city location where increased height and density should be encouraged and where strict compliance with BRE standards is extremely challenging. A high proportion of the existing windows do not currently meet BRE standards and are in commercial use, which significantly reduces the sensitivity of the impacts. The main concentration of residential use is within Russell Court, and I consider that the impacts of the development would be acceptable given



that the existing windows are severely compromised by the overhanging balconies and the building surface façade would retain reasonable values which exceed 0.5 times their former value. I also consider that the impacts on No. 100 St Stephen's Green will be acceptable, particularly given that there are no living room windows involved.

- 7.4.27. I acknowledge that significant effects have been clearly identified which do not comply with the BRE guide standards, largely as a result of the specific site constraints. Consistent with BRE guidance regarding the flexible application of standards, I consider that the impacts on sunlight standards are satisfactorily compensated by the central and accessible location of the site where wider planning objectives would be achieved. These objectives include the comprehensive redevelopment of this site at a higher density in accordance with national planning policy, as well as an enhancement of the urban design and streetscape context as previously outlined in section 7.3 of this report.

#### Impacts on external amenity space

- 7.4.28. Section 3.3 of the BRE guide deals with gardens and open spaces. It recommends that for an external space to appear adequately sunlit throughout the year, at least half of the space should receive at least 2 hours of sunshine on 21st March. If as a result of new development this cannot be met, and the area which can comply is less than 0.8 times its former value, then loss of sunlight is likely to be noticeable.
- 7.4.29. The applicant's report of November 2021 assesses the impact of the development on the space to the rear of the basement apartment at No. 100 St Stephen's Green. The assessment excludes the impact of the existing trees in the garden, which I agree would have a significant overshadowing impact as exists. Without considering the existing trees, at least 50% of the space currently receives sunlight for at least 2.5 hrs between 12:00 to 14:30, which complies with the BRE standard. Under the proposed development, I consider that at least 50% of the space would receive sunlight for less than an hour, between 11:30 and 12:30, which does not comply with the BRE standard.
- 7.4.30. This space does appear to be accessible to the basement residential unit and I would accept that it may serve as an amenity for that property. And while I accept that the proposed development would significantly reduce the potential sunlight to

this space, I consider that, consistent with my previous opinions, compliance with BRE standards is extremely challenging at this prime location where increased height and density of development is appropriate. Therefore, despite the predicted significant effects, I consider that the proposed development would achieve wider planning objectives in relation to redevelopment and urban design which, on balance, are acceptable at this central and accessible site.

#### 3rd Party appeals / observations

- 7.4.31. I have considered the issues raised by 3rd parties in carrying out this daylight/sunlight assessment. I consider that the assessment has been comprehensive in its scope and has adequately demonstrated the worst-case impacts of the development on surrounding properties and accurately reflects the predicted impacts within reasonable tolerance levels.
- 7.4.32. The Third-Party appeal from Davy Target Investments Ltd has questioned how the results for 'Win 02' of the November 2021 report differ from those for the same window (Window 05F) in the July 2021 report. However, it should be noted that window 05F is in fact a different window at ground floor level above the basement level Win02, which explains the differing results recorded. I also confirm that, according to the drawings associated with P.A. Reg. Ref. 2468/16, neither of the basement level residential windows (Win01 AND Win 02) serve a 'living room'.

#### Conclusions on Daylight/Sunlight

- 7.4.33. I again highlight that the BRE guide outlines the need for flexible interpretation in the context of many other design factors. I am satisfied that the applicant has carried out an assessment of impacts on neighbouring properties and that it has been competently prepared in accordance with the BRE guidance and methodology. I have acknowledged that some daylight and sunlight levels to neighbouring properties (including the external space at No. 100 St Stephen's Green) do not meet the BRE guide standards and will result in significant impacts. However, I am satisfied that these constitute acceptable shortfalls in the wider context of the overall assessment and that the BRE guidance allows sufficient flexibility in the application of standards.
- 7.4.34. The appeal site is located in a well-connected city centre area and as previously outlined, increased height and density should be encouraged at such locations in

order to achieve wider NPF planning objectives relating to compact development and brownfield redevelopment. Accordingly, I am satisfied that the proposed height and scale of development is appropriate at this location and that, on balance, the impacts on surrounding properties are acceptable having regard to the need to achieve wider planning objectives.

- 7.4.35. In carrying out my assessment, I have considered condition no. 5 of the DCC decision regarding the removal of the 6th floor. I would agree with the applicant's report of October 2021 in that it would not mitigate the daylight/sunlight impacts to adjoining properties to any significant extent. I note that the applicant's report of November 2021 indicates that condition no. 5 would reduce impacts on the rear external space of No. 100 St Stephen's Green from 'significant' to 'moderate'. Ultimately however, I do not consider that any of the identified impacts would warrant the removal of the top floor having regard to the wider and overriding objectives relating to increased density and urban design enhancement.

## **7.5. Impacts on surrounding properties**

- 7.5.1. Apart from daylight/sunlight impacts, the appellants have also raised concerns about impacts relating to overlooking, overbearing, noise, and general disturbance.

### Overlooking and overbearing

- 7.5.2. The proposed development would largely bound onto St Stephen's Green to the north and Harcourt Street to the west. Both of these spaces/corridors provide a significant separation distance and 'public' buffer between the proposed development and surrounding properties, and I am satisfied that there will be no significant impacts in these cases.
- 7.5.3. To the north, the proposed development also bounds onto the rear of No.'s 95-100 St Stephen's Green. No.'s 97-99 comprise commercial properties which are significantly distanced (c.35m) and separated from the proposed development by intervening car-parking, tree cover etc. Accordingly, I do not consider that there would be any significant overlooking or overbearing impacts on these properties.
- 7.5.4. It is acknowledged that No. 100 adjoins the proposed development and contains a basement apartment with external amenity space. To the south, there is intervening tree cover and the external space would be c. 28m from the proposed development,

while the basement glazed bedroom door would be c. 38m away. It is acknowledged that the most significant impacts would relate to Block A to the west of No. 100, although this would be restricted to the external space as there would be no intervisibility to the internal space of the basement apartment. Any of the other commercial windows in No. 100 would be at 90° to the proposed development and there would be no significant impact.

- 7.5.5. The applicant has included opaque/screened openings to address overlooking concerns at this boundary, but the third-party appeal from Davy Target Investment Ltd contends that there is still overlooking potential from a vertical column of 6 windows (ground level to roof terrace) and from four other windows from 4<sup>th</sup> floor level to roof terrace. Having considered these potential impacts, I would highlight that the existing ground level arrangement to the south and west of No. 100 already consists of an open 'public' parking area which bounds onto the external basement amenity space. Given these existing conditions, and the fact that any additional overlooking would be limited to oblique views from a limited number of windows, I do not consider that the proposed development would have unacceptable impacts and I consider that adequate mitigation measures have already been included.
- 7.5.6. The third-party appeal from Davy Target Investments Ltd has also raised the issue of rights to light. As the determination of such rights is a matter for the Courts, I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised.
- 7.5.7. The south-facing façade of Russell Court would be separated by a distance of c. 16m, at which point the proposed development rises to 5 storeys. There is no specific recommended standard for separation distances in the case of opposing residential and commercial development. However, it is useful to compare this to the recognised standard of 22m for opposing residential windows in new housing developments. It should also be noted that the windows in Russell Court are significantly recessed and are therefore greater than 16m away. Therefore, having regard to the city centre context of the site and the nature of the proposed development, I am satisfied that the separation distance would be acceptable and would not lead to any unacceptable overlooking impacts.

- 7.5.8. The upper floors, i.e. 4<sup>th</sup> and 5<sup>th</sup> floor levels, are setback a further distance of c. 21m at a height of c. 27m above ground level. The 6<sup>th</sup> floor level is further recessed and would not be prominent above the 5<sup>th</sup> floor. I consider that this is largely similar to the existing arrangements where development is setback less than 20m to the south of Russell Court and to a height of c. 23m. The perceptible height of the proposed development would be only 4m higher, although setback at least 1m further, and would not result in significant overlooking or overbearing impacts on Russell Court.
- 7.5.9. At the eastern end of the site, the proposed development would bound onto the rear of No. 94 to the north and the rear of no.'s 90-93 to the east. At this point, I consider that the proposed Block B would be largely consistent with the nature and scale of the existing Block D on site. And while it would involve an increased shoulder height of c. 5 metres, I consider that this is relatively minor in the overall context and would not result in significant overlooking or overbearing impacts. The 6<sup>th</sup> floor is setback a further distance of c. 10m, will be largely imperceptible above the should height, and I do not consider that its removal would be warranted on these grounds.
- 7.5.10. To the south of Block B is the rear of the offices on Clonmel Street. The nearest windows would be more than 20m from the proposed development, which is sufficient to avoid any significant overlooking impacts. The proposed development would replace Block D at this location with a similar shoulder height (c. 35mOD), although two setback upper floors are also included at an additional height of c. 8m. The 5<sup>th</sup> floor would be largely concealed by the should height, but it is accepted that the 6<sup>th</sup> floor level would form a perceptible height increase. However, I consider that this is relatively minor in the overall context and would not result in significant overlooking or overbearing impacts. The removal of the 6<sup>th</sup> floor would not, therefore, be warranted on these grounds.
- 7.5.11. To the south of the link building is an existing 6-storey commercial building, which would be a distance of 9-10 metres from the proposed development. It is acknowledged that this would be closer than the existing building line and that the proposed development would involve an additional 2 storeys (or c. 8m). However, having regard to the scale and commercial use of the existing development to the south, I am satisfied that that adequate separation distances would be maintained, and no unacceptable overlooking or overbearing impacts would occur. The 6<sup>th</sup> floor level would be elevated above the adjoining building and would not directly oppose

it. I do not consider that its removal would have a significant impact or that it would be warranted in this case.

- 7.5.12. To the southwest, the rear of no. 91 Harcourt Street faces east, almost perpendicular to the south-facing façade of Block A. To the east, the proposed development would be c. 45m from the rear windows of no. 91, which provides a significant level of privacy and visual relief. Compared to the existing development, it is acknowledged that Block A (to the north) would extend significantly closer and higher in relation to this property. However, I consider that any additional overlooking would be limited to oblique views from a limited number of windows, and I do not consider that there would be any unacceptable overlooking or overbearing impacts. The oblique view of the 6<sup>th</sup> floor would be quite acute, and I do not consider that its removal would have a significant impact or that it would be warranted in this case.

#### Construction phase

- 7.5.13. Concerns have been raised about the potential for disturbance at construction stage. I would contend that such impacts are an inevitable and unavoidable element of urban redevelopment, which is appropriate in this case to comply with national policy regarding increased height and density. The impacts would clearly be temporary and would occur within a mainly commercial area, although the adjoining residential uses have clearly been acknowledged. I am satisfied that impacts in this regard, including those relating to noise, hours of work, and dust etc., can be satisfactorily agreed as part of a construction management plan (CMP). The applicant has included an Outline CMP which is comprehensive and robust, and a final plan can be agreed as a condition of any permission. I acknowledge the third-party concerns about the lack of clarity on noise limits. However, I consider that the arrangements for such measures are closely related to construction methodologies, and it would be inappropriate and unnecessary to specify any particular limits or methodologies at this stage.
- 7.5.14. The applicant's Civil Engineering Infrastructure report includes a Basement Impact Assessment in section 7. It outlines that soil stability issues will be mitigated during construction by appropriate temporary works design of secant piled retaining walls. Any buildings which fall within the zone of influence have been assessed and temporary works designed to avoid unacceptable movement or subsidence related

structural damage. The report also highlights that the risk of subsidence typically cannot occur in Dublin Boulder Clay, which is the case for the geological profile of the site, and concludes that all risks have been addressed and mitigated. I am satisfied that the applicant has adequately assessed the potential structural impacts on the surrounding area and has demonstrated that they are not predicted to be significant. It will be the developer's responsibility to ensure that suitable monitoring and mitigation measures are implemented as stated.

#### Operational Phase

- 7.5.15. The development involves the replacement of an existing office use and I consider that the operational effects will be largely consistent with existing arrangements, albeit at an increased scale. Having regard to the existing site context, I do not consider that the proposed office use is likely to result in any significant adverse impacts. Accordingly, I do not consider it reasonable to impose any conditions on the nature of tenants or hours of operation.
- 7.5.16. Similarly, the operational noise effects associated with such an office development are unlikely to cause adverse disturbance. The application includes a Technical Note from AWN Consulting Ltd., which assesses the operational noise impact of new mechanical plant items. A noise survey has been completed to establish background noise levels. It has been confirmed that the detailed design of the development will ensure that noise levels will be equal or lower than the prevailing background levels at the nearest off-site noise sensitive locations, and that no significant tonal or impulsive characteristics will be emitted. I am satisfied that this can be appropriately addressed through a suitable condition.

#### **7.6. Traffic & Transport**

- 7.6.1. As previously outlined in this report, the appeal site benefits from an accessible location in close proximity to a range of public transport and pedestrian/cycling options. It is therefore agreed that private car travel and parking reliance should be limited in accordance with national transportation and land use policies.
- 7.6.2. The further information submission proposes 40 no. car parking spaces and includes an updated 'Traffic Assessment' for this proposal. Based on TRICS data, it estimated that there would be 11 vehicles entering and 3 vehicles leaving during the AM peak.

The PM peak would see 1 vehicle entering and 10 vehicles exiting. The Traffic Assessment concludes that the limited traffic volumes would have a negligible impact on the local road network. I would agree that traffic volumes would be minimal and that the development will be largely based on use of the widely available local sustainable transport options including rail, bus, walking and cycling.

- 7.6.3. The proposal for 40 spaces is well below the maximum number of spaces allowable under Table 16.1 of the development plan standards (i.e. 77 spaces @ 1 per 400m<sup>2</sup> for 'offices' in Zone 1). It is proposed to provide 12 no. motorcycle spaces, which exceeds 4% of the car spaces as per section 16.38.6 of the Development Plan and is considered reasonable given the low volume of car spaces. It is also proposed to provide 600 no. bicycle spaces, including 10 no. non-standard cycle spaces. For Zone 1 areas, the development plan standards indicate that 1 cycle space is required per 100m<sup>2</sup> for 'enterprise and employment' uses, resulting in a requirement for 311 spaces. Therefore, I am satisfied that the proposed development would significantly exceed the development plan cycle requirements.
- 7.6.4. The further information response also included an updated Mobility Management Plan. It includes a target modal split for the year 2028 of car driver / passenger (1%), carpool users (1%), public transport (50%), walk (20%), and cycle (28%), which is largely consistent with the opening year of 2023. The mobility strategy aims to manage the limited parking resources; to encourage staff to use public transport; and to encourage cycle/walk to work. It is supported by specified initiatives including the appointment of a mobility co-ordinator with responsibility for implementing the strategy.
- 7.6.5. In response to the DCC concerns, other changes were introduced as further information. I consider that these alterations have significantly improved cycle related facilities, which can be summarised as follows:
- Lift from ground to basement cycle parking and increased stair width between basement levels to include mechanically assisted stairs.
  - 10 no. non-standard cycle spaces at basement level -2.
  - Relocation of basement shower and locker spaces.
  - Increase in visitor spaces at ground level to 32, of which 24 are Sheffield stands and 8 are non-standard spaces.



- Relocation of cycle spaces on Harcourt St and St Stephen's Green to internal courtyard.

- 7.6.6. It has been clarified that existing access arrangements for other properties using the St Stephen's Green access will remain unchanged, but access from this point associated with the proposed development will be for cyclists and pedestrians only. As per the Operational Service Plan, service vehicles using the Harcourt Street entrance is estimated to be 7 no. per day and the loading bay would be deep into the site. Having regard to the overall low traffic volumes, is not likely to significantly impact on this entrance, footpath, road or LUAS line, by reason of congestion, safety, or otherwise.
- 7.6.7. Both entrances will facilitate cyclist movements. The St Stephen's Green entrance would facilitate access from the east with a simple left turn and access from Cuffe Street to the west would be facilitated by a proposed 'Toucan' crossing over the existing raised pedestrian crossing island on St Stephen's Green South. The Harcourt St access would facilitate traffic from the south and a 'mobility manager' would provide education and reminders about the need to dismount when crossing the LUAS line. Cyclists will also need to dismount at both entrances. The application also recommends the provision of additional bollards to highlight the LUAS line.
- 7.6.8. Regarding construction stage impacts, the Outline Construction Management Plan includes traffic management proposals for construction vehicles. It also includes proposals to protect the LUAS infrastructure including the Overhead Catenary System; the track slab; and an adjacent culvert combined sewer. The construction access will be off Harcourt Street and a traffic management plan will be agreed in advance of works. The applicant's further information response has confirmed that a continuous footpath width of 2m will be maintained outside the hoarding and that the footpath will remain similar to existing conditions during construction.
- 7.6.9. The Planning Authority has no objection to the development subject to conditions, including requirements for 10 no. car share spaces and clarification of electric charging spaces. The applicant's mobility management plan already provides for 10 no. car-share spaces by 2028, which I consider to be a reasonable transition. I would agree that electric charging points should be clarified by condition. The TII has also

recommended conditions regarding the protection of LUAS infrastructure, and I have no objection in this regard.

- 7.6.10. Having regard to the above, I am satisfied that the proposed development is based on a sustainable transport strategy which would not adversely impact on local transport infrastructure by reason of congestion, safety or otherwise. I am satisfied that any outstanding details, including those of the 'Toucan' crossing and construction-related traffic issues, can be satisfactorily addressed by condition.

## **7.7. Other Issues**

### Flood Risk and Drainage

- 7.7.1. In this report I have previously outlined that the applicant has satisfactorily established that the site is not subject to flood risk and that the excavation requirements are not likely to impact on groundwater flows due to the geological and hydrogeological profile of the area.
- 7.7.2. The application outlines that foul drainage would discharge to the existing combined sewer along Harcourt St. Storm water drainage will be collected in a separate network including a SuDs roof system, an attenuation tank at basement level, and rainwater harvesting for reuse, but will connect to the foul manhole prior to discharge to the combined sewer. Provision will be made for a future separate surface water network. Water supply will be via an existing watermain on Harcourt Street.
- 7.7.3. The DCC Drainage Division has confirmed that there are no objections to these proposals subject to conditions. I note that Irish Water has not commented on the application, but I am satisfied that connection arrangements can be satisfactorily agreed by condition.
- 7.7.4. Having regard to the above, I have no objection to the proposed development on the grounds of impacts on flood risk, drainage or water services.

### Archaeology

- 7.7.5. I note that the appeal site is partially within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City) and the Zone of Archaeological Interest as per the Development Plan. The application includes an Archaeological Assessment which outlines that the site has been subject to significant

redevelopment over the last 200 years. Previous excavations in the area have revealed remains of post-medieval buildings and evidence of medieval activity in the wider area. It is not clear how redevelopment has affected the potential archaeological resource on site including the former path of the River Steine, and it is concluded that the site contains moderate archaeological potential. The assessment recommends that archaeological testing be carried out and that, depending on the results, further mitigation measures may be required.

- 7.7.6. The DCC Archaeologist's report recommends that an Archaeological Impact Assessment (including test trenching) should be completed, and I have no objection in this regard subject to the attachment of a suitable condition.

## **8.0 Appropriate Assessment**

- 8.1.1. The application includes an 'Appropriate Assessment Screening' report prepared by Altamar Ltd Consultants. It concludes that the proposed project, alone or in combination with other projects, is not likely to have significant effects on Natura 2000 sites in view of their conservation objectives, and that a Natura Impact Statement is not required.
- 8.1.2. I note that the third-party appeal from Olive English has challenged the applicant's findings. It contends that an identified pathway, indirect or direct, indicates potential for an impact, no matter how small or unlikely. It states that screening has not properly identified potential impacts and significance, or whether mitigation is required through an NIS, and concludes that permission should not be granted on this basis alone.
- 8.1.3. The proposed development involves the provision of an office development with a gross floor area of 37,677m<sup>2</sup>. The site has been previously developed and has a stated site area of 7,000m<sup>2</sup>, containing an existing office development of 17,550m<sup>2</sup> which is to be demolished. It is proposed to connect to the existing combined surface water and wastewater network serving the area. The surrounding area is predominantly composed of artificial surfaces / open space and is largely characterised by a mix of commercial development of varying scale.
- 8.1.4. The nearest Natura 2000 sites are in the Dublin Bay area and include the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC (both c.

3km from the appeal site). I acknowledge that there are several other Natura 2000 sites in the wider surrounding area, including more distant sites within Dublin Bay as identified in the applicant's AA Screening Report. There are no direct pathways between the appeal site and any of these Natura 2000 sites.

- 8.1.5. Having carried out AA screening for other developments in the Dublin city area I am conscious that the development is indirectly connected to the Natura 2000 sites within Dublin Bay via the surface water and foul water networks. The possibility of groundwater pathways must also be considered. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.
- 8.1.6. The development incorporates standard surface water management measures to regulate discharge flows in terms of quantity and quality. Together with the wastewater discharge, surface water will discharge to the combined sewer which is ultimately treated at the Ringsend Wastewater Treatment Plant prior to discharge to Dublin Bay. There is significant dilution capacity in the existing drainage network and receiving water environment and there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants.
- 8.1.7. The applicant's AA Screening report highlights that Irish Water operate the Ringsend facility under licence and are required to comply with environmental legislation. The permitted upgrade of the facility to a capacity of 2.4 million PE will be in place before the project becomes operational. I consider that the proposed development would represent a relatively minor increase in loading on the plant, even in the absence of the plant upgrade, and it is noted that the proposed drainage design/attenuation measures would have a net beneficial impact on capacity, particularly during heavy rainfall events.
- 8.1.8. I acknowledge that water quality assessment in Dublin Bay confirms that it is classified as unpolluted and there is no evidence that the wastewater treatment plant is adversely affecting the conservation objectives of Natura 2000 sites. Therefore, in terms of cumulative and in-combination effects, including the impact of the proposed development and other projects and their connection to the wastewater plant, I am satisfied that there is no potential for likely significant effects on Natura 2000 sites.

- 8.1.9. As with all construction projects, there is limited potential for surface water contamination during construction works. However, I am satisfied that best-practice construction management will satisfactorily address this matter.
- 8.1.10. With regard to groundwater, I note that the surface water management measures will not allow for percolation to the ground. I am also satisfied that the application details have established that the excavation works will not significantly impact on groundwater due to the geological and hydrogeological profile of the area. Standard construction management measures will satisfactorily protect groundwater and I am satisfied that there will be no likely significant effects, particularly given the separation distance and hydrological buffer between the appeal site and the Natura 2000 sites.
- 8.1.11. I am satisfied that any proposals incorporated within the development, including surface water management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening. Having regard to the above preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

## 9.0 Recommendation

Having regard to the above and the reasons and considerations set out below, I recommend that planning permission for the proposed development should be **granted**, subject to conditions.

## 10.0 Reasons and Considerations

Having regard to the city centre location of the site in close proximity to a wide range of public transport options and other services, the provisions of the Dublin City Council Development Plan 2016-2022, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018, the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts Heritage and the Gaeltacht in October 2011, and the National Planning Framework, which seeks to direct new development in cities into built-up serviced areas, the pattern and character of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development in this accessible urban location, would not seriously injure the amenities of surrounding properties or seriously detract from the character or built heritage of the area, would not be likely to result in any significant effects on Natura 2000 sites, and would be acceptable in terms of traffic safety and convenience, ecology, flood risk, and drainage. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Environmental Impact Assessment Screening**

An environmental impact assessment screening of the proposed development has been carried out and it is considered that the Environment Impact Assessment Screening Report and other documents submitted by the applicant identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

- the location of the site on lands zoned as 'Z8' in the Dublin City Development Plan 2016-2022, the objective for which allows for expansion that is consistent with the conservation objective, and the results of the strategic environmental assessment of this Plan in accordance with the SEA Directive (2001/42/EEC),
- the developed nature of the site and its location within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- the guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the absence of any relevant connectivity to any sensitive location,
- the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001 (as amended),
- the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Operational Waste Management Plan, Construction and Demolition Waste Management Plan, Civil Engineering Infrastructure Report, Outline Construction Management Plan, Archaeological Assessment, and Ecological Impact Assessment,

It is considered that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that the preparation of an environmental impact assessment report would not, therefore, be required in this case.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 20<sup>th</sup> day of August, 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 period during which the development hereby permitted may be carried out shall be seven years from the date of this order.

**Reason:** Having regard to the nature and scale of the development, involving the replacement of a significant existing development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. Details, including samples of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.



4. Water supply and drainage arrangements, including the 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. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

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

6. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site and adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

**Reason:** In the interest of residential amenities of surrounding properties and in the interest of clarity.

8. 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 refuse;
  - (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;
  - (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
  - (j) 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;
  - (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
  - (l) 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 public safety and residential amenity.

9. The developer, in consultation with Transport Infrastructure Ireland, shall ensure that the surrounding LUAS rail infrastructure is suitably protected during the construction and operational phases of the development. Detailed plans and proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect key transport infrastructure and ensure a satisfactory standard of development.

10. (a) Any alterations to the public road or footpath shall be in accordance with the requirements of the planning authority and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the applicant's expense.

(b) Proposals for the upgrade of the existing pedestrian crossing on St. Stephen's Green South to a toucan crossing shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interests of clarity, public safety and amenity.

11. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-

(i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.

(ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996-2:2017: Acoustics - Description and Measurement of Environmental Noise.

**Reason:** To protect the amenities of property in the vicinity of the site.

12. 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 interest of sustainable waste management.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

**Reason:** In the interests of visual and residential amenities.

15. 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,

(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavations works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any archaeological remains that may exist within the site.

16. A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transport.

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

An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

18. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City (St. Stephen's Green to Broombridge Line), in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Stephen Ward  
Senior Planning Inspector

15<sup>th</sup> June 2022

## **Appendix 1:**

### **Environmental Impact Assessment Screening Determination**



A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		<b>ABP-311618-21</b>
<b>Development Summary</b>		Demolition of existing 5-7 storey office complex, including basement (c. 17,550m2 gross floor area) and the construction of a new office development (c. 37,677 m2 gross floor area). Further details are outlined in section 2 of the Inspector's report.
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	A Stage 1 AA Screening Report was submitted with the application.
<b>2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	<b>No</b>	N/A
<b>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>	<b>Yes</b>	<p>SEA undertaken in respect of the Dublin City Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan.</p> <p>An Operational Waste Management Plan and Construction and Demolition Waste Management Plan which had regard to the European Communities (Waste Directive) Regulations 2011 and Council Directives 75/442/EC, 1999/31/EC, and 91/689/EEC.</p> <p>An Appropriate Assessment Screening Report and Ecological Impact Assessment which had regard to the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC), and the Urban Wastewater Treatment Directive.</p>

	<p>A Hydrological and Hydrogeological Qualitative Risk Assessment which had regard to the Water Framework Directive (WFD) (Directive 2000/60/EC), the Urban Wastewater Treatment Directive, and the Bathing Water Directive.</p> <p>A Site-Specific Flood Risk Assessment (FRA) which had regard to 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' and the Eastern CFRAMS study.</p>
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B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant)  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of an office development to replace an existing office development. There are similar large scale commercial developments in the surrounding area. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposed development is located within the urban area. Excavation is expected to be 10-11m below ground level and will likely encounter bedrock, with no anticipated impact on groundwater. Such impacts would not be uncommon in the city centre.	No

<b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b>	<b>Yes</b>	Construction materials will be typical of such urban development. Redevelopment of this urban site will not result in any significant loss of natural resources or local biodiversity.	No
<b>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b>	<b>Yes</b>	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
<b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b>	<b>Yes</b>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan, significant operational impacts are not anticipated.</p>	No

<p><b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b></p>	<p><b>No</b></p>	<p>No significant risk identified.</p> <p>Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services before combined discharge. No significant emissions during operation are anticipated.</p>	<p><b>No</b></p>
<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p> <p>6 no. microwave link dishes are included, which would not be uncommon in the city centre.</p>	<p><b>No</b></p>

<b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b>	<b>No</b>	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.	<b>No</b>
<b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b>	<b>No</b>	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature.  There are no Seveso / COMAH sites in the vicinity of the site.	<b>No</b>
<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	Redevelopment of this site as proposed will largely retain the existing office use, albeit at an increased scale and level of employment. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	This is a stand-alone development, comprising renewal of a site and is not part of a wider large scale change.	<b>No</b>

		Other developments in the wider area are not considered to give rise to significant cumulative effects.	
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2. Location of proposed development			
<p><b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b></p> <ul style="list-style-type: none"> <li><b>1. European site (SAC/ SPA/ pSAC/ pSPA)</b></li> <li><b>2. NHA/ pNHA</b></li> <li><b>3. Designated Nature Reserve</b></li> <li><b>4. Designated refuge for flora or fauna</b></li> <li><b>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></li> </ul>	<b>No</b>	<p>No European sites located on the site. An AA Screening Assessment accompanied the application which concluded the development would not be likely to give rise to significant effects on any European Sites.</p> <p>This site does not host any species or habitats of conservation interest.</p>	<b>No</b>

<b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</b>	<b>Yes</b>	There are foraging bats proximate to the site and Herring Gulls may nest on the building. The Ecological Impact Assessment include suitable mitigation measures in this regard.	No
<b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b>	<b>Yes</b>	The site is within a 'Zone of Archaeological Interest' and adjoins Protected Structures and a designated Conservation Area. This is typical for the city centre and suitable design and mitigation measures have been included, including an Archaeological Impact Assessment and Architectural Heritage Impact Report.	No
<b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b>	<b>No</b>	No such features arise in this urban location.	No
<b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b>	<b>No</b>	The site is located c. 750 metres from the nearest watercourse (Grand Canal). It is not expected that groundwater would be significantly affected given the geological characteristics of the area.	No
<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	<b>No</b>	No risks are identified in this regard.	No
<b>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b>	<b>No</b>	The site adjoins a Luas line and is mainly based on sustainable transport options such as public transport, cycling, and walking, as outlined in the Mobility Management Plan. It is not anticipated that there would be any major environmental problems related to transport.	No



<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b>	<b>No</b>	The development would not be likely to generate additional impacts or demands on educational or health facilities in the area.	<b>No</b>

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	<b>No</b>
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>	No	<b>No</b>

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	EIAR Not Required	EIAR Not Required
<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned as 'Z8' in the Dublin City Development Plan 2016-2022, the objective for which allows for expansion that is consistent with the conservation objective. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The developed nature of the site and its location within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
- The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001 (as amended),

- the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Operational Waste Management Plan, Construction and Demolition Waste Management Plan, Civil Engineering Infrastructure Report, Outline Construction Management Plan, Archaeological Assessment, and Ecological Impact Assessment.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

**Inspector:** \_\_\_\_\_

**Stephen Ward**

**Date:** 15<sup>th</sup> June 2022

**ADP:** \_\_\_\_\_

**Stephen Kay**

**Date:** 15<sup>th</sup> June 2022