



An
Bord
Pleanála

Inspector's Addendum Report ABP-315053-22

Development	Demolition of buildings. Construction of 24 storey mixed use building with all ancillary site works. NIS and EIAR submitted to PA
Location	Site bound by City Quay to the north, Moss Street to the west & Gloucester Street South to the south, Dublin 2. The site includes 1-4 City Quay (D02 PC03), 5 City Quay and 23-25 Moss Street (D02 F854)
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4674/22
Applicant	Ventaway Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party

Appellant

Ventaway Limited

Consultees

Dublin City Council South
Grant Thornton 13-18 City Quay
Sheehan Planning on behalf of Irish
Life Assurance PLC
Office of Public Works 1GQ George's
Quay
City Quay National School

Inspector

Rachel Gleave O'Connor

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1.0 Introduction

- 1.1. This is an addendum report and should be read in conjunction with the original Inspector's report prepared in respect of appeal ref. ABP-315053-22, dated 12th October 2023.
- 1.2. Board Direction BDD-014704-23 28th November 2023 sets out the decision of the Board to defer consideration of the case and to issue a Section 137 notice to parties as follows:

“a) The Board noted that since the receipt of the appeal and responses to same, including observations on the appeal, that the Dublin City Development Plan 2022-2028 has come into effect.

b) In this regard, the Development Plan now includes Appendix 3, which sets out performance criteria by which proposals for landmark/tall buildings must be assessed.

c) You are therefore invited to provide a commentary in relation to the considerations outlined above, as they relate to the subject appeal, or any other Development Plan matters you may consider of relevance.”

- 1.3. Responses received were required to be circulated to all parties/observers to the appeal.
- 1.4. Notice of Board Direction BD-014704-23 was issued to all parties and responses were received from 3 observers (as noted below) and the applicant.
- 1.5. The applicant's response was received by ABP on 9th January 2024 and was subsequently circulated to all parties to the appeal, including observers, who were invited to make submission or observations on the same.
- 1.6. Responses were received from:
 - Sheehan Planning on behalf of Irish Life Assurance Plc;
 - OPW; and
 - City Quay National School.
- 1.7. The Board considered the submissions and Inspector's report at a Board meeting on 29th February 2024 and decided to defer the case (BD-015655-24), noting that:
 - *“There is no need for the responses received to be circulated further.*

- *The file should be returned to the Inspector and an addendum report sought on the responses received following issue of the Section 137 notice.”*

1.8. This addendum report has subsequently been prepared in response to the Board Direction BD-015655-24 1st March 2024.

2.0 Background

2.1. Appeal ABP-315053-22 concerns an application for a ten year permission for the construction of a building up to 24 storeys in height over a double basement, to accommodate arts centre, offices, gym and ancillary uses.

2.2. On 11th October 2022 the Local Planning Authority issued a Notification of Decision to Refuse permission for 2 reasons as summarised below:

- Firstly in relation to the prominent and sensitive location of the site and resultant impact from the proposed scale, bulk and height upon the setting and character of The Customs House (& environs), as well as detrimental visual impact on River Liffey Conservation Area and important views and vistas, including those views from The Custom House environs, Amiens Street, Mountjoy Square, Gardiner Street Lower, Trinity College Campus and views westward from the River Liffey, being an overly assertive solo building; and
- Secondly with respect to detrimental overbearing and overshadowing impacts on neighbouring property, with an overwhelming scale, mass and height casting a significant shadow, seriously injuring the amenities of neighbouring property and devaluing property in the vicinity.

2.3. A first party appeal was received by the Board on 7th November 2022. At the time of the determination of the application by the Local Authority, and the submission of the appeal, the proposed development was subject to the provisions of the Dublin City Development Plan 2016-2022. However, the Dublin City Development Plan 2022-2028 came into effect on 14th December 2022.

2.4. Under Section 137 of the Planning and Development Act 2000 as amended, the Board in determining an appeal, may take into account matters other than those raised by the parties and shall give notice to parties and observers in relation to the matters that it proposes to take into account. In this case, the matter relates to the

Dublin City Development Plan 2022-2028 which has now come into effect, and specifically Appendix 3, which sets out performance criteria for proposals for landmark/tall buildings, with notice issued to parties and observers regarding the same.

- 2.5. Following consideration of the original Inspector's report prepared in respect of appeal ref. ABP-315053-22 dated 12th October 2023, Board Direction BD-014704-23 23rd November 2023 as noted above was circulated to all parties to the appeal. A response from the applicant to the Section 137 request from the Board was received on the 9th January 2024 addressing relevant provisions under the current Dublin City Development Plan 2022-2028. As requested in Board Direction BD-015655-24 1st March 2023, submissions are summarised below in this addendum report.

3.0 The Applicant's Response

- 3.1. On the 9th January 2024 the Board received the applicant's response to the Section 137 request comprising the following:

- Cover letter from John Spain Associates;
- Enclosure 1: Appendix 3 Response to Section 137 Request from An Board Pleanála prepared by John Spain Associates with input from Mahoney Architecture;
- Enclosure 2: Whole Lifecycle Carbon Assessment prepared by BPC Consulting Engineers;
- Enclosure 3: Letter regarding Surface Water Management Plan prepared by Bakkala Consulting Engineers;
- Enclosure 4: Letter regarding office market prepared by Knight Frank;
- Appendix 1: ABP Correspondence;
- Appendix 2: Dublin City Development Plan 2022-2028; and
- Appendix 3: GKCE Existing Building Structural Condition Survey.

- 3.2. The response refers to section 4.5.3 and policy SC16 Building Height Locations of the Dublin City Development Plan 2022-2028, and states that the as the subject site is located within the city centre, a Strategic Development and Regeneration Area,

and within the catchment of high capacity public transport, it is therefore supported for increased height and density under the Dublin City Development Plan 2022-2028. Reference is also made to section 4.5.4 of the Dublin City Development Plan 2022-2028 which relates to the Urban Development and Building Height Guidelines and that increasing prevailing building heights has a critical role to play in addressing both the scale and density of development.

- 3.3. The response states that the proposal meets the necessary criteria set out in the Development Plan to justify the provision of Landmark/Tall Building at this location (Table 3 of the covering letter sets out a checklist related to the same). The response submits that the site location is supported as a site potentially suitable for a landmark building in the City Plan. Acknowledging that the site is identified for a 'locally higher building' in SDRA6 of the Dublin City Development Plan 2022-2028. The response asserts that notwithstanding this, provision is made in the Dublin City Development Plan 2022-2028 for a case to be made for exceptional circumstances for a landmark building on a site not expressly identified for such. Certain criteria are set out to be satisfied, which are addressed in enclosure 1 with the response. As such, there would be no material contravention of the Development Plan if these criteria are satisfied.
- 3.4. Appendix 2 to the response responds to the adopted Dublin City Development Plan 2022-2028. The zoning of the site is identified and the proposed uses are highlighted as being permissible under the zoning. With reference to the Z5 zoning, it is stated that the proposal contains a mix of uses and therefore is not a mono office use. In relation to section 14.6 and transitional zone areas, it is stated that the proposal has a notable transition in scale with the adjoining Z15 zoning objective as found in city centre locations well served by high capacity public transport. Reference is also made to section 14.2 of the plan, and that this zoning strategy supports the efficient use of land, the redevelopment of underutilised brownfield land, the intensification of development on public transport nodes and the delivery of economic development proximate to key supporting infrastructure. In relation to the assessment of impacts of proposed higher buildings, this is addressed in enclosure 1 of the response. It is stated that the site is located at a central and accessible location in the city centre and not an outer area where there may be more opportunity for separation and a gradual transition. It is also stated that the proposal has been scaled in relation to the surrounding area. The massing is reduced and cranked to the east to reduce the

massing when viewed from downriver and creates a set back to the school. The proposed building contains a range of materials to add variety and avoid long slab blocks and is not monolithic, and there is no overlooking of the school. A Daylight and Sunlight Assessment is also submitted.

- 3.5. Appendix 2 continues, addressing the 'SDRA 6 – Docklands' map which shows a 'Locally Higher Building', with a locally higher building defined as 'buildings that are significantly higher than their surroundings and are typically up to 50m in height. Higher buildings can act as Local or District landmarks'. It is stated that the proposal provides for a building of 108m which can act as a local or district landmark for Dublin City. It is noted that while the Tara Street Station site has been designated as a site for a 'Landmark Building' the Apollo House/College Square site does not have any designation to provide for a building of up to 22 no. storeys (82m) as permitted. Given the identification of a further 'Locally Higher Building' to the east, it is considered appropriate that a cluster of tall buildings is formed at this location in close proximity to Tara Street Station. The applicant also states that the designation of a site or otherwise, for a landmark building does not preclude one being proposed or being granted permission, with the Dublin City Development Plan 2022-2028 providing assessment criteria for landmark buildings in Table 3 and 4 of Appendix 3. It is asserted that the proposal also fulfils the other relevant provisions for SDRA 6.
- 3.6. Appendix 2 continues, referring to policy CEE2: Positive Approach to the Economic Impact of Applications in the 2022 Development Plan and states that the proposal would enhance the employment offering in the city. It is also stated that the proposal will provide for large floor area offices with reference to policy CEE21(i). Reference is made to built heritage and the location of the site in the Liffey Corridor Conservation Area, the existing building on the site is not considered to be of any historic significance as accepted by the City Council with reference to policy BHA10-11. The impact of the proposal on the Conservation Area and protected structures was addressed in the Archaeological, Architectural and Cultural Heritage Chapter and the Landscape and Visual Impact Chapter of the EIAR. It is submitted with reference to policy BHA9 of the Dublin City Development Plan 2022-2028 that the proposal will enhance the character and appearance of the area. In relation to section 15.7.1 of the Development Plan and the re-use of existing buildings, a Whole Lifecycle Carbon Assessment is submitted in the response. The proposal responds positively to

policies CU2, CU4, CUO25 and CUO31 of the Dublin City Development Plan 2022-2028 with the incorporation of a cultural space. It is also stated that the proposal responds positively to policies CCUV38-39 due to provision of high quality public realm. The applicant states that the proposal is located at an appropriate location and with an appropriate design with reference to policies SC16-19 and SC21. It is also stated that the proposal responds positively to policy QHSN12 with respect to energy efficiency, with reference to a submitted Climate Action and Energy Statement submitted with the application, and policy BHA29 relating to archaeology as addressed in the application EIAR, as well as car/bicycle quantum requirements and Development Management Thresholds (table 15-1) of the Dublin City Development Plan 2022-2028.

- 3.7. Appendix 3 of the applicant's response is entitled 'GKCE Existing Building Structural Condition Survey'. Photos are included to illustrate the current condition of the existing building on the site. Ceiling collapse and risk of further ceiling collapse in the building is noted. Structural fire damage is noted. Much of the building is noted as unsafe for access. Evidence of illegal occupation is noted, alongside concern that there is potential for severe injury or fatality to individuals walking on floors in the building. The rear elevation wall is noted to have a significant structural crack and there is potential for it to fall away into the car park with risk to the general public. With respect to the side elevation, the vertical masonry piers have slipped at second floor and there is an immediate concern for the building and a high risk of collapse with danger to the public footpath below. The conclusion of the report is that the condition of the building is dangerous and it is recommended that the building is condemned and demolished.
- 3.8. Enclosure 1 with the applicant's response is entitled 'Appendix 3 Response to Section 137 Request from An Bord Pleanála'. This addresses the Table 3 and Table 4 criteria and the exceptional circumstances criteria set out in Appendix 3 and the height strategy for the Dublin City Development Plan 2022-2028. It is noted that the highest density ranges under the plan would be applicable to the site (however there is no residential component) and that the criteria for increased plot ratio is satisfied. Section 2 of enclosure 1 directly addresses the exceptional circumstances criteria under the 2022 Development Plan and asserts compliance with a response to each criterion noted. Reference is also made to a letter from Knight Frank which accompanies the applicant's response, which provides updated commentary on the

office supply of the city, and that the scheme is economically viable and implementable, with respect to the associated exceptional circumstances criteria. The criteria under tables 3 and 4 of Appendix 3 to the Dublin City Development Plan 2022-2028 is also set out with a response to each requirement and compliance with the same noted.

- 3.9. Enclosure 2 is entitled 'Whole Lifecycle Carbon Assessment Prepared by BPC Consulting Engineers'. This describes the rationale and justification for the demolition of the existing building on the site which is stated to be at end of life and derelict, and that refurbishing this building would not be in line with the current Development Plan. It is stated that there is embodied energy and carbon in the existing building, however the fabric is poor and consequently there is heat loss, and while it is possible to mitigate this through retro-fitting insulation, it will never reach nZEB standards and will continue to heat or cool the existing building over time will result in significantly more energy being used and consequently more carbon than if it was replaced. It is also stated that much of the demolished material with its embodied carbon can be crushed and reused elsewhere as fill in civil engineering projects. The whole lifecycle carbon results for the proposed building is set out and the results show that the building is in line with the existing benchmarks for whole life-cycle carbon.
- 3.10. Enclosure 3 is a letter regarding the surface water management plan for the proposal. This describes the design parameters for surface water management as part of the project that have been discussed with DCC Drainage Division and formed the basis for quantitative pre-connection enquiry to Uisce Éireann. It is noted that a detailed Surface Water Management Plan will be submitted to the Drainage Division of Dublin City Council for their written approval (in the event that the application is approved) prior to submission of a commencement notice, as would be a typical condition of a permission.
- 3.11. Enclosure 4 is a letter regarding the office market which reflects upon Ireland's performance from the global perspective and describes anticipated growth and need in the office market in future particularly for office space that incorporates amenities, the arts centre and smart technologies such as the proposal. It describes that demand for office space in Dublin city centre continues to dominate, with Knight Frank's view that occupier preference for the best space, beside the best transport network, offering the most sought-after amenities and sustainable credentials will

support prime rents in 2024, with growth forecast after that. It is concluded that the proposed scheme is without doubt economically viable and implementable within the lifetime of the Dublin City Development Plan 2022-2028.

- 3.12. A further response was received from the applicant (John Spain Associates on behalf of Ventaway Limited) on 8th February 2024. This refers to submissions received in relation to the applicant's response to the Section 137 request from ABP, however noting that these have not been issued to the applicant for comment. As the more recent submissions have not been circulated to the applicant, the applicant addresses the original submissions from Irish Life Assurance PLC, City Quay National School and The Office of Public Works and refers back to documentation as part of the application, the appeal and following the Section 137 request, in response to concerns raised in those submissions.

4.0 Consultation Responses

- 4.1. Notice was issued to all parties under Section 137 of the Planning and Development Act 2000 (as amended) with responses invited up until 9th January 2024. Following receipt of the applicant's response, this was then cross-circulated to all the parties involved, with further responses invited to be submitted until 8th February 2024. Below is a summary of all responses received.

4.2. OPW received on 8th January 2024

- The observation is dated the 22nd December 2023.
- The OPW undertook a review of Appendix 3 'Height Strategy' of the Dublin City Development Plan 2022-2028, in particular section 5.0 Landmark/Tall Buildings, Table 4: Performance Criteria in Assessing Proposals for Landmark Tall Buildings and Section 6.0 Guidelines for Higher Buildings in Areas of Historic Sensitivity. It is the opinion of the OPW that the content of Appendix 3 is in line with the earlier submissions provided by the OPW on the application and appeal. In particular, refer to page 237 of Appendix 3 with respect to development of significant height and scale generally not being considered appropriate in historic settings including conservation areas, ACA, the historic city centre, the River Liffey and quays, Trinity College, the Cathedrals, Dublin Castle and medieval quarter, the Georgian Core and historic squares and the

canals or where the setting of a protected structure would be seriously harmed, and that new development should respond to built heritage.

4.3. Sheehan Planning on behalf of Irish Life Assurance Plc 2 responses received on 18th December 2023 and 6th February 2024

- Confirm that their observation is confined to those local matters previously raised on the appeal.
- As a significant developer in the city, would wish to support appropriate development on the site, concern relates to overbearing and overshadowing (note that the public plaza to the front of 1GQ is overshadowed). Would welcome proposals to mitigate these impacts, such as removal or lowering of elements and set back from the quays. (Inspectors Note: the response highlights the desire for the removal of the shoulder elements in the proposed scheme).

4.4. City Quay National School 2 responses received on 9th January 2024 and 6th February 2024

- Should the development proceed it will have a major negative impact on the ability of the school to deliver high-quality education.
- Contend that the grounds of the original objection to the proposed development remain valid and request the Board to consider those points.
- In response to the adoption of the Dublin City Development Plan 2022-2028:
 - The original submission was based upon the draft 2022 plan and refer specifically to appendix 3 of the draft plan and it is noted that there is no substantive difference in the planning policies and standards relating to building height and development density in the adopted plan compared to the draft version. Original comments stand.
 - Speculative office development is inappropriate on the subject site. A mix of uses with regard to the needs of local community would be more appropriate.
- With respect to the applicant's response:
 - A great deal of their documentation presents a restatement of points previously made in the original appeal submission. This amounts to

time wasting which the Board should not facilitate and a decision on the appeal should be made without further delay.

- With reference to the zoning of the site, the proposal is not a credible mixed-use development and is contrary to the principle of the zoning. In reality it is a speculative office scheme with a minor amount of non-office floorspace. Uses such as the arts centre require long term subsidy to survive and cannot reasonably be considered a long-term sustainable land use unless provided with ongoing financial support. As such disingenuous to represent it as a significant new cultural space for the city.
- In response to Knight Franks letter in support of the proposal and indicating a positive outlook for the office market, refer to Lisney Offices Market Outlook 2024 Report (12th January 2024), which states that there is significantly lower take-up levels, a growing vacancy rate due to grey space and speculatively built schemes, as well as occupiers seeking flexible terms on fully fitted space.
- While note suggestion that the site meets locational criteria with respect to public transport, being in the city centre and an SDRA, also note that Appendix 3 of the 2022 Development Plan repeatedly points out that Dublin is essentially a low-rise city, with reference to p.219, 220 and 237, which state that building heights of 5-8 storeys are the norm and points to the particular sensitivity of the River Liffey and quays. The proposal disregards the conservation Area status of the location and historic sensitivity.
- The site is located within SDRA 6 and it can be noted that it is not identified as a location for 'enhanced height'.
- If permitted, the proposal at 108m would be the tallest building in Dublin, almost as tall as the Spire 120m and nearly twice the height of Liberty Hall, and therefore would be identified in the City Plan and represent a new landmark for the city. With reference to locations identified as suitable for landmark/tall buildings under Appendix 3 p230, the site is not located at a public transport interchange. Neither is it located in an area in need of, or planned for, large scale regeneration

or redevelopment. It's on the western fringe of SDRA 6, well outside the Docklands SDZ and there are few opportunities for large scale redevelopment schemes in the vicinity. The site has an area below 0.2ha and is not designated for a landmark building. There is no policy justification or urban design logic for a massive structure in this location.

- With reference to the appropriate transition of scale and separation distances p220 of Appendix 3, the proposal abuts a significantly lower density and very sensitive school site with no attempt to secure an appropriate transition in scale and no separation distance. No attempt to protect the amenities of the school building or schoolyard/playground to the rear.
- Contend that the public realm referred to by the applicant amounts to a new footpath to the northern and western perimeters of the building. It is not a plaza and will make no contribution to the public realm or benefit the local community.
- With reference to pages 236-237 of Appendix 3 and the general presumption against landmark/tall buildings outside of locations specifically identified in plans, unless in exceptional circumstances, where criteria are satisfied, the scheme will bring no significant planning gain to the local community. The arts centre does not qualify and does not represent significant new community infrastructure. there is no substantial upgrade to the public realm or environmental enhancements open space/green infrastructure.
- In relation to the applicants request for a ten year consent, this is entirely unacceptable and should not be facilitated. It discards the rights of adjoining occupiers. It will create uncertainty and cause disruption to the future operation of the school. There are no exceptional circumstances to warrant extension of the permission. Note that the letter from Knight Frank state that the development is implementable in the lifetime of the plan.

5.0 Assessment

5.1. Having reviewed the applicant's response and the submissions received from interested parties, I am satisfied that the main matters to be considered in this addendum report to the original Inspectors report for appeal ref. ABP-315053-22 dated 12th October 2023, are as follows:

- Proposed use
- Appendix 3 'Height Strategy' for the Dublin City Development Plan 2022-2028

5.2. Proposed use

- 5.2.1. I note the submission from City Quay National School which asserts that the proposed development is not compatible with the zoning of the site.
- 5.2.2. The original Inspector's report for the appeal deals in detail with the zoning of the site and the compatibility of the proposed development with the zoning objective under the Dublin City Development Plan 2022-2028. The site is located in Zone Z5 where the purposes is to 'sustain life within the centre of the city through intensive mixed-use development'. The proposal incorporates a mix of uses, specifically gym, cultural space and office, varying uses both horizontally and vertically in the lower floor plans for the building. While there is a predominance of office floor space proposed, there is no requirement under the Development Plan for a specific proportional break down of uses to be provided in development in Z5 zoned lands.
- 5.2.3. I note the submission's comments regarding the inclusion of the cultural space in the proposal. The Economic Impact Assessment for the application describes the local and wider economic benefits anticipated to result from the proposed development and the incorporation of the cultural space is a requirement under the Development Plan (Objective CUO25). It was also concluded to be appropriate by the Local Planning Authority in its Chief Executive Report on the proposal. In relation to the long-term sustainability of the cultural space, I note that it is proposed that the artist studios which form part of the proposed cultural use be rented out on an individual basis, which would potentially provide some financial support to the use. The inclusion of the cultural space is necessary to comply with the Development Plan. The Board could condition its retention as part of the occupation of the proposed building should it deem this necessary, and I have included an additional condition

which could be included alongside those previously recommended in the original Inspector's report which could be relied upon in this regard.

5.2.4. Overall, I am satisfied that the proposal conforms with land use requirements under the Dublin City Development Plan 2022-2028.

5.3. **Appendix 3 'Height Strategy' to the Dublin City Development Plan 2022-2028**

5.3.1. I note that submissions to the applicant's response raise a number of concerns including amenity (particularly overshadowing), heritage, visual and other impacts, which can all be considered as part of an appraisal of the proposal against the performative criteria set out in Appendix 3 of the Plan. The original Inspector's report (ABP-315053-22 12th October 2023) sets out a detailed assessment against the performance criteria in Appendix 3 of the Plan, and this addendum report will refer back to that assessment, whilst addressing any additional points of note in the applicant's response and any concerns raised in consultation responses relating to this matter.

5.3.2. Site Location and the Appendix 3 Criteria

5.3.3. Page 219 of Appendix 3 concerns the identification of areas for increased height. It is referred to in a submission as demonstrating that the subject site is not a location supported under the Development Plan for a tall building. The submission states that the site is not located at a public transport interchange or an area in need of, or planned for, large scale regeneration.

5.3.4. Page 219 of Appendix 3 states that increased height and higher density is supported in the city centre, Strategic Development Regeneration Areas (SDRA), Key Urban Villages, areas close to high frequency public transport and some other areas. The section goes on to outline that building height should generally be between 5 and 8 storeys and greater height may be considered in certain circumstances subject to performance criteria in Table 3. The applicant's response highlights the location of the subject site in the city centre and SDRA 6 as well as proximate to public transport. In this regard, the applicant's enclosure 1 document highlights the location of the site within c.160m of Tara Street rail station with connection to DART and suburban rail services, in addition to a wide range of bus services nearby, as well as being walking distance to Busáras bus station, Connolly Station and two Luas stations. Therefore, I am satisfied that the site is located in a location where increased height may be supported, subject to satisfying performance criteria under

Appendix 3, and specifically that it is in a regeneration area (SDRA 6), proximate to high frequency public transport. The original Inspectors report also addresses proximity to public transport from paragraph 7.5.8. I also note that page 221-222 of Appendix 3 highlights those SDRA locations particularly appropriate for higher buildings, including the Docklands area (SDRA 6) where the subject site is located. This is subject to the guiding principles set out in Chapter 13 of the Plan, which refer back to the identification of sites for increased height in the area and the performance criteria in Appendix 3. Page 223 also recognises that there is scope for height intensification at designated public transport stations within the catchment of major public transport corridors, including DART, Metrolink and Busconnects, which would include Tara Street Station.

5.3.5. In relation to the identification of appropriate locations for increased height in SDRA 6, figure 13-9 of the Development Plan describes locations for locally higher buildings (up to 50m) and landmark buildings (over 50m) and is addressed in the original Inspector's report (paragraph 7.5.6). The subject site is identified for a locally higher building in figure 13-9. However, as noted in the applicant's submission, this is not necessarily an exhaustive illustration of appropriate locations for landmark buildings, one example being Apollo House (c.82m) where construction is progressed, but where the site is not highlighted on figure 13-9 for a landmark building. The overall approach to height set out in Appendix 3 is not one that precludes all locations except those identified specifically for height, but one that promotes assessment against the performative criteria set out in the appendix, and specifically Table 3, as being the key determining factor in the assessment of whether a proposal for increased height is appropriate on a site. Table 4 also sets out the specific performance criteria for the assessment of landmark buildings and is followed by text that specifically states that while generally landmark buildings should be in those locations identified, exceptional circumstances may be demonstrated by the applicant that there is a compelling architectural and urban design rationale for such a development and the exceptional criteria is set out on page 236-237 of Appendix 3. Therefore, the absence of the identification of the site on figure 13-9 for a landmark building does not preclude such a proposal on the site.

5.3.6. Key Criteria Under Appendix 3

5.3.7. Page 220 of Appendix 3 sets out 'Key criteria which all proposals for increased urban scale and height must demonstrate' and refers back to Table 3. The criteria are also

addressed through the assessment of proposal against the performative criteria in Tables 3 and 4 of Appendix 3, and therefore formed part of the original assessment set out in the Inspector's report, however for clarity I will address each in turn here and cross reference to the original Inspector's report where relevant:

- *The potential contribution to the development of new homes, economic growth and regeneration in line with the compact urban growth principles set out in the NPF and Project Ireland 2040.*

The proposed development would support economic growth through the creation of employment. The Economic Impact Assessment for the application describes the local and wider economic benefits anticipated to result from the proposed development. It would regenerate a derelict site in a regeneration area. The proposal is not for residential use and therefore the creation of new homes is not applicable. Refer to paragraph 7.3.5 and page 68 of the original Inspector's report).

- *Proximity to high quality public transport connectivity, including key public transport interchanges or nodes.*

As described above and in the original Inspector's report, the proposal is proximate to high quality public transport. Tara Street Station is a key public transport interchange with both suburban and DART services. Refer to paragraphs 7.3.8 and 7.3.9 of the original Inspector's report.

- *Proximity to a range of employment, services and facilities.*

The site is located in the city centre and therefore proximate to the range of services and facilities supported there. The proposal would create employment opportunities.

- *Provision of adequate social and community infrastructure.*

The proposal incorporates social and community infrastructure in the form of a gym and cultural space. As the proposal is for non-residential use, it would not be anticipated that existing social and community infrastructure would be overtly relied upon by future users/occupiers of the development.

- *The availability of good walking, cycling and public transport infrastructure.*

I am satisfied that as the proposal is located in the city centre there is good existing pedestrian, cycle and public transport infrastructure to serve the site. The EIAR also includes a Traffic and Transportation assessment which specifically addresses existing pedestrian and cycle infrastructure serving the site. Pedestrian infrastructure upgrades are also included as part of the proposal. Future implementation of the Liffey Cycle Route would also benefit the site.

- *Appropriate mix of uses, housing typologies and tenures.*

This relates to proposals for residential use. The proposed development incorporates a mix of non-residential uses in accordance with the zoning of the site as described above and in the original Inspector's report, refer to section 7.3.

- *The provision of high quality public open space and public amenities.*

The requirement for public open space provision relates to proposals for residential use. The proposed development incorporates public realm upgrades and a cultural / exhibition space.

- *The resilience of the location from a public access and egress perspective in the event of a major weather or emergency or other incidents.*

The submitted Environmental Impact Assessment Report for the application assesses the vulnerability of the project to major accidents or disasters and is addressed in paragraph 8.7 of the original Inspector's report. Resilience from a public access and egress perspective is also addressed on page 22 below.

- *That the ecological and environmental sensitivities of the receiving environments have been adequately assessed and addressed.*

The application incorporated an Environmental Impact Assessment Report and Natura Impact Statement which are assessed as part of the original Inspector's report (sections 8 and 9).

- *Appropriate design response that considers the characteristics of the site, any development constraints and prevailing character.*

A detailed assessment of the design and architectural response of the proposal is set out in the original Inspector's report (section 7.5).

- *Adequate infrastructural capacity.*

Infrastructural capacity has been assessed in the original Inspector's report.

Refer to paragraphs 7.5.9, 8.42, and 9.20.

5.3.8. Performative and Exceptional Criteria in Appendix 3

5.3.9. The original Inspector's report from paragraph 7.5.37 describes an assessment under criteria in Appendix 3, specifically in Tables 7.1 and 7.2 of the report which set out an assessment against the performative criteria in Tables 3 and 4 of Appendix 3. The application included a Tall Building Statement which addressed the performative criteria under Appendix 3, however at that time the Development Plan was in draft form. The applicant's response to the section 137 request subject to this addendum report included enclosure 1 which is the applicant's more comprehensive explanation of how the proposal conforms with Appendix 3 in light of the adopted Dublin City Development Plan 2022-2028 which is now in force.

5.3.10. As noted above, page 236 of Appendix 3 also sets out further exceptional criteria which was addressed in the original Inspectors report from paragraph 7.5.44. Page 236 states the general presumption against landmark buildings outside of locations specified in plans, unless exceptional circumstances are demonstrated by the applicant that there is a compelling architectural and urban design rationale for such development. The applicant's response in enclosure 1 now sets out a more direct rationale against the exceptional criteria set out in this part of Appendix 3 and I summarise the applicant's rationale against the exceptional criteria below. This should be read alongside the appraisal set out in the original Inspector's report from paragraph 7.5.44.

- *That the landmark/tall building complies with all of the performance criteria set out in Table 4.*

Applicant's response: The criteria in Table 4 is addressed separately and compliance demonstrated.

- *The landmark/tall building/s will emphasise a point of particular civic or visual significance and that such a proposal will contribute in a meaningful way to the legibility of the city and contribute positively to the skyline. Any such proposal for a landmark/tall building must be supported by a detailed spatial*

analysis demonstrating that the design and location of the landmark/tall building is appropriate and optimal.

Applicant's response: The proposal will create a distinctive new profile on the Dublin City Skyline, providing a landmark on the arrival side of one of the City's most important river crossings as part of an emerging cluster of tall buildings, aiding legibility, becoming a key navigation reference point in the city. The proposal incorporates an expansive new arts and cultural centre for the city and is proximate to a key public transport interchange at Tara Street. Spatial analysis submitted includes the Mahoney Architecture Appeal Report, the Urban Strategies Taller Building Statement, the Report on Townscape and Visual Impact for 1st Party Appeal, Daylight & Sunlight Assessment Addendum, Architect's Response to Planning Refusal, Pedestrian Realm People Flow Study and Verified Photomontages.

- *The landmark/tall building will act as a strategic intervention, a catalyst for regeneration and make a significant economic or cultural contribution. The landmark/ tall building proposal must also demonstrate that it is economically viable and implementable in the lifetime of the plan.*

Applicant's response: The proposal includes the demolition of a derelict site, acting as a catalyst for further investment in the area, and incorporating a cultural space, bringing an arts centre use back onto the site. The design of the proposed office is intended to attract headquarter type uses to the city as a foreign investment strategy, on a strategically important site with exceptionally high public transport accessibility and therefore important for the city's economic success. An Economic Impact Assessment was included with the application and outlines the positive economic contribution anticipated to result from the proposal. A letter from Knight Frank accompanies the applicant's Section 137 response providing commentary on the scheme's economic viability and stating that the scheme is implementable in the lifetime of the Plan.

- *That the landmark/tall building is located in an area with excellent high frequency, high capacity public transport accessibility and excellent pedestrian and cyclist infrastructure. The onus will be on the applicant to*

demonstrate the capacity of public transport and the quality of existing links between public transport and walking and cycling infrastructure and the site.

Applicant's response: The site is located within c.160m of Tara Street Station which will have connections to Dart, Suburban rail, city bus services and the proposed MetroLink. The site is also walking distance to Busáras bus station and both Luas lines, as well as the south city commercial core, the FSC and the Dockland. A Public Transport Capacity Assessment and Pedestrian Realm People Flow Study is submitted demonstrating the site is highly accessible to pedestrians and cyclists.

- *The landmark/tall building will bring significant planning gain to the community including measures such as:*

- *substantial upgrades to the public realm;*

Applicant's response: The proposal is set back on the City Quay/Moss Street corner to broaden the public realm. A new public plaza will be provided at the entrance to the proposed building, increasing accessibility and permeability of the subject area, thus improving resilience of the location in terms of public access and egress and egress at surface level. The Dublin City Planner's Report acknowledged the positive contribution of the proposal to the urban neighbourhood and streetscape.

- *environmental enhancements including open space and green infrastructure to be enjoyed by residents and the wider community;*

Applicant's response: Sustainability and efficiency features have been considered throughout the design process. The proposal will comply with non-residential Part L 2021 (Buildings other than Dwellings) and target BER of at least A2. A new public plaza is proposed at the entrance to the building.

- *significant new social and community infrastructure for the benefit of the wider area;*

Applicant's response: The proposal incorporates 1,648sqm of arts space and improvements to public realm equating to a significant gain to the site and surrounding area.

- *where the landmark/tall building is for residential use, the provision of a broad range of accommodation for people living in different household sizes and throughout various life cycle stages.*

The proposal is for non-residential use.

- 5.3.11. To avoid repetition, I do not intend to assess the proposal against the performative criteria in Tables 3 and 4 of Appendix 3 and refer to the original Inspector's report in that regard. I am satisfied that the applicant's Section 137 response supports that original Inspector assessment and that it has been demonstrated that the proposal conforms with the criteria set out in Tables 3 and 4 of Appendix 3. However, it is appropriate to provide commentary around those particular matters raised in consultation submissions on the applicant's response, and I set this out below.
- 5.3.12. I note that the OPW submission refers to page 237 of Appendix 3 with respect to the development of significant height and scale generally not being considered appropriate in historic settings including conservation areas and the River Liffey and quays, as well as other notable areas of historic significance in the city, or where the setting of a protected structure would be seriously harmed. The submission from City Quay National School also states that the applicant has disregarded the conservation status and historic sensitivity of the location. The applicant's enclosure 1 addresses Section 6.0 (page 237) of Appendix 3 and refers back to Chapter 12 of the submitted EIAR for the application and the Report on Townscape and Visual Impact for 1st Party Appeal. With respect to the River Liffey Conservation Area, the applicant describes that the Liffey passes between a wide variety of character areas along its stretch through the city, with diverse typology and architecture, in addition it is highlighted that the subject site is not situated in the Dublin's historic core.
- 5.3.13. It should be noted that page 237 of Appendix 3 does not preclude tall buildings in historic settings, instead stating that significant height and scale is not 'generally' appropriate. Again, the key factor in the determination of acceptability with respect to height in Section 6.0 (page 237) of Appendix 3 relates back to the performance criteria in Tables 3 and 4. Section 7.4 of the original Inspector's report sets out a detailed assessment of the potential impact of the proposal upon built heritage in the area, as well as an assessment against the performative criteria in Appendix 3 in section 7.5. Overall, I am satisfied that the proposed development would not have a

significant adverse impact upon areas or buildings of historic sensitivity and the conclusion remains as set out in paragraph 7.4.43 of the original Inspector's report.

- 5.3.14. The submission from Sheehan Planning on behalf of Irish Life Assurance Plc highlights concern with respect to overbearing and overshadowing impact and suggest that amendments to the proposed design may alleviate these concerns.
- 5.3.15. The applicant addresses Daylight, sunlight and overshadowing as part of consideration of the criteria set out in Table 3 of Appendix 3. Daylight and Sunlight Assessment and Addendum reports have been submitted by the applicant. These demonstrates that while the proposal would result in a perceptible reduction in daylight and sunlight to some areas, this impact would result even with a building of substantially reduced scale on the site. Section 7.6 of the original Inspector's report outlines an assessment of the Daylight, Sunlight and Overshadowing impact resulting from the proposed development. This concluded that while adverse impact results, this is within acceptable parameters, on balance, in light of wider contextual considerations. This includes that similar impact would still result from a building of much reduced scale on the site and in light of the wider regeneration and architectural design considerations. While the consultation submission suggests that augmentation of the proposal at lower levels could address concerns raised by resulting in reduced daylight / sunlight impact, this would have negative consequential effect upon the proposed design. The submission specifically identifies the 'shoulder' elements to the proposal and suggests these be removed, however these elements are specifically included to transition the scale of the building, and therefore I do not agree with this approach.
- 5.3.16. With respect to solar gain, the applicant's response in enclosure 1 (page 31) states that the proposal does not compromise the ability of existing or proposed buildings to achieve solar gain as demonstrated in the overshadowing analysis provided as part of the application. An assessment of overshadowing is included in the original Inspectors report in section 7.6. I am satisfied that the proposed development has been able to maximise the development potential of the site without compromising solar gain to surrounding buildings, particularly given its river side location with no buildings directly north of the site.
- 5.3.17. The potential for an overbearing impact is addressed from paragraph 7.6.30 of the original Inspector's report. I am satisfied that the conclusion remains as set out in

that report that the proposal, while of a significant scale and visually prominent, would not result in an overbearing impact due to the high-quality architectural design proposed.

- 5.3.18. Overall, I am satisfied that the conclusion with respect to the amenity matters raised in the submission on behalf of Irish Life Assurance PLC remains as set out in the original Inspector's report as referenced above.
- 5.3.19. The consultation submission received from City Quay National School raises a range of matters which I address in turn below.
- 5.3.20. The submission contests the assertion that the proposal is economically viable and implementable as presented in the applicant's letter from Knight Frank, with reference to the Lisney Offices Market Outlook 2024. However, I note that the rationale presented in the Knight Frank letter is specific to the proposed development, while the Lisney report is a general outlook of the market. There is a consistent view however regarding future growth and a positive outlook for future years. The primary rationale presented in the Knight Frank letter concerns the type of office floorspace on offer in Dublin, and that the proposal would offer the most sought after amenities, sustainable credentials, with large floor plates and in a location with quality transportation links, with similar office space not readily available in Dublin currently. The letter states that 'This proposed scheme is without doubt economically viable and implementable within the lifetime of the Dublin City Development Plan 2022-2028.' This relates back to the exceptional criteria for landmark buildings as addressed above, and the criterion that '....The landmark / tall building proposal must also demonstrate that it is economically viable and implementable in the lifetime of the plan.' The original Inspector's report also addresses this criterion on pages 68-70, as well as the submission's comments with respect to the 10 year consent sought. The applicant's response to the Section 137 request now directly addresses this criterion on pages 9 and 10 of their enclosure 1 to the Section 137 response, with a rationale set out in the Knight Frank letter to support that the scheme is economically viable and implementable in the lifetime of the plan.
- 5.3.21. The submission refers to page 220 of Appendix 3 and specifically that 'Where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities.'

The applicant addresses this as part of a response to the Table 3 performance criteria in Appendix 3 on page 18 of their enclosure 1 to the Section 137 response. The original Inspector's report addresses transition in scale in paragraph 7.5.17 and on pages 58 and 63, as well as impact upon surrounding amenities, including the school in section 7.6. Overall, I am satisfied that the proposed design does include a transition in scale to its surroundings in an architectural approach that is suitable to this inner-city site.

- 5.3.22. The submission contends that the proposed footpath upgrades do not really benefit the community or make any contribution to the public realm. This relates back to the criterion under objective 3 of Table 4 in Appendix 3 relating to the performance criteria to be demonstrated in assessing proposals for landmark/tall buildings, and the requirement for a positive contribution at street level, with enhanced public realm, opportunities to improve permeability and increased pedestrian and cycle flows. The need for substantial upgrades to the public realm is also included on page 237 of Appendix 3 with respect to the exceptional criteria which has been addressed above. Works to enhance the public realm are also included in the Table 3 criteria in Appendix 3.
- 5.3.23. The applicant's response to the Section 137 request in enclosure 1 outlines the proposed public realm enhancements on pages 14, 13, 23, 43 and 44 and how this responds to criteria in Appendix 3. Pages 59, 64 and 71 of the original Inspector's report also addresses the public realm enhancements incorporated into the proposal. I also note that the Planner's Chief Executive Report notes that 'The proposed development would provide for significantly enhanced public realm and pedestrian access to the proposed development... and makes a positive contribution to the urban neighbourhood and streetscape.' Overall, I am satisfied that the public realm enhancements incorporated in the proposal would comply with the performance criteria under Appendix 3.
- 5.3.24. The submission also contends that the scheme incorporates no significant planning gain to the community with reference to the exceptional criteria on pages 236-237 of Appendix 3. This is addressed on pages 13 and 14 of the applicant's enclosure 1 as part of their Section 137 response. Pages 70-72 of the original Inspector's report also assesses this in detail. The proposed development incorporates arts/cultural space which is accepted by the Local Authority and in the original Inspector's report as a significant contribution to community infrastructure. The public realm to streets

adjacent to the site would also be substantially improved. The site is currently derelict and detracts from the urban environment in its current condition, while the proposed works incorporate footpath upgrades, active / well designed street edges and a set back floorplate to the entrance, giving over space to the public realm. Landscaping is also proposed at ground level and the public realm concept illustrates greening along Moss Street (page 14 of enclosure 1). I am satisfied that the proposed development would incorporate sufficient planning gain with regard to the performance criteria set out in Appendix 3 of the Plan.

6.0 Conclusion

- 6.1. With reference to Board Direction BD-014704-23, the applicant's submitted Section 137 response dated the 9th January 2024, the submissions from observers with respect to the same, and the relevant provisions under the current Dublin City Development Plan 2022-2028, this addendum report as requested in Board Direction BD-015655-24 concurs with the conclusion presented in section 10 of the original Inspector's report.

7.0 Recommendation

- 7.1. The recommendation remains that permission be GRANTED subject to the conditions set out in section 13 of the original Inspector's report, and with the addition of a single condition as set out below:

8.0 Additional Condition

The arts centre / cultural space approved as part of the development, shall be occupied for such use prior to the occupation of any other uses in the development. The arts centre / cultural use shall be retained and occupied as such, for the life of the development or unless a prior grant of planning permission has been granted for change of use by the Planning Authority.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

Rachel Gleave O'Connor
Senior Planning Inspector

08 March 2024