



An
Bord
Pleanála

Inspector's Report

ABP-312494-22

Development	Permission for refurbishment and extensions to existing office buildings, including two additional setback floors.
Location	Montague House and Hardwicke House, Hatch Street Upper, Dublin 2.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3706/21
Applicant(s)	Hibernia REIT PLC
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	<ol style="list-style-type: none">1. First Party vs. Condition2. Third Parties vs. Grant
Appellant(s)	<ol style="list-style-type: none">1. Hibernia REIT PLC2. Kevin Woods IPUT PLC
Observer(s)	None
Date of Site Inspection	26 th August 2022
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The appeal site is located within the south inner city, roughly midway between the city centre and the Grand Canal. It is bounded by Hatch Street Upper to the north and Adelaide Road to the south. To the west, the St. James House office development bounds the southwest portion of the site, while a partially attached office building (1-2 Hatch St) bounds the northwest portion of the site. To the east of the site, a low-profile car park building (ground floor and 1st floor deck) is flanked by an office building to the north (Deloitte House along Hatch Street Upper) and a mainly residential terrace to the south (along Adelaide Road).
- 1.2. In the wider context, the area is characterised by mixed development of varying nature, character and scale. It has been subject to significant recent change, with a number of large-scale developments recently completed or currently under construction.
- 1.3. Development to the west of the site mainly comprises large-scale modern commercial buildings ranging from 5 to 9 storey heights. To the north, the large sites of Iveagh Gardens and the National Concert Hall complex add an important mix of recreational and cultural uses to the area. To the east, there are two modern office buildings (5-7 storeys) at the junction of Earlsfort Terrace and Hatch Street Upper, while to the southeast, Adelaide Road and southern part of Earlsfort Terrace are characterised by a mix of 3 to 4-storey Georgian and Victorian terraces (protected structures). The LUAS line provides an important public transport link along Harcourt Road and Peter Place to the southwest of the site.
- 1.4. The site itself has a stated area of 0.3084ha and is currently occupied by two conjoined but functionally separate office buildings. Hardwicke House fronts onto Hatch Street Upper and comprises a 6-storey building of 4,908m², with a maximum height of 26.6m. Montague House fronts onto Adelaide Road and comprises a 6-storey building of 4,964m², with a maximum height of 22.72m. A basement parking area extends below both buildings and is accessed off Adelaide Road. A private pedestrian route runs through the eastern part of the site between Hatch Street Upper and Adelaide Road.

2.0 Proposed Development

2.1. In summary, the proposed development involves the refurbishment and extension of the two existing office buildings, and is comprised of the following:

- reconfiguration of the layout of the basement to provide for 16 no. car parking spaces (including 1 no disabled car parking space); 174 no. cycle parking spaces; 2 no. motorcycle parking spaces; staff showers, changing rooms and lockers; bicycle repair area; plant and tank areas and bin storage areas
- reconfiguration of the existing office floorplates and construction of extensions on the eastern and western sides of the buildings at first, second, third, fourth and fifth floors to provide an additional 6,239 sq. m. of office accommodation (to 16,111 sq. m. GFA) including office space for collaborative working at ground floor in Hardwicke House and an ESB substation and switchrooms at ground level
- construction of two additional setback floors resulting in an eight storey Hardwicke House, setting back to a seven storey Montague House
- removal of all existing external cladding and replacement with a new stone frame structure framing double height glazed openings
- provision of roof terraces at sixth and seventh floor level on Montague House and at the sixth-floor level on Hardwicke House
- provision of a 541 sq. m. plant area enclosure and 85 sq. m. solar photovoltaic ('PV') modules at roof level
- upgrading of pedestrian route along the eastern boundary, reconfiguration of the disabled ramp and widening of the access steps to Hardwicke House.

2.2. The application seeks a 10-year permission given that works can only commence once all existing leases have ended in 2026 and the buildings have been fully vacated.

2.3. Foul drainage would discharge to the existing combined outfalls and sewerage system on Hatch Street Upper and Adelaide Road. Storm water drainage will be collected in a separate network, will be managed in accordance with SuDS (including greenroofs and rainwater harvesting), and will be attenuated and discharged to the

combined sewer on Hatch Street in accordance with DCC and Irish Water requirements. A new metered water supply will be connected to the 100mm supply pipe on Adelaide Road in agreement with Irish Water.

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

- Planning Report
- Architectural Design Statement
- Architectural Visualisations
- Architectural and Archaeological Heritage Impact Assessment
- Visual and Townscape Impact Assessment
- Transport Statement (including Mobility Management Plan)
- Drainage and Watermain Planning Report
- Flood Risk Assessment
- Sustainability Report
- Outline Construction Management Plan and Construction and Waste Management Plan
- Operational Waste Management Plan
- Daylight & Sunlight Assessment.

3.0 Planning Authority Decision

3.1. Decision

By order dated 9th December 2021, Dublin City Council (DCC) issued notification of the decision to grant permission subject to 13 conditions. The conditions are generally standard in nature, with the exception of condition no. 4 which states as follows:

For the avoidance of doubt, this permission is granted for a period of five years from the date from the date of the grant of planning permission.

Reason: In the interest of clarity.

3.2. Planning Authority Reports

3.2.1. Planning Report

The assessment outlined in the DCC planner's report can be summarised as follows:

- The site represents a transition site between contemporary development ranging from 7-9 storeys in SDRA 18 and the 4-storey historic properties covered by the Z8 zoning.
- Having considered the applicant's visualisations and impact assessments, it is considered that the height, scale, and massing of the proposal respects the site's location and sits comfortably within the streetscape whilst providing a more intensified form of development as recommended for SDRA 18.
- The proposed office use complies with the requirements of SDRA 18 and there are a range of other commercial uses permitted in 'the Vaults' at the corner of Hatch Street and Harcourt Street.
- A contemporary design is proposed with high quality materials and the visual impact of roof plant will be minimised.
- The Daylight and Sunlight report accompanying the application concludes that there will be only a negligible impact to surrounding residential properties.
- Sufficient justification has not been provided for a 10-year permission and a 5-year permission is considered reasonable.
- The report concludes that the development contributes to a critical mass of employment in this area and would accord with the Urban Development and Building Heights Guidelines and the Dublin City Development Plan.
- A grant of permission was recommended, and this forms the basis of the DCC decision.

3.2.2. Other Technical Reports

- Drainage Division: No objections subject to conditions.
- Air Quality Monitoring and Noise Control Unit: No objections subject to conditions.

- Transportation Planning Division: No objections subject to conditions. The report outlines that existing access and servicing arrangements will largely remain, and that the amended parking arrangements are welcomed.

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).

3.4. **Submissions / observations**

Two submissions were received from the third-party appellants in this case. The issues raised are covered in the grounds of appeal (section 6 of this report).

4.0 **Planning History**

There have been no applications of significance on this site in recent years. The following history is of significance in relation to surrounding sites to the east and west of the appeal site:

Corner site at Upper Hatch Street / Earlsfort Terrace

ABP Ref. 29S.239323 (P.A. Reg. Ref. 3700/10): In May 2012 the Board granted permission for demolition of all structures and construction of a mixed-use development with a height of nine storeys. The duration of this permission was subsequently extended by DCC until the 11th of July 2022.

Former Adelaide Court site (to west of appeal site)

P.A. Reg. Ref. 2756/15: Permission granted (September 2015) for the demolition of all existing buildings (1,996 sq.m gross) on the site and the construction of a seven-storey building over a basement and lower basement level, comprising of office development of 14,084 sq.m gross.

P.A. Reg. Ref. 3929/16: Permission granted (January 2017) for amendments and extensions to the permission granted under Ref. 2756/15.

Corner site at Harcourt Street / Hatch Street Upper

P.A. Reg. Ref. 3993/03: Permission granted (November 2003) for the removal of existing buildings and the phased construction of three self-contained office buildings interconnected by a glazed atrium courtyard, 7 floors above ground floor on Hatch Street Upper totalling 31,970sqm.

Corner Site at Adelaide Road / Earlsfort Terrace

ABP Ref. PL29S.300914 (P.A. Reg. Ref. 3040/17): In November 2018 the Board granted permission for demolition of structures, provision of a four to seven storey over double basement - level commercial development, parking and all ancillary works above and below ground level.

Adelaide Road site (former Telephone Exchange to the west of appeal site)

ABP Ref. PL29S.301931 (P.A. Reg. Ref. 2388/18): In April 2019 the Board granted permission for the provision of a nine-storey including two set back storeys (over basement) commercial development with 18,464 square metres gross floor area of office space.

P.A. Reg. Ref. 3292/21: In January 2022, DCC granted permission for amendments to Ref. 2388/18, to include additional floors providing up to eleven storeys over basement level building.

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 Z6 ‘Employment/Enterprise’, the objective for which is ‘*To provide for the creation and protection of enterprise and facilitate opportunities for employment creation*’. It states that these lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region. Within the canal ring, office uses are ‘permissible’ in this zone.

5.2.2 Chapter 4 outlines the shape and structure of the city and provides for taller buildings in designated areas, including strategic development regeneration areas

(SDRAs). The appeal site is located within SDRA 18 – National Concert Hall Quarter. 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. 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.

SC16: To recognise Dublin is a fundamentally low-rise city, while also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

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.

5.2.3 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.

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 and conservation areas along Adelaide Road and Hatch Street Upper. 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 15 sets out the guiding principles for development within each of the SDRAs. Section 15.1.1.21 addresses SDR A 18, and the main relevant provisions can be summarised as follows:

- Create a character area which successfully transitions between the South Georgian core to the east and the emerging mixed-use area to the west.
- Create a critical mass of employment generating land uses to utilise the investment in public transport.
- Promote the development of vacant and under-utilised sites in the character area for high quality commercial development and other uses.
- Facilitate and deliver improved pedestrian linkages between the area's key open spaces and streets.

- Promote the development of buildings of up to 9-storeys commercial, subject to visual impact assessment.
- Ensure that the architectural composition and design of buildings and clusters of buildings contribute to the sense of place and identity/character of the area.
- Proposals for development must have regard to the existing views and vistas from the South Georgian core, while also contributing to the establishment of a distinct form, character and appearance of the NCH quarter.
- The indicative 'Key Development Principles' map shows the site in 'commercial' use and shows an enhanced pedestrian connectivity route along the eastern side of the site.

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. Standards are also outlined in relation to density and traffic/parking requirements.

5.3 Natural Heritage Designations

The Grand Canal Proposed Natural Heritage Area is located c. 250m to the south 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 – Preliminary Examination

5.4.1. It is proposed to construct an additional office floorspace of 6.239m² on a developed site of 0.3 hectares, within a built-up and serviced inner city area. I consider that the nature and scale of the proposed development is not exceptional when considered in the context of surrounding development.

5.4.2. 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).

- 5.4.3. It is acknowledged that the site adjoins Protected Structures and designated Conservation Areas. 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.
- 5.4.4. 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.
- 5.4.5. Having regard to the existing development on site, the nature and limited scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

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. 4 only, which limits the duration of the permission to 5 years. The appeal seeks a determination under section 139(1) of the Act and the grounds of appeal can be summarised as follows:

- The buildings are subject to a number of leases, the last of which expires for Montague House in December 2023 and for Hardwicke House in December 2026. Therefore, a 5-year permission could not be implemented.
- There are significant structural interventions required to facilitate both the horizontal and vertical extensions, and both the existing and proposed mechanical and electrical plant strategy is shared between both buildings. Both buildings need to be completely vacant for the required demolition and construction works to commence.

- The majority of the central plant infrastructure at roof level is located on the Hardwicke House side of the divide. The additional floors and plant enclosure cannot be constructed until the lease for this building expires in 2026.
- At basement level, there is significant central plant infrastructure beneath Hardwicke House. The decommissioning and replacement of this plant cannot be carried out until the lease for this building expires in December 2026.
- The existing ESB sub-station at the base of the ramp supplies both buildings and requires replacement at grade. However, the proposed location within the footprint of Hardwicke House is within a tenant's demise until December 2026 and cannot be achieved, rendering the required phased construction approach unviable. There are no suitable alternative locations for the substation.
- The extent of works and structural intervention cannot practically be undertaken without first having vacant possession of both buildings, which would not be achievable within a 5-year permission.
- It is requested that the Board amends the condition to the effect of applying a 10-year permission.

6.2. Third Party Appeals

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

6.2.1. Appeal by Kevin Woods, 10 Adelaide Road

The appellant requests the Board to refuse permission or to attach conditions if minded to grant permission. He contends that DCC did not give adequate consideration to his observation and requests the Board to invite comment from the DCC conservation office. The grounds of appeal can be summarised as follows:

- The proposal is an incongruous and monolithic urban form and detracts from the architectural character and setting of the neighbouring protected structures, historic streetscape, and conservation area.

- The abrupt transition of scale detracts and further erodes the character of the Georgian core.
- The proposal will undermine the quality of linkages between Hatch Street and Adelaide Road, which is contrary to the objectives of the SDRA.
- If the Board intends to grant permission, the following alterations are required by way of condition:
 - No additional height to be permitted along Adelaide Road to protect the character and setting of adjoining protected structures.
 - The quality of the right of way to be enhanced through increased height and open space along the route.
 - To improve public safety/surveillance and to comply with the SDRA objective to activate the public streets, a café/restaurant evening use should be provided at ground floor onto Hatch Street.
- In addition to the above, the appellant's original submission to DCC raised the following issues:
 - The domination of monofunctional office use in the area
 - The ongoing increase of height and density and the erosion of design quality in the area
 - The increased height and façade alterations onto Adelaide Road are unnecessary and are a negative intervention
 - The proposal will erode the quality of the open space along the pedestrian link between Hatch Street and Adelaide Road
 - The development of the area has been a developer-led approach and has done little to enhance public realm, vibrancy, visual amenity, or character.

6.2.2. Appeal by IPUT PLC

The appellant is stated to be the owner of properties to the east of the site, i.e. the two office buildings along Hatch Street Upper (Deloitte House) and Earlsfort Terrace (Garryard House), as well as the car park to the rear. The appellant is generally supportive of the redevelopment proposal but raises serious concerns that it would materially diminish the development potential of the properties. The concerns raised can be summarised as follows:

- The appellant is actively exploring proposals to demolish the existing buildings and construct a new purpose-built contemporary facility to modern standards. Planning policy is supportive of such an approach and there is an extant permission for the site (ABP Ref. 29S.239323, P.A. Reg. Ref. 3700/10). A new design team has been appointed to update the permitted proposal.
- It would not be possible to successfully integrate either the permitted scheme or any new scheme with the proposed development as currently configured.
- Several images are included in the appeal (Figures 3 – 6) which highlight the proximity and conflicts between the sites, including concerns of overlooking and daylight for the appellant’s site. Figure 6 also suggests potential resolutions to the conflict, involving a revised design of the proposed development to improve the interface with regard to solid walls, windows, separation distance, and circulation cores.
- The appellant requests that the Board considers inviting the applicant to submit revised proposals, an approach which the appellant would actively support and facilitate.
- The applicant’s Daylight and Sunlight Assessment did not consider the daylight impacts on the appellant’s properties, either as existing or permitted.
- Section 3.2 of the Building Height Guidelines highlights the need to consider loss of light and the BRE Guide ‘*Site Layout Planning for Daylight and Sunlight*’ is also applicable to ‘some offices’. The author of the Guide (Dr Paul Littlefair of BRE) recently clarified in another case (ABP Ref. 311605-21) that this would include an office with a shallow plan and sizeable areas of clear glazing. The adjacent IPUT offices fit this description and the Board is requested to invite the applicant to submit an updated daylight assessment to include the existing and permitted IPUT schemes. The appellant would also welcome an invitation to prepare an independent daylight and sunlight report.
- The DCC assessment appears not to have engaged with the appellant’s request to safeguard the development potential of the site and it is requested that the Board expressly engage with these matters.

6.3. Observations

None.

6.4 Planning Authority Response

None.

6.5 Applicant Response

6.5.1. The applicant's response to the appeal by Kevin Woods can be summarised under the following headings:

Form and Scale

- The form and massing is a direct and positive response to the site context.
- The massing, height, and façade of Hardwicke House will align with the One and Two Hatch St building and the visual impact of the setback upper floors and roof plant will be minimised.
- Montague House will transition between the 4-storey protected structures and the 9-storey emerging context to the west. The existing building lines along Adelaide Road are retained and the treatment and setback of upper floors creates an appropriate interface with protected structures.
- The Visual and Townscape Assessment concludes that visibility will be substantially limited to the immediate environs, where it will make a positive contribution to architectural quality and the identity of the area.
- The Architectural and Archaeological Heritage Impact Assessment concludes that the increased height is appropriate for Hatch Street Upper; it will have little impact on views from Iveagh Gardens; it will have little impact on the adjoining/opposite properties; and there is little difference in the backdrop height between the existing and proposed development when viewed from a distance.

Right of Way

- The pedestrian route is within the ownership and control of the applicants and is not a right of way.
- As detailed in the Architectural Design Statement, the proposal includes several improvements to the route as follows:
 - Removal of existing planter and ramp that reduces its width
 - Removal of low-level wall on Adelaide Road
 - Re-paving of gravel areas at building frontage to extend width
 - Provision of wheelchair lift to improve universal access.
- The collaborative workspace at ground floor level on Hatch St Upper will be active within and outside office hours and will serve as a marker point at the entrance to this route.

Height facing Adelaide Road

- It has been demonstrated that the proposal will not negatively impact on the character of the area or protected structures. Therefore, there is no justification to restrict the height of Montague House.

Evening use on Hatch Street

- The collaborative workspace at ground floor level on Hatch St Upper will be active within and outside office hours and can be used flexibly for workshops, seminars, and events.
- There are a number of restaurant/café and retail uses at the corner of Hatch St and Harcourt St, some 150 metres to the west of the site.

6.5.2. The applicant's response to the appeal by IPUT PLC can be summarised under the following headings:

The extant planning permission

- This permitted development on the appellant's site has not been designed with typical 'good neighbouring' principles given. It involves construction on the common boundary line with numerous windows facing the applicant's site,

resulting in potential severe impacts for the existing building and future development potential, as well as potential 'right to light' issues.

- The intended update of this permission presents the opportunity to address the relationship with the applicant's site in respect of the extent of glazing and setbacks from the boundary line.

Development Potential

- The applicant was aware that the extant permission was expiring in July 2022 and was unlikely to be implemented.
- The proposal has regard to the existing buildings on the appellant's site and its potential future development, incorporating the following:
 - A series of setbacks along the boundary ranging from 4 to 9 metres
 - The proposed projection up to the site boundary is in the centre of the site, where intensification is most appropriate for city centre views. The projection presents a blank gable to boundary, thereby allowing future development in a 'mirrored' fashion. A layout of potential future development is shown (Figure 2).

Daylight and Sunlight

- It is not common practice to assess daylight/sunlight impacts on commercial city centre developments and the precedent suggested by the appellant (ABP Ref. 311065-21) remains untested.
- Notwithstanding this, a Daylight and Sunlight Assessment has been carried out of both the existing and permitted schemes on the appellant's site (using the permitted arrangement as a more suitable baseline). The assessment shows that impacts on the existing Deloitte House and Garryard House will be 'minor' and 'negligible' respectively. Impacts on the permitted arrangement would also be 'negligible'.
- There are numerous examples of such adjoining commercial developments where daylight/sunlight was not a material consideration, including an example at Lad Lane/Wilton Terrace where two adjoining developments were permitted by the Board (ABP Ref 303706-19 and ABP Ref. PL06S.240278).

- The daylight provisions of section 3.2 and other criteria in the Building Height Guidelines are not relevant as the proposed building height is not taller than the prevailing heights in the area, both existing and permitted. The proposed height also fully complies with the guiding principles of SDRA 18.

6.6 Other Responses

Kevin Woods has responded to the first party and IPUT PLC appeals. The issues raised in relation to each appeal can be summarised as follows:

First Party appeal

- The Draft Dublin City Development Plan was published prior to the submission of the application and the following is noted:
 - The Strategic Development Regeneration Objective for the lands has been removed. The objective facilitated monofunctional office uses in the area in the last 5 years.
 - The Strategic Context and Vision promotes a more sustainable and resilient city.
 - The site remains within the Z6 zone, which places an enhanced focus on promoting employment and a wide range of local services.
 - The adjoining lands remain within the Z8 zone, which places an increased focus on facilitating regeneration, cultural uses and appropriate residential development, while managing the concentration of offices in these areas.
- There has been a significant increase in office use permitted in the area, coupled with a loss of residential uses. Given the changed emphasis towards mixed use and sustainable communities in the Draft Plan, a 10-year permission is not appropriate.
- A 10-year permission would also be inappropriate in the context of the potential redevelopment of the adjoining IPUT PLC lands.
- It is requested that the application be refused. If the Board intends to grant permission, condition no. 4 should be retained.

IPUT PLC appeal

- The points raised are valid and the applicant's approach to the development of the site is piecemeal. The potential for overall coherent development of the block is welcomed.
- The appellant does not agree that the approach can be resolved through the appeal process and requests that permission be refused.
- The appellant would also welcome the opportunity to engage in the early design stages of the potential redevelopment of the block, which would represent a more appropriate plan-led approach.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. This case involves a First-Party appeal against condition no. 4, as well as two 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. 4, where relevant.
- 7.1.2. 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 and Sunlight
 - Impacts on surrounding properties
 - Traffic and Transport
 - Duration of permission.

7.2. The principle of the development

- 7.2.1. The proposal involves extensions and alterations to an existing office development on a site within a 'Z6' zone as per the current Development Plan, the objective for which is '*To provide for the creation and protection of enterprise and facilitate opportunities for employment creation*'. For such zones within the canal ring of the city, 'office' uses are specifically classified as 'permissible uses' in the Development Plan.
- 7.2.2. I note that concerns have been raised about an inadequate mix of uses. In this regard, section 14.8.6 of the Plan outlines that a range of other uses can be accommodated in such zones at an appropriate ratio where they are subsidiary to the main employment uses. The objectives for SDRA 18 also aim to create lively streets with passive surveillance. It is proposed that the ground floor level would retain the existing office/reception uses along Adelaide Road. However, a new collaborative working space would be introduced onto Hatch St Upper, which would be open within and outside office hours and can be used flexibly for workshops, seminars, and events etc. I consider that this addition would improve the vibrancy and activity at street level. And while I would support other uses such as a café/restaurant or retail unit in principle, I do not consider it reasonable that this should be a mandatory or necessary requirement of the development.
- 7.2.3. I have also outlined that the economic/enterprise policies of the Development Plan (including CEE5 & CEE11) support the increased supply of commercial/office space in the city. The proposed development would deliver an additional 6,239m² GFA of office accommodation, which would represent a significant increase (c. 63%) on the employment capacity of the existing building.
- 7.2.4. Having regard to the above, I consider that the proposal to extend the existing office development on this accessible inner city site would be acceptable in accordance with the Z6 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 the objectives for SDRA 18 allow up to 9 storey commercial development, subject to further visual assessment. The proposed development has a maximum of 8 storeys and is, therefore, consistent in principle with Development Plan policy.
- 7.3.2. 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.
- 7.3.3. In terms of prevailing building heights, I consider that the appeal site is located within a transitional area. And while the proposed development would not be taller than many existing and permitted developments, particularly those to the west of the site, it would be significantly taller than the existing 3 to 4-storey terraces along Adelaide Road. Therefore, while the principles of the Building Height Guidelines must be applied where the prevailing building height is explicitly exceeded, I consider it appropriate to also apply the principles in transitional areas like this where there is a significant variation in existing building height.

Quantum of Development

- 7.3.4. It is proposed to provide a gross floor area of 16,111m² on a stated site area of 0.3 ha. The Development Plan outlines that 'plot ratio' is a tool to help control the bulk and mass of buildings, and 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.

	Development Plan Standard for Z6 zone	Existing Development	Proposed Development
Plot Ratio	2.0 – 3.0	3.2	5.3
Site Coverage	60%	50%	61%

7.3.5. It is acknowledged that the proposed development exceeds these indicative standards. However, the development plan does not place a maximum threshold on these standards and allows for 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

7.3.6. 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. Furthermore, the proposed development is in line with building height policy of the development plan in force.

7.3.7. 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. In this case, I would again highlight that the proposed development does not conflict with any specific building height objectives in the development plan, and therefore, compliance with the criteria outlined in section 3.2 is not mandatory. Nonetheless, I will consider the criteria given the significant building height proposed in comparison to the historic development in the area.

- 7.3.8. ***At the scale of the city/town*** and with regard to public transport service, I note that the appeal site is in close proximity to the LUAS line and there is a 'stop' at Harcourt St, within c. 300m of the appeal site. The site is also within 1.5km 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. The site is also within a short walk of frequent bus services in the area, including Leeson St stops which are part of the high frequency N11 Quality Bus Corridor services. The Transport Statement included with the application includes a Public Transport Accessibility Map showing that c. 1.2 million live within an hour of the site, while c. 290,000 live within half an hour.
- 7.3.9. 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 nearby Dublin Bikes stations on Hatch St Upper, Earlsfort Terrace, and Adelaide Road.
- 7.3.10. Having regard to the forgoing, 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.
- 7.3.11. In terms of integration with the character of the area, I note that the applicant has prepared an Architectural Design Statement & Visualisations, an Architectural & Archaeological Heritage Impact Assessment, and a Visual and Townscape Impact Assessment.
- 7.3.12. The Architectural Design Statement outlines that the massing of the proposal was informed by separate assessments of Hatch St and Adelaide Road. The approach at Adelaide Road aims for a gradual transition with the historic Z8 conservation zone (including protected structures). The approach to Hatch St retains a 6-storey massing facing the NCH, with 2 additional floors setback.
- 7.3.13. The applicant's Architectural & Archaeological Heritage Impact Assessment acknowledges the location of the site in close proximity to a range of protected structures, including the National Concert Hall, Iveagh Gardens, and terraces along

Adelaide Riad and Earlsfort Terrace. It contends that the proposed height increase is appropriate in the context of SDRA 18 policy and the scale of existing and permitted development in the area and concludes that the proposal will have little impact on views from the Iveagh Gardens, adjoining housing, or when viewed from a wider distance.

- 7.3.14. The Visual and Townscape Impact Assessment outlines that the site is not affected by any key views and prospects identified in the Development Plan. The assessment is based on the impact of the development from 19 selected viewpoints, which compares existing and proposed views, as well as the cumulative impact of other permitted developments. I have considered the images produced for all viewpoints.
- 7.3.15. I note that the increased height and scale would be evident in the distant view from point 1, but I do not consider that this impact would be excessive or that it would detract from the amenity value or character of the area.
- 7.3.16. Along Adelaide Road (i.e. Views 2, 3, 5) I would acknowledge that there would be a noticeable visual impact and a contrast with the height, scale, and character of the protected structures (no.'s 66-70). However, I consider that this contrast is consistent with the existing building on site and the emerging scale of development further west. In my opinion, the proposed transition would be an acceptable approach which would appropriately distinguish this contemporary development from the historic conservation areas.
- 7.3.17. Along Hatch St Upper (views 7, 8, 18, 19) I consider that the proposed 6-storey façade would appropriately integrate with the existing and permitted developments on the adjoining sites to the east and west. And while the setback upper floors are visible in places, they are still of an appropriate scale and height and do not detract from the character of adjoining development.
- 7.3.18. Within Iveagh Gardens and St Stephen's Green (views 9, 10, 11), the proposed development would largely be screened by surrounding tree cover. I acknowledge that visibility would be increased during winter months, but I am satisfied that the scale and height would still appropriately integrate with existing and permitted development and would not detract from the amenity value or character of these urban parks.

- 7.3.19. From Earlsfort Terrace (views 14 & 15), I acknowledge that the proposed development would be visible behind and above the National Concert Hall (protected structure). However, I consider that the proposed development would integrate with the scale and character of existing and emerging development along Hatch St Upper. The NCH would still retain its dominant presence along Earlsfort Terrace, and I do not consider that the visual impact of the proposed development would detract from its character or setting in any unacceptable way.
- 7.3.20. Having regard to the foregoing, I am satisfied that the proposed development would successfully integrate with and enhance the character of the area, notwithstanding its location adjoining the designated Z8 conservation zone and several protected structures.
- 7.3.21. 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 0.3 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 onto Hatch St and Adelaide Road, thereby largely restricting the potential for the creation of new public streets and/or public spaces. However, although it is not a public right of way, the proposed design does retain the pedestrian linkage between Hatch St and Adelaide Road, including proposals for increased width, accessibility, and public realm improvements along the adjoining street frontage.
- 7.3.22. The proposal involves the extension of the existing office development to achieve higher density in accordance with the aim of the Building Height Guidelines. With regard to place-making, I consider that the proposed design would provide an updated, contemporary building which would be consistent with the scale and character of emerging development, thereby reinforcing the emerging character of the area (to the west) while retaining a distinct and appropriate contrast with the historic buildings of the conservation area to the southeast. I am satisfied that the increased density is achieved by using massing and increased height with sufficient variety in scale and form to respond to the streetscape and create visual interest.
- 7.3.23. ***At the scale of district / neighbourhood / street***, the north and south facades provide a strong and improved contemporary identity, while drawing on the rhythms

and proportions of the surrounding streetscape to achieve a smooth transition between existing and proposed development. Retaining the existing structural grid, the proposed façade aims to reduce the weight of the stone cladding by providing a new double height frame structure with increased metal detailing to provide a more human scale and enhanced views to the streets. I consider that the proposed design responds well to the built environment and its rich heritage value. It would upgrade a development of lesser quality and would 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 form and massing of the development has been carefully considered with several setbacks on the upper floor levels to avoid the appearance of excessive scale and height. And the façade design and materials have been well articulated to provide appropriate variety and visual interest. I am satisfied that these factors will successfully combine to avoid a monolithic appearance.

7.3.25. As previously outlined, I consider that the proposed development will provide an improved appearance, visual interests, and increased activity onto Hatch St Upper, which will enhance the urban design context for the Iveagh Gardens and the NCH, which are important public spaces / buildings. Adelaide Road is also a key throughfare in the area and the proposed development would similarly enhance the existing and emerging context for this route.

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. 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. The FRA proposes mitigation measures for any residual flood risk and I am satisfied 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 reinforced character that would improve the urban legibility of the area. Suitable design elements are also incorporated at the interface with

adjoining development 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 a height which is appropriate to transition from the historic setting to the southeast of the site.

7.3.28. With regard to the mix of uses and building typologies, it is acknowledged that the proposed development largely retains and extends the existing office development on site. The addition of the collaborative space use ground floor level would improve and complement the existing range of uses in the area, providing an attractive and active frontage space within and outside office hours. The retained office use would also complement the predominant uses in the wider area, including retail, civic/cultural uses, recreation, and hospitality. The proposed building would provide an increased density of commercial floorspace within a distinctive building which appropriately balances contemporary requirements with its historic 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. In this regard, I would again highlight that the proposed development does not exceed the building height limits as outlined in Development Plan policy. Furthermore, it would be generally consistent with the existing and emerging building height in the area, particularly to the west of the site. Accordingly, the proposed

height is not considered to be exceptional at this edge-of-city centre site. In that context, I do not consider that the proposed development would significantly impact on micro-climatic effects, the flight lines of birds/bats, important telecommunications channels, or safe air navigation. I am satisfied that adequate assessment has been submitted in relation to urban design and the historic built environment, and I do not consider that the development is of a nature, scale or complexity to warrant further environmental assessment. Accordingly, I am satisfied that the application has appropriately addressed the need for any specific assessment set out in section 3.2 of the Building Height Guidelines.

Conclusion

7.3.32. 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 in accessible urban locations. The proposed height is consistent with Development Plan objectives and existing/permitted development in the area, and 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 historic and emerging character of development in the area. Therefore, subject to further assessment of other matters, I would have no objection to the proposed development on grounds of height, scale, or visual amenity.

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. I would again highlight that the proposed development is consistent with Development Plan building height policy and does not rely on SPPR3 to justify the proposed development. Therefore, compliance with the criteria outlined in section 3.2 of the Building Height Guidelines, including daylight provisions, is not a mandatory requirement.
- 7.4.3. I would also 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 'Daylight and Sunlight Assessment' report by ARUP consultants. The report states that it applies the metrics suggested within the BRE 209 Guide and it assesses the daylight and sunlight impacts on the relevant surrounding residential properties. The applicant's response to the IPUT PLC appeal contains a second ARUP report which assesses the daylight and sunlight impacts on the appellant's site to the east.
- 7.4.5. 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 IPUT PLC appeal which has raised concerns in relation to daylight and sunlight.

Daylight impacts on neighbouring residential properties

- 7.4.6. 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.
- 7.4.7. The applicant's original ARUP report contains a VSC assessment of residential properties along Adelaide Road and Earlsfort terrace. 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.
- 7.4.8. The applicant's assessment covered a total of 164 points. Only one of the 164 study points would experience a VSC less than 27% and less than 0.8 times its baseline value as a result of the proposed development. And that point (no. 153) would still retain a reasonably high VSC value of 21.5%, which is only marginally less than 0.8 times its former value (i.e. 0.77 times). In this inner-city context, I consider that these results demonstrate a very high level of compliance with BRE standards and accordingly I have no objection in this regard.

Daylight Impacts on existing offices to the east

- 7.4.9. The applicant's response to the IPUT PLC appeal includes a VSC analysis of impacts on the existing Deloitte House and Garryard House offices to the east of the appeal site. I acknowledge that section 2.2 of the BRE guide outlines that the guidelines are intended for light-dependent rooms in adjoining dwellings but may also be applied to existing non-domestic buildings where the occupants have a reasonable expectation of daylight, which would normally include schools, hospitals, hotels and hostels, small workshops and some offices (my emphasis).
- 7.4.10. The Guide does not elaborate on the circumstances that may determine whether or not the guidelines should be applied to offices. I note that the IPUT PLC contends that a recent clarification from the author of the Guide (Dr Paul Littlefair of BRE)

stated in a submission in another case (ABP Ref. 311605-21) that this would include an office with a shallow plan and sizeable areas of clear glazing, and the appellant suggests that the adjacent IPUT PLC offices fit this description. The Board should note that, while the comments of Dr Littlefair were noted under ABP Ref. 311605-21, the proposed development was ultimately granted permission despite the Board's Inspector acknowledging a significant loss of light to the surrounding office buildings.

- 7.4.11. The applicant's assessment considers impacts on the southern and western facades of Deloitte House, as well as the western façade of Garryard House. A total of 18 points are considered on the southern façade of Deloitte House, while 15 points are considered on the west façade of Garryard House. None of these 33 points would experience a VSC reduction to less than 27% and less than 0.8 times the baseline value. Therefore, the impacts on these facades would be acceptable in accordance with BRE recommendations.
- 7.4.12. On the western façade of Deloitte House, 12 points are considered, and it should be noted that none of the baseline values for the existing conditions currently comply with the 27% VSC standard. With the proposed development in place, the majority of these points (i.e. 7 out of 12) would retain at least 0.8 times their former value, which would comply with BRE standards. I acknowledge that the other 5 points would be reduced to less than 0.8 times their former value, but it should be noted that no cases would be reduced to less than 0.6 times the former value.
- 7.4.13. In conclusion, I note that the proposed development would result in daylight impacts on the western façade of Deloitte House which would not be in accordance with the recommended standards of the BRE guide. However, as previously outlined, these BRE standards are mainly intended for application to residential properties. I acknowledge that they can be applied to 'some offices' and I have noted the contentions of the IPUT PLC appeal regarding their applicability in this case as a result of shallow office plans and sizeable areas of clear glazing. Despite these contentions, the IPUT PLC appeal does not include any evidence regarding the internal layout of any office floor plans that would be allegedly affected. Other than the plan depth and glazing to offices, I consider that the nature of work carried out in offices would be a key factor in determining whether or not there would be a reasonable expectation of daylight. In this case, the Deloitte House offices appear to

be of a largely standard nature and there is no evidence of any particular requirement for daylight at levels comparable to residential standards.

- 7.4.14. Furthermore, it must be acknowledged that the entire western façade already experiences daylight standards which do not comply with BRE standards, and the majority of this façade would not experience an unacceptable reduction in daylight (i.e. more than 20%). Four out of the five cases which would experience a reduction of more than 20% already have a degraded VSC value of less than 15%. I consider that this extent of non-compliance is relatively minor in the context of the overall development on the appellant's site.
- 7.4.15. Having regard to the less sensitive commercial office use of the buildings; the existing deficiencies in daylight standards on the western façade of Deloitte House; the need to facilitate increased density and height in inner city locations designated for strategic regeneration; and the stated need for flexibility in the application of BRE standards; I do not consider that the proposed development would result in any unacceptable daylight impacts on the existing buildings.

Daylight Impacts on the permitted offices to the east

- 7.4.16. The applicant's response to the IPUT PLC appeal includes a VSC analysis of impacts on the permitted development to the east of the appeal site (ABP Ref. 29S.239323, P.A. Reg. Ref. 3700/10). It refers to BRE guidance (Appendix F) on setting alternative target values for daylight and uses the 'mirror image' approach to set baseline targets for the permitted development on the appellant's site. As the western façade of the permitted development would build right up to the edge of the site boundary, the applicant contends that the 'mirror image' approach would result in a baseline VSC value of zero for the entire western façade. Accordingly, the applicant's assessment concludes that there would be no impact on this façade.
- 7.4.17. I acknowledge that section F5 of Appendix F of the BRE Guide suggests the 'mirror image' approach in cases where windows are unusually close to the boundary and are taking more than their fair share of light. I have reviewed the plans of the permitted development and I note that the development has been permitted right up to the site boundary, which I consider to be a reasonable basis to apply the 'mirror image' approach. And while I note that some of the permitted windows have a minor setback from the boundary of c.1.5 metres, which would result in some windows

having a VSC value above zero in a 'mirror image' scenario, I am satisfied that the western façade of the permitted development would generally experience extremely low baseline VSC values. I would accept that the proposed development would result in some impacts on those permitted windows which are setback from the boundary. However, given the extremely low baseline values that would exist under the 'mirror image' approach, I do not consider that the proposed development would result in any unacceptable impacts.

- 7.4.18. For the southern façade of the permitted development to the east, the applicant's assessment confirms that values of VSC remain either above 27% or more than 0.8 times the baseline value. Accordingly, this complies with BRE guide recommendations.
- 7.4.19. In conclusion, I consider that the proposed development does have potential to impact on daylight to the western façade of the permitted development. However, I would accept that the close proximity of the permitted development warrants the application of the 'mirror image' approach, resulting in extremely low baseline VSC values which would not be unacceptably affected by the proposed development. I would also again highlight the commercial office use of the permitted development and the absence of any particular requirement for high levels of daylight, as well as the need to facilitate higher densities in designated strategic regeneration areas.
- 7.4.20. Finally, regarding the duration of the appellant's permitted development, I note that the permission was extended to the 11th of July 2022, a date which has been surpassed at the time of writing. I acknowledge that the provisions of sections 42B, 251, and 251A of the Planning and Development Act 2000 allow for the further extension of the life span of permissions in certain circumstances and I am not aware of whether or not the developer has pursued this matter. However, it has been clearly indicated that there are no intentions to implement the permitted development. In these circumstances, I would not consider it reasonable to refuse permission on the basis of impacts on a development which appears unlikely to be feasibly implemented within statutory timeframes, and where the prospective developer has indicated no intentions to implement in any case. For the avoidance of doubt, I do not consider that refusal would be warranted even if the permitted development was somehow implementable at this late stage.

7.4.21. Having regard to the foregoing and the stated need for flexibility in the application of BRE standards, I do not consider that the proposed development would have any unacceptable impacts on the permitted development to the east.

Sunlight Impacts on existing/permitted buildings

7.4.22. Section 3.2 of the BRE Guidelines highlights the need for care in safeguarding sunlight to existing dwellings and any non-domestic buildings where there is a particular requirement for sunlight. In non-domestic buildings, any spaces which are deemed to have a special requirement for sunlight should be checked, which will normally involve windows facing within 90° of due south. The BRE guide states that sunlight to such windows will be adversely affected if they would receive less than 25% of Annual Probable Sunlight Hours (APSH) or less than 5% of APSH between 21st September and 21st March (WAPSH), and receive less than 0.8 times its former APSH or WAPSH values, and has a reduction in sunlight over the whole year greater than 4% of APSH.

7.4.23. The applicant's original report outlines that none of the residential receptors in the assessment have been tested against this metric. I would accept that none of the surrounding residential windows facing the proposed development face within 90° of due south. Accordingly, I would concur that there is no need for further assessment in this regard. As previously discussed, I would also consider that there is no evident special requirement for sunlight to the existing and permitted office developments in the vicinity, including the IPUT PLC site to the east. Accordingly, I would concur with the applicant's conclusion that testing of direct sunlight to the facades of the surrounding commercial developments is not necessary.

Sunlight to amenity / garden spaces

7.4.24. The applicant's original report assesses the availability of sunlight in amenity spaces. It is based on BRE guidance that 50% of such areas should receive in excess of 2 hours sunlight on the 21st March, and that, if the proportion of such an existing area is not reduced to less than 0.8 times its former value, the impact is not likely to be noticeable.

7.4.25. The assessment shows that 100% of the area studied in the Iveagh Gardens will continue to receive more than 2 hours of sunlight on the 21st of March and will not be affected by the proposed development. An area to the front of the NCH would

experience a negligible reduction to 94% of its former value. No part of a second courtyard area within the NCH currently complies with the 2-hour standard and this would remain unchanged. And in the open areas to the rear of Adelaide Road, only >1% currently complies with the standard and this would remain unchanged. Accordingly, I would concur with the applicant's conclusion that the impacts on surrounding amenity spaces would be negligible.

Conclusions on Daylight/Sunlight

- 7.4.26. I again highlight that compliance with the daylight/sunlight criteria outlined in section 3.2 of Building Height Guidelines is not a mandatory requirement to justify the proposed development, which complies with Development Plan building height policy. Furthermore, the BRE guide outlines the need for flexible interpretation of recommendations and standards in the context of many other design factors.
- 7.4.27. 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 there will be some daylight impacts on the existing and permitted office developments to the east of the appeal site. And while these impacts may not comply with BRE standards, I consider that the standards should not reasonably be applied to office developments in the absence of any demonstrable special daylight requirements, and I acknowledge that the impacts largely involve reductions to daylight standards which are already below standard. 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.
- 7.4.28. 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 as referenced in section 3.2 of the Building Height Guidelines.

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 and future development potential.

Overlooking

- 7.5.2. The proposed development would face onto Hatch St Upper and the NCH property to the north, and Adelaide Road and its associated properties to the south. Both Hatch St and Adelaide Road are significant public thoroughfares which provide considerable separation distance and public space between the proposed development and surrounding properties, which is strengthened by significant tree cover. The NCH property is not particularly sensitive to overlooking impacts, while the properties on the southern side of Adelaide Road would retain a separation distance of c. 30 metres. Accordingly, I am satisfied that there will be sufficient distance and screening between properties to the north and south of the site and there will be no significant overlooking impacts in these cases.
- 7.5.3. To the west of the site, the existing entrance road provides a separation distance of c. 10 metres between the appeal site boundary and the opposing St James House office development. This is generally increased to c. 15 metres for the newly proposed west-facing glazing. To the northwest, the proposed development will extend close to the site boundary with the office developments at Three Park Place and 1-2 Hatch St. However, where new windows are proposed, they are generally setback a distance of more than 4 metres from the shared boundary.
- 7.5.4. A similar approach applies to the northeast, where windows will be setback more than 4 metres from the boundary with Deloitte House, which itself has existing opposing windows setback a similar distance resulting in a combined separation distance in excess of 8 metres. To the east, Garryard House and the Earlsfort Terrace properties are setback a significant distance of c. 30 metres and would not be adversely impacted by any overlooking impacts.
- 7.5.5. I acknowledge that the residential properties along the north side of Adelaide Road are potentially the most sensitive to overlooking impacts. However, the proposed design protects the privacy of these properties with a largely blank wall at the southeast corner of the development (apart from the upper floor levels). There are no

windows facing directly into these properties or their rear gardens and I am satisfied that any of the upper floor terraces/glazing at the southeast corner would be sufficiently elevated to avoid any significant overlooking of these properties.

- 7.5.6. Therefore, while I acknowledge the scale and proximity of the proposed development to surrounding properties, I consider that the proposed design incorporates glazing and/or terraces which is appropriately setback or elevated so as to avoid any unacceptable overlooking or privacy impacts.

Development Potential

- 7.5.7. Given the existence of protected structures and conservation areas to the north and southeast of the appeal site, I do not consider that there is likely to be any significant development potential that would be adversely impacted by the proposed development.
- 7.5.8. There has been significant recent development to the northwest of the site at Three Park Place and 1-2 Hatch Street. I consider that the proposed development would generally represent an intensification of height and density to complement those recent developments. It also incorporates appropriate setbacks along the north-western site boundary to facilitate potential future development on adjoining lands.
- 7.5.9. To the southwest of the site, the St James House building is an older development of lesser height and scale. However, as previously outlined, separation distances ranging from 10 to 15 metres would be retained at this point and I am satisfied that this would adequately protect the future development potential of the site.
- 7.5.10. The IPUT PLC appeal raises serious concerns about the future development potential of their lands to the east of the site. However, it has been clarified that they do not intend to implement the previous permission for the site within the limited life span that may remain. That previous permission involved extensive development along the eastern boundary of the appeal site, with only limited relief provided in the form of 1.5 metre setbacks. In comparison, the current proposal represents a more sensitive and co-ordinated approach, with only limited solid walls in the central portion of the site and a separation distance for any glazing of at least 4 metres in the north-eastern corner of the site. I am satisfied that this would potentially facilitate a 'mirrored' approach to any future development of the IPUT PLC lands, which could generally achieve separation distances of at least 8 metres between any opposing

windows. I would consider this to be acceptable for high-density inner-city commercial development.

- 7.5.11. Having regard to the foregoing, I do not consider that the proposed development would unacceptably impact on the development potential of any of the surrounding properties.

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 the city centre and a range of public transport and pedestrian/cycling options. Consistent with NPF policy to support more compact development and sustainable transportation, NPO 13 of the NPF supports a performance-based approach to planning and related standards, including car parking standards, that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.
- 7.6.2. The application is supported by a Transport Statement which outlines the existing and planned transport infrastructure in the area, the predicted traffic impacts of the proposed development, and includes a Mobility Management Plan which aims to reduce the potential impact on the transport environment. It concludes that the proposed development will ensure the adoption of sustainable travel patterns by employees and will have a positive traffic impact on the surrounding road network.
- 7.6.3. I note that the proposed development involves a nett reduction in car-parking provision from 56 spaces to just 16 spaces. Based on Table 16.1 of the Development Plan, the proposed development would have a maximum car-parking provision of 40 spaces (i.e. 16,111m² @ 1 space per 400m² GFA). The proposal would therefore appropriately reduce the parking provision below the maximum allowable provision of 40 spaces.
- 7.6.4. Based on Table 16.2 of the Development Plan, the proposed development would have a requirement for 162 cycle parking spaces (i.e. 16,111m² @ 1 space per 100m² GFA). It is proposed to provide 174 cycle spaces, which comfortably exceeds the requirement. It is also proposed to provide 2 motorcycle spaces, which exceeds the Development Plan requirement for the rate of 4% of the number of car parking spaces provided.

- 7.6.5. Having regard to the accessible location of the site, I consider that the reduction in car-parking spaces and the increase in cycle spaces would be appropriate and consistent with national and local policy for transportation and land use. Access arrangements will be largely unchanged, and the reduced car-parking would ensure that there will be no material impact on the surrounding road network. The proposal, including the Outline Mobility Management Plan, would encourage the use of sustainable transport modes and I am satisfied that there is adequate capacity to cater for the proposed development.
- 7.6.6. With regard to pedestrian access and permeability, it is proposed to retain the existing link along the eastern site boundary, which would be consistent with the objectives for SDRA 18 in the Development Plan. The proposal would include upgrades to the link, including increased width in places, an accessible lift platform at the steps, and improved accessibility/permeability through the removal of dwarf walls at the junctions with Hatch St and Adelaide Road. I acknowledge that the route would experience increased enclosure as a result of the widened upper floors above. On balance however, I consider that the development still retains a link of appropriate quality in accordance with the objectives for SDRA 18.
- 7.6.7. In conclusion, I consider that the proposed development appropriately supports sustainable travel patterns and would not result in any unacceptable impacts for the convenience and safety of the surrounding road network and its users, including vulnerable road users. Accordingly, I have no objections in this regard.

7.7. Duration of permission

- 7.7.1. I acknowledge the applicant's rationale for a 10-year permission, which is largely based on inadequate time to complete the proposed development in the period between the expiration of the outstanding lease agreements and the expiration of a standard 5-year permission.
- 7.7.2. The appeal response by Kevin Woods has objected to a 10-year permission, largely based on policy changes as outlined in the Draft Dublin City Development Plan 2022-2028. However, I would highlight that the policies of the Draft Plan cannot be relied upon in this assessment as the Development Plan 2016-2022 remains the operative plan for the area.

7.7.3. Ultimately, I consider that the outstanding obligations of lease arrangements are common and typical features of urban development proposals. Therefore, I am not satisfied that exceptional grounds exist on this basis to justify a departure from the standard arrangements of a 5-year permission. Otherwise, the development is not of an exceptional scale or complexity to warrant a 10-year permission and I would be concerned that any such permission in this case would set an undesirable precedent for long-term permissions, which would not be appropriate in inner-city areas like this which have been designated for strategic regeneration. Accordingly, I consider that any permission should be limited to 5 years.

8.0 **Appropriate Assessment**

8.1.1. I note that 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. There are no direct pathways between the appeal site and any of these Natura 2000 sites, although I acknowledge that there are indirect connections via surface water and foul water drainage.

8.1.2. 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. The proposed development is of limited scale. It is significantly distanced from Natura 2000 sites and there is only minimal potential for indirect connections. Accordingly, 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 foregoing 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 inner-city 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 promote compact sustainable development, 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 be consistent with the Development Plan objectives for the Z6 zone and SDRA 18, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 five years from the date of this order.

Reason: Having regard to the nature and scale of the development, the Board does not consider it appropriate to justify 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. 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.

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

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

Stephen Ward
Senior Planning Inspector

16th September 2022