



An  
Bord  
Pleanála

## Inspector's Report ABP-316189-23

### Development

Amendments to P.A. Ref. No. 3752/19 and ABP-307062-20 consisting of increase of total floor area and height of plant screen at roof level, basement level reconfiguration, and all floors to be extended together with all associated site works and services.

### Location

Site at New Street, off New Street South, Dublin 8.

### Planning Authority

Dublin City Council South.

### Planning Authority Reg. Ref.

3021/23.

### Applicant(s)

BCP Fund Management DAC.

### Type of Application

Planning Permission.

### Planning Authority Decision

Grant with conditions.

### Type of Appeal

Third Party

### Appellant(s)

Fergal & Jai Bonner on behalf of Lauderdale Terrace Residents.

### Observer(s)

None.

**Date of Site Inspection**

7<sup>th</sup> day of May& 9<sup>th</sup> day of August,  
2024.

**Inspector**

Patricia M. Young.

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## 1.0 Site Location and Description

- 1.1. The irregular triangular shaped appeal site has a given area of 1,520-sq.m. and it is located in the Liberties, Dublin 8, with eastern boundary providing access to an unnamed cul-de-sac c48m which opens onto New Street South (R137) c50m to the east of the site. The eastern boundary of the site is situated c175m by public road from New Street Souths junction with Kevin Street Upper, Patrick Street and Dean Street. This heavily trafficked junction is located c2.5km to the south west of Dublin's city centre.
- 1.2. At the time of inspection, the site was comprised of a concrete slab still over a basement car parking level with its associated entrance that opens onto the aforementioned cul-de-sac lane. Tall metal gates block access from the public domain to this entrance. This was in addition to tall metal gates located to the south of this entrance. The entrance to the basement car park is situated in close proximity to an entrance providing access to a residential three to five storey building block located to the north east of the site. This residential block addresses the northern side of the aforementioned lane.
- 1.3. Part of the western boundary of the site bounds a period 2-storey terrace group consisting of No.s 18a to 26 New Row South (also known as 'Lauderdale Terrace'). The southernmost end of the western boundary of the site adjoins the amalgamated site consisting of No. 27-29 New Row South. I note that this site includes a Protected Structure RPS Ref. No. 5821. This building's curtilage bounds the site with this including period stone walls and within the site consisting of No. 27-29 New Row South there is Recorded Monument and Place DU018-020350. The site also forms part of a larger Zone of Archaeological Potential for the Recorded Monument and Place DU018-020.
- 1.4. The River Poddle is culverted at this location runs along the rear of the Lauderdale Terrace and No.s 27-29 New Row South.
- 1.5. Part of the eastern boundary of the site adjoins 'Cathedral Court' scheme which is mainly residential but contains a number of commercial units at ground floor level and has a 6 to 8 storey building height that extends to the public domain of the New Street South (R137).

- 1.6. The site is adjoined on its southern side by a contemporary office building that forms part of the 'Fumbally Square' development. Additionally, to the south west of the site is a mixed office and residential development known as 'Fumbally Studio' with this including a historic stone built former industrial building.
- 1.7. There appears to be a right-of-way located immediately alongside the western boundary of the site. This right-of-way contains a linear strip of native trees and hedgerow species.
- 1.8. The cul-de-sac lane serving the site contains on street pay and displace car parking spaces on both sides with footpaths extending from New Row Street terminating in proximity to the eastern boundary of the site.
- 1.9. The surrounding area contains a mixture of land uses as well as an emerging pattern of taller buildings with many surviving heritage buildings also present.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for a development consisting of amendments to a permitted development under P.A. Reg. Ref. No. 3752/19 and ABP-307062-20 for an enterprise centre building at the site. They include:
  - Increase in gross total floor area to c. 5,325.6-sq.m from c. 4,459-sq.m (including a basement area change to c. 1,101.3-sq.m from c. 1,129-sq.m) from ground to fifth floor level.
  - Increase in height of plant screen at roof level from c. 23.37m to c. 24.280m.
  - No increase in roof parapet level from permitted.
  - Basement level reconfigured to relocate the cycle access stairs, accommodate 1 no. disabled parking space, provide unisex toilets including disability accessible cubicles, male and female shower rooms, changing rooms, cycle parking and locker room/drying rooms, bin storage room, security/ storage room, relocation of smoke extract fans from external south-west corner at ground level to basement level and ancillary plant.
  - Ground floor extended by c.91.7-sq.m to the south adjacent to Fumbally Square, including a set back from eastern boundary at Cathedral Court Block, distance varies,

reconfiguration of stair cores, lifts, escape route, provide unisex toilets, introduce reception desk and office, remove step in floor level, provide shallow ramp and steps and internal platform lift from lobby at employee's entrance doors and draft lobby to the east, provision of ventilation grille to plant room wall on the west elevation, provision of an external platform lift adjacent to main (west) entrance at junction with Fumbally Square.

- First floor extended by 210.5-sq.m to the north/northeast and south, including a set back from eastern boundary at Cathedral Court Block distance varies, an extended meeting area of c. 20.2-sq.m to the south to abut the Fumbally Square building, reconfiguration of stair cores, lifts, provide unisex in place of male & female toilets, remove step in floor level at northern end of floor. Fenestration to Fumbally Square building removed and modified adjacent to extended meeting area and for minimum of 1.5m on both sides at both ground and first floor levels and replaced by fire resistant construction to comply with fire safety regulations.
- Second floor extended by 144.1-sq.m to the north/north-east and south, including a set back from eastern boundary at Cathedral Court Block distance varies, reconfiguration of stair cores, lifts, provide unisex in place of male & female toilets.
- Third floor extended by 127.4-sq.m to the northeast and south, including a set back from eastern boundary at Cathedral Court distance varies and at northern elevation, reconfiguration of stair cores, lifts, provide unisex in place of male & female toilets.
- Fourth floor extended by 88.2-sq.m including a set back at Cathedral Court Block distance varies and at northern elevation, reconfiguration of stair cores, lifts, provide unisex in place of male & female toilets.
- Fifth floor external terrace removed, and floor extended to north, west and south by 244.4-sq.m and reconfiguration of stair cores, lifts, provide unisex in place of male & female toilets.
- Roof level plant area reconfigured and extended by 60.3-sq.m including photovoltaic panels, 2 no. automatic opening vents, mechanical plant, part covered, part open access stair for maintenance purposes and 2690mm high metal screen.
- All associated site works and services.

2.2. The accompanying planning application indicates a plot ratio of 4 and site coverage of 59%. It also indicates that the floor area to be demolished totals 1,438-sq.m.

2.3. This application is accompanied by the following documents:

- Cover Letter
- Planning Report
- Architectural Design Statement
- Energy Statement
- Appropriate Assessment Screening Report
- Townscape & Visual Impact Assessment Report
- Photomontages
- Daylight, Sunlight & Overshadowing Report
- Engineering Services Report
- Preliminary Ecological Appraisal Report
- Construction & Demolition Waste Management Plan
- Construction Management Plan

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. By Order dated the 6<sup>th</sup> day of March, 2023, Dublin City Council issued a notification of decision to **grant** planning permission subject to 5 no. conditions including:

Condition No. 4: Requires compliance with ABP-307062-20 (P.A. Ref. No. 3752/19), subject to safeguards.

Condition No. 5: Sets out the Planning Authority's Transportation Planning Division requirements.

- Revised drawings demonstrating unobstructed pedestrian access across the front entrance area at the northeast corner of the site. Retention of the vehicular drop off zone.



- 1 no. motorcycle space and 1 no. accessible parking space with electrical charging equipment at basement level sought/drop off zone appropriately marked/car parking spaces permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties.
- Minimum of 71 no. cycle parking spaces including 2 no. cargo bike spaces at basement level and 14 no. visitor cycle parking spaces at ground floor level. Minimum qualitative standards of these spaces set out.
- Two car lifts shall be set to revert to ground floor level to prioritise incoming traffic and to minimise the potential for queueing at the vehicular access.
- Public areas to accord with 'Construction Standards for Roads & Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division.
- Provides for the repairs to the public road and services.
- Compliance with Code of Practice.

The given reason for this condition is in the interest of the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planning Officer's report is the basis of the Planning Authority's decision. It includes the following comments:

- No objection to the increased intensity and scale of development sought.
- Nature of use would contribute to the local economy.
- No concerns are raised in terms of the amended 6 storey height.

- The separation distances proposed between the amended building and residential properties avoids any insignificant overbearing impacts, particularly in relation to Lauderdale Terrace.
- No additional significant diminishment of residential amenities arises.
- The pedestrian access is more constrained than the previous scheme.
- The reduction to the entrance area appears to have constrained the vehicular movements within the drop-off zone.
- Pedestrian and vehicle conflict could arise at the south western corner of the site.
- The relocated bicycle stair ramp to the south of the site adjacent to the drop off area is welcomed.
- Piling is shown outside of the redline boundary in drawing no. MDC0657-RPS-00-XX-DR-C-DG0011.
- This proposal results in a reduction of one car parking space which is deemed to be acceptable.
- There is an inadequate provision of bicycle spaces.
- No consideration has been given to the functioning of the cul-de-sac lane during construction. Parking during construction would be reliant on the pay and display spaces on the cul-de-sac. Provision of on-site cycle parking should be considered, and scheduling of traffic be reviewed as part of a construction management plan.
- The Environmental Health Officer concerns can be addressed by condition.
- No AA or EIA issues arise.
- Concludes with a recommendation to grant permission, subject to safeguards.

### 3.3. Other Internal Reports

- 3.3.1. **Drainage:** No objection, subject to safeguards.
- 3.3.2. **EHO:** Concludes with a request for further information.
- 3.3.3. **Archaeology:** No objection, subject to safeguards.

3.3.4. **Transportation:** No objection, subject to safeguards set out under Condition No. 5 of the Planning Authority's notification to grant permission.

#### 3.4. **Prescribed Bodies**

3.4.1. **Transport Infrastructure Ireland (TII):** This proposal is not exempt from S49 Contribution Levy (Luas Cross City).

#### 3.5. **Third Party Observations**

3.5.1. Several Third-Party Observations were received by the Planning Authority during the course of their determination of this application. I consider that the substantive concerns raised in them generally correlate with those raised by the Third-Party Appellant in their submission to the Board. The following additional concerns are also raised:

- Submitted floor plans do not indicate how they are to be used and could be for multiple occupants.
- Various construction and operational nuisances would arise from the development including noise, light, reduced security and loss of privacy are raised.
- This development would give rise to additional pressure on the limited on-street public parking spaces in this area.
- There has been a lack of improvement to public infrastructural services in this area despite its rapid growth.
- Drawings provided do not accurately show Lauderdale Terrace.
- The stepped raised retaining wall allows for overlooking of Lauderdale Terrace.
- Concerns that the works would adversely impact on the Poddle Culvert which runs to the rear of Lauderdale Terrace.
- Lauderdale Terrace and New Row South forms part of the 'Living City Initiative' which encourages houses over 100 years to be refurbished for city living. This proposal would detrimentally impact on these properties' amenities.
- A four-storey building was previously refused permission at this site (Note: P.A. Ref. No. 1330/22).

## 4.0 Planning History

### 4.1. Site

**ABP-307062-20 (P.A. Ref. No. 3752/19):** On the 22<sup>nd</sup> day of September, 2020, the Board **granted** permission subject to conditions for a development consisting of:

- Demolition of basement slab and supporting structures, carpark ramp podium and basement level.
- Construction of a six storey over basement enterprise centre to 23.37m in height with shared workspace from ground to fifth level, cafe and collaboration zone, roof terrace substation and hard and soft landscaping and vehicular access from New Street.
- 16 car spaces, 2 lift cores 3 stair cores 57 cycle spaces.
- All ancillary development works and services.

**PL29S.220220 (P. A. Ref. No. 4378/06):** On the 27<sup>th</sup> day of September, 2006, the Board **refused** permission for a development consisting of the replacement of the approved 3 storey residential scheme with a 3 to 6 storey apartment building of approx. 1900sqm. The proposed development contained: 22 no. apartment units. The given reason and consideration reads:

*“Having regard to the pattern of development in the immediate vicinity, to the limited size of the site and to the form, height, bulk and design of the proposed building, it is considered that it would have an overbearing and overshadowing effect on the adjoining dwellings at Lauderdale Terrace, New Row South, and would facilitate overlooking of these properties at close quarters. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.”*

### 4.2. Site Other

**P.A. Ref. No. 2188/01:** This appeal site formed part of the application site to which this planning application relates. According to publicly available information the Planning Authority **granted** permission for the development sought under this application subject to conditions. This development consisted of construction of a five-

storey office building over basement car park, change of use of No. 7 and 12a Fumbally Lane to offices, a three-storey apartment building of 16 two bed units over basement car parking. It would appear that part of this development was implemented but not that which related to the 1,520-sq.m. site area.

#### 4.3. **Setting**

##### **ABP-315887-23 (P.A. Ref. No. 4778/22)**

**No. 27-29 New Row South, Dublin 8 (Location – adjoining the south western corner of the site).**

On appeal to the Board permission was **granted** for modifications to development permitted under ABP-307217-20 (P.A. Ref. No. 4423/19) including the change of use to 86 hotel rooms, alterations to building together with all associated site works and services. The site includes Protected Structure (RPS Ref. No. 5821).

Decision date: 26/04/2024.

##### **ABP PL29S.247478 ( P.A. WEB 1315/16)**

**No. 21 Lauderdale Terrace, New Row South, Dublin 8 (Location - adjoining the western boundary of the site).**

On appeal to the Board permission was **granted** for a development consisting of the erection of a first-floor extension over an existing ground floor rear extension along with a dormer window.

Decision date: 10/03/2017.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

- 5.1.1. The Dublin City Development Plan, 2022-2028, is the operative plan, under which the site is in a transitional zonal area with the site subject zoned 'Z1' (Sustainable Residential Neighbourhoods) and the adjoining land to the south zoned 'Z6'. The stated land use objective for 'Z1' lands is "*to protect, provide and improve residential amenities*" and for 'Z6' zoned lands is "*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation*".

- 5.1.2. Section 14.6 of the Development Plan in relation to 'Transitional Zone Areas' states that: *"it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones"*.
- 5.1.3. Permissible land uses listed under Section 14.7.1 include 'enterprise centre'.
- 5.1.4. Appendix 15 of the Development Plan defines enterprise centre' as: *"use of a building, or part thereof, or land for small-scale 'starter type' or micro-enterprise industries and/or services usually sharing grouped service facilities"*.
- 5.1.5. Figure 13-15 of the Development Plan shows that the site is within the SDRA 15 Liberties and Newmarket Square boundaries.
- 5.1.6. Section 13.17 of the Development Plan sets out that this SDRA 15 corresponds to the area defined by the Liberties Local Area Plan 2009 and that this SDRA seeks to incorporate relevant elements of this now expired LAP, as appropriate. It states: *"while considerable urban consolidation and regeneration of the Liberties area has occurred in recent decades, significant opportunities for regeneration and enhancement still exist, as identified in the guiding principles for this SDRA"* and that *"it is an objective of the plan to recognise the unique role the Liberties plays in Dublin's character and to ensure that regeneration safeguards the Liberties' strong sense of community identity and cultural vibrancy into the future"*. This section of the Development Plan also sets out the guiding principles for this SDRA.
- 5.1.7. Section 4.5.4 of the Development Plan deals with increased building height and refers to Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City). In summary, relevant policies and objectives include the following: Policy SC14 – sets out a strategic approach to accord with the Building Height Guidelines; Policy SC15 – seeks to promotes a mix of uses in large scale development with increased height; and Policy SC17 – sets out guidance for proposals with increased scale/height to protect and enhance the skyline of the city.
- 5.1.8. Sections 4.5.5 and 4.5.6 of the Development Plan deals with the matters of Urban Design, Architecture, and the Public Realm.

5.1.9. Section 2.5 of the Development Plan deals 'Economic and Employment Strategy'. It states that: *"the strategy for the city economy and enterprise is to safeguard and enhance Dublin's role as Ireland's internationally competitive capital; to promote strategic and targeted employment growth; to support regeneration and tackle vacancy; to support the creation of high quality urban spaces and the transition to a low-carbon, green, circular economy; to support key economic sectors; and to foster local economic development and social enterprise"* and that: *"this approach aligns with the overall goals of NPF, RSES and MASP for the economic development of Dublin City as Ireland's leading global city of scale"*.

5.1.10. Chapter 6 of the Development Plan deals with 'City Economy and Enterprise'.

5.1.11. Section 6.4 of the Development Plan sets out the Strategic Approach to the city economy and enterprise set which sets out its consistency with the overall goals of national, regional and local economic and planning policy. Of note are the following policies:

- CEE1: *"Dublin's Role as the National Economic Engine"*
  - (i) *To promote and enhance the role of Dublin as the national economic engine and driver of economic recovery and growth, with the city centre as its core economic generator.*
  - (ii) *To promote and facilitate Dublin as a creative and innovative city that is globally competitive, internationally linked, attractive and open.*
  - (iii) *To promote an internationalisation strategy building mutually-beneficial economic and other links with key cities globally to encourage investment and tourism in Dublin."*
- CEE2: *"To take a positive and proactive approach when considering the economic impact of major planning applications in order to support economic development, enterprise and employment growth and also to deliver high-quality outcomes"*.

5.1.12. Section 6.5.5 of the Development Plan deals with the matter of 'Regeneration and Vacancy'. It states: *"the redevelopment of regeneration areas has the potential to directly benefit the city's economy through the creation of jobs in the construction sector"*; that: *"vacancy is another significant issue for the city economy as vacant*

*commercial and residential floorspace represent not only a misuse of a valuable resource, but also detracts from the urban quality and on the attractiveness of an area for its residents, visitors, businesses and for potential investors”; and, that: “the expedient redevelopment of extensive vacant/under-utilised sites, especially in the city centre area, is critical to sustainable development”.*

5.1.13. The following policies are relevant:

- CEE19: *“Regeneration Areas To promote and facilitate the transformation of Strategic Development and Regeneration Areas (SDRAs) in the city, as a key policy priority and opportunity to improve the attractiveness and competitiveness of the city, including by promoting high-quality private and public investment and by seeking European Union funding to support regeneration initiatives, for the benefit of residents, employees and visitors. Regeneration Areas To promote and facilitate the transformation of Strategic Development and Regeneration Areas (SDRAs) in the city, as a key policy priority and opportunity to improve the attractiveness and competitiveness of the city, including by promoting high-quality private and public investment and by seeking European Union funding to support regeneration initiatives, for the benefit of residents, employees and visitors”.*

- CEE20: *“Vacant Sites*

- (i) To engage in the ‘active land management’ of vacant sites and properties including those owned by Dublin City Council.*

- (ii) To engage proactively with land-owners, potential developers and investors with the objective of encouraging the early and high quality re-development of such vacant sites.*

- (iii) To encourage and facilitate the rehabilitation and use of vacant and under-utilised buildings, including their upper floors.*

- (iv) To promote and facilitate the use, including the temporary use, of vacant commercial space and vacant sites, for a wide range of enterprise including cultural uses”.*

5.1.14. Section 6.5.6 deals with the matter of ‘Office and Commercial Floorspace’.

5.1.15. Chapter 11 of the Development Plan deals with Built Heritage.



5.1.16. Section 15.5 of the Development Plan sets out Site Characteristics and Design Parameters for new developments.

## 5.2. Other – Development Plan Appendices

5.2.1. The following are relevant:

- Appendix 1 sets out the Housing Strategy.
- Appendix 3 'Achieving Sustainable Compact Growth' & the Height Strategy.
- Appendix 5 'Transport and Mobility' expands on the Sustainable Movement and Transport Framework'.
- Appendix 6 outlines further detail on Conservation
- Appendix 16 outlines guidance and standards in relation to 'Sunlight and Daylight'.

## 5.3. Regional Policy

5.3.1. **Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019:** The primary statutory objective of the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Authority is to support the implementation of the NPF. The RSES identifies regional assets, opportunities and pressures and provides policy responses in the form of Regional Policy Objectives.

## 5.4. National Policy

- **Project Ireland 2040 - National Planning Framework (NPF)**, 2018-2040, is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040 and within this framework Dublin is identified as one of five cities to support significant employment growth. Of note are the following National Policy Objectives:

- NPO 6 aims to regenerate cities including increased employment.

- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.

- NPO 27 promotes the integration of safe and convenient alternatives to the car.

- **Urban Development and Building Heights Guidelines for Planning Authorities**, (2018): The Guidelines highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously

developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

- **Architectural Heritage Protection Guidelines for Planning Authorities, 2011.**
- **Climate Action Plan, 2024.**
- **National Sustainable Mobility Policy, 2022.**
- **Places for People – the National Policy on Architecture, 2022.**

## **5.5. Natural Heritage Designations**

- 5.5.1. The subject site is not located within or adjacent to any Natura Site. The closest Natura Site, part of the Natura 2000 Network, is South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located c.3.8km to the north east of the site and South Dublin Bay SAC (Site Code: 000210) which is located c4.1km to the east at their nearest point respectively.
- 5.5.2. Of further note the site is located c840m to the north of the Proposed Natural Heritage Areas: Grand Canal (Site Code: 002104).

## **5.6. EIA Screening**

- 5.6.1. See completed Appendix 1 Form 1 attached to this report.
- 5.6.2. The proposed development is for amendments to the permitted development as granted on appeal to the Board under ABP-307062-20 (P.A. Ref. No. 3752/19) for an enterprise building on a site area of c1,520-sq.m. This proposal seeks to increase the height and floor area of the enterprise building as permitted on this brownfield site. It includes demolition of 1,438-sq.m. which relates to a basement level and its concrete slab over. An environmental impact assessment (EIA) screening report was submitted with the planning application.

5.6.3. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended, but it is significantly sub-threshold. Of note Schedule 5, Part 2, Class (10)(b) of the Regulations provides that mandatory EIA is required for the following:

(i) Construction of more than 500 dwelling units.

(iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere, where “business district” means a district within a city or town in which the predominant land use is retail or commercial use. EIA is mandatory for developments comprising over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.

5.6.4. I also note that Class 14 of Part 2 to Schedule 5 of the Planning Regulations provides that mandatory EIA is required for: works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.6.5. Additionally, Class 15(b) of Schedule 5 relates to any project listed in Part 2 of Schedule 5 which does not exceed a quantity, area or other limit specified in Part 2 in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.6.6. The project as lodged relates to an enterprise centre and the site area 1,520-sq.m. As such the nature and scale of this project does not trigger the need to submit an EIAR. On this point I note that the site relates to zoned lands where enterprise centre is a land use that is deemed to be permissible together with the brownfield vacant circumstance of the subject lands forming part of a larger SDRA parcel of inner-city urban land in the Liberties, Dublin 8, where public piped services are available. Additionally, the floor area for demolition does not relate to any Protected Structures (RPS Ref. No. 5821) though the site itself is in the close proximity to a period industrial heritage building afforded such protection as well as forms part of the Zone of Archaeological Potential for RMP DU018-020 alongside is within proximity to a number

of RMPs. As said the site itself is brownfield and vacant. The reversal of its vacant state together with the potential for any subsurface archaeology subject to safeguards is compatible with the objectives, vision, and purpose of local through to national planning policy provisions subject to standard safeguards.

- 5.6.7. The linear belt of native mixed hedge row, tree and scrub species located alongside the western boundary of the site is of low arboricultural and horticultural value.
- 5.6.8. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other enterprise centre development in an inner-city locality like this.
- 5.6.9. The site is not within or near any Natura site with the nearest such site being c.3.8km to the south west of South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and c4.1km to the west of South Dublin Bay SAC (Site Code: 000210) as the bird would fly, respectively.
- 5.6.10. The application is also accompanied by the following documentation Architectural Design Statement, Civil & Structural Reports, Preliminary Construction & Demolition Waste Management Plan and Ecological Appraisal. These address the issues arising from the amendments to the proposed development as granted by the Board under ABP-307062-20 on the 22<sup>nd</sup> day of September, 2020. With the Inspector in this case previous appeal case carrying out EIA Screening of the proposed development which this application before the Board for its determination seeks to amend. Their screening concluded that the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is therefore not required.
- 5.6.11. Since this case was determined the planning policy provisions have evolved with this including but not being limited to the adoption of the Dublin City Development Plan, 2022-2028. This plan was subject to strategic environmental assessment which was undertaken in accordance with the SEA Directive (2001/42/EC) and the land use of this site remained unchanged as well as the site which formed part of the Local Area Plan area, an area of focused urban consolidation and regeneration, became SDRA 15. Under which it is an objective of the Development Plan to ensure that the regeneration of the Liberties' is safeguarded and built upon.
- 5.6.12. Having regard to the following factors:

- The planning history of the site which includes the recent grant of permission by the Board under ABP-307062-20 for the parent permission to which the amendments sought under this application relates.
- The nature and scale of the proposed development as set out in Section 2.1 and 2.2 of this report above, which is below the threshold in respect of Class 10(b)(i); 10(b)(v); Class 14 and 15(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- The location of the site on Dublin City lands which are zoned 'Z1', have a zonal transitional character due to it being bound on its southern side by 'Z6' zoned land and within the SDRA 15 which together deem enterprise centre buildings permissible, subject to safeguards, under the provisions of the Dublin City Development Plan, 2022-2028.
- The results of the strategic environmental assessment for Dublin City Development Plan, 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC).
- The site was previously served by connections to public mains water and foul drainage supply, with no substantive issues raised in terms of the provision of new connections under ABP-307062-20 with this proposed development relating to amendments to this permitted development with the Planning Authority and Irish Water raising no substantive servicing concerns subject to standard safeguards.
- The location of the site which is served by public infrastructure within a developed urban landscape.
- The history of this brownfield site in terms of land use up to the present time.
- The significant lateral separation distance between the site and any sensitive location specified in Article 109 of the Planning and Development Regulations, 2001, (as amended).
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government, (2003).
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

- The features and measures proposed as part of the project, which are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the project Engineering Services Report, Preliminary Ecological Appraisal Report, Construction & Demolition Waste Management Plan and Construction Management Plan.

5.6.13. I have therefore concluded that, by reason of the location of the site, the site's setting characteristics alongside the nature, extent and scale of the proposed development that there is no real likelihood of significant effects on the environment arising from the proposed development and that on preliminary examination an environmental impact assessment report is not necessary in this case.

5.6.14. Conclusion:

The need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

Further, given the appellant seeks that the Board should it be minded to grant permission to omit the fifth-floor level, as a precaution I note that any suggested conditions including those altering the height and any design aspects of the proposed development as lodged, would not in my view have a material impact on the conclusions of this screening determination.

## 5.7. Built Heritage

5.7.1. The site is within the Zone of Archaeological Potential for the Recorded Monument & Place (RMP) DU018-020 and is located in close proximity to a number of other RMP's including: DU02982 and DU03416 which are both within c60m of the south westernmost corner of the site and relate to the subsurface remains of Dutch Billy houses. Also, within c100m of the site to the south west is DU03402 (House) and within c100m to the north east is DU01125 (Medieval House).

5.7.2. No. 27-28 New Row South is a Protected Structure (RPS Ref. No. 5821) and is included in the NIAH survey where it is given a 'Regional' rating in its importance and its special interest is given as 'Architectural' (NIAH Ref. No. 50080671). The NIAH describes this building as follows:

*"Attached eleven-bay three-storey former distillery warehouse, built c.1840, later in use as brewery, subsequently in use as tannery and as laundry, now in use as studios."*

*Hipped slate roofs with cast-iron rainwater goods, some corrugated sheeted strip rooflights, and having brick parapet to south-west elevation. Snecked limestone walls with dressed limestone quoins to east end and brick block-and-start quoins to west end. Round-headed window openings, partly infilled, with brick block-and-start surrounds and granite sills having timber casement windows with iron bars to ground floor. Square-headed openings with brick block-and-start surrounds, granite sills and metal casement windows to first and second floors. Infilled elliptical-headed carriage arches with brick voussoirs and dressed limestone reveals”.*

Its appraisal reads:

*“The site between New Row South and Fumbally Lane has a historical connection with the brewing, distilling and tanning industries stretching back to the seventeenth century. A significant new distillery complex, of which this building formed part, was constructed by John Busby in the 1830s. By 1845 the distillery was valued at £400. It was taken over by the Dublin City Brewing Company in the 1860s. It is a solidly built industrial building with few embellishments other than the brick block-and-start window dressings, which add colour and textural interest. Many of the former industrial buildings have been converted to residential and office use in recent years, ensuring their continued survival”.*

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The Third-Party Appeal can be summarised as follows:

- The already permitted development includes significant adverse impacts on the amenities of Lauderdale Terrace and it is considered that the applicant is now seeking to squeeze more development onto this site at the expense of neighbour’s amenity.
- The proposed amendments would result in more severe impact on the vital morning sunlight reaching the windows of their homes and obtaining planning permission for extensions to their homes more difficult.

- No regard has been had to the human impact of the enforced shadow on homes and gardens in the vicinity arising from the cumulative development of this site.
- The City Council have taken the conclusions of the applicants' light studies as correct.
- This proposal would result in a 27% increase in floor area on this landlocked and constrained in size site.
- The extra useable area at fifth floor, if permitted, comes at huge further loss to their residential amenities.
- It is requested that the fifth-floor extension be omitted.
- It is requested that the outdoor terrace area is not permitted for residential amenity reasons.
- It is sought that the use of this building be restricted to enterprise centre.
- The Board is requested to overturn the decision of the Planning Authority on the basis of additional adverse residential amenity impacts on Lauderdale Terrace.

## 6.2. Applicant Response

### 6.2.1. The First Party's response can be summarised as follows:

- The proposed amendments provide for energy efficiency, more efficiency of floor plates through to design optimisation for future users.
- Removal of open roof terrace at fifth floor level is intended to reduce any potential impacts on the residential amenity of adjacent residents.
- There is no increase in the permitted roof parapet level from the previously permitted scheme.
- The Development Plan supports the optimal use of brownfield sites and infill sites.
- An updated assessment of daylight, sunlight and overshadowing is provided. It shows no material reduction in light will occur to the gardens of Lauderdale Terrace including having regard to the fifth-floor extension.
- The addition at fifth floor level would give rise to great benefit to the proposed scheme as it would increase the amount of internal floor area.



- The removal of the roof terrace avoids potential amenity impacts such as noise and overlooking.
- The increased roof space allows for reconfigured plant area allowing for greater number of photovoltaic panels at this level.
- The requested blanket restriction of use of this building is inappropriate as this would prevent adaptability of the building to reflect market conditions and it could result in a vacant building if an enterprise centre use is not deemed viable.
- The Board is sought to uphold the Planning Authority's decision.

### **6.3. Planning Authority Response & Observations**

6.3.1. None.

### **6.4. Further Responses**

6.4.1. The Appellants further response in general raises no new planning issues.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. Having carried out an inspection of the site and its setting, examined the application details as well as all other documentation on file together with having had regard to all relevant planning policy provisions and guidance, I consider that the main issues in this appeal are those raised by the Third-Party Appellant in their appeal submission to the Board which I propose to deal with under the following broad headings:

- Procedural
- Principle of the Development
- Impact on Amenities
- Restriction of Permitted Use
- Other Matters Arising

7.1.2. The matter of 'Appropriate Assessment' also requires examination. I propose to address each of the above issues in turn in my assessment below.

- 7.1.3. For clarity I am generally of the view that the proposed development which seeks amendments to a development permitted by the Board under ABP-307062-20 (P.A. Ref. No. 3752/19) gives rise to no other substantive concerns that cannot be deal with by way of appropriately worded conditions. With this including conditions that address the concerns raised by their Planning Authority's Environmental Health Officer and their Archaeology, Conservation & Heritage Division in their reports for the subject planning application.
- 7.1.4. On this point I note that Condition No. 4 of the Planning Authority's notification to grant permission required compliance with all conditions attached to the parent grant of permission except as modified by the grant of permission for this subject application. On this point I also note that Condition No.s 4 and 5 of the parent grant of permission sets out the requirements for a comprehensive construction management plan and archaeological appraisal, respectively.
- 7.1.5. I also concur with the Planning Authority that these two conditions appropriately deal with the concerns of the Planning Authority's Environmental Health Officer and their Archaeology, Conservation & Heritage Division, in relation to the amended scheme now proposed which includes an increased footprint at basement level.
- 7.1.6. Additionally, the amended scheme provides for an increase in floor area from 4,459-sq.m. to 5,325-sq.m. and this additional floor area is not exempt from standard Section 48 development contributions and also Section 49 in respect of LUAS Cross City Scheme. This matter was dealt with under Condition No.s 2 and 3 of the Planning Authority's notification to grant permission.
- 7.1.7. I further note that the Boards grant of permission includes 16 no. mainly standard conditions which deal with a suite of matters ranging from servicing, mitigation of nuisances during construction and operational phases, waste, management of the enterprise centre, external treatments, signage, limiting advertising through to site clearance.
- 7.1.8. Notwithstanding the above, I note that Condition No. 5 of the Planning Authority's notification grant of permission for the subject application sets out a comprehensive and bespoke list of requirements requested by their Transportation Planning Division. I have addressed the requirements of this condition under Other Matters Arising in my report below.

## **7.2. Procedural**

- 7.2.1. The Third-Party Appellants raises concerns regarding the adequacy of the daylight, sunlight and overshadowing assessment provided with this application. I note to the Board that the First Party's response to the grounds of this appeal includes an amended daylight, sunlight and overshadowing assessment and I am satisfied that having considered the information available on file together with my site inspection that there is adequate information available to make an informed determination on this appeal case. Other concerns in relation to the Planning Authority's procedural handling of this application, the Board does not have an ombudsman role and such concerns are therefore outside of the Boards remit in its determination of this appeal case.

## **7.3. Principle of the Proposed Development**

- 7.3.1. This proposal seeks modifications to a development that was permitted on appeal to the Board under ABP-307062-20 (P.A. Ref. No. 3752/19) on the 22<sup>nd</sup> day of September, 2020.
- 7.3.2. In summary the permitted development consisted of the demolition of basement slab and supporting structures, carpark ramp podium and basement level. These demolition works would facilitate the construction of a six storey over basement enterprise centre building with a maximum given height of 23.37m and containing shared workspace from ground to fifth level, a cafe and collaboration zone, roof terrace, substation, hard and soft landscaping, vehicular access onto an unnamed cul-de-sac lane that would provide access to New Street together with the provision of 16 car spaces, 2 lift cores 3 stair cores 57 cycle spaces ancillary development.
- 7.3.3. Since the Board granted permission for this development the Dublin City Development Plan, 2022-2028, has been adopted by the City Council, under which the site continued to be zoned 'Z1' and under which enterprise centres are deemed to be a permissible land use, subject to safeguards.
- 7.3.4. Additionally, the previous Development Plan included provisions for Transitional Zone Areas and in a consistent manner with the current Development Plan, i.e. to avoid abrupt transitions in scale and land-use between zones together with avoiding developments that would be detrimental to the amenities of the more environmentally sensitive zones. The environmentally sensitive zone in the context of this site is in my

view the 'Z1 – Sustainable Residential Neighbourhoods' that the site forms part of and with this land use zone continuing westwards to include the period 2-storey Lauderdale Terrace and northwards where it includes more dense, compact and taller residential buildings when compares to Lauderdale Terrace. With the adjoining land to the south zoned 'Z6 – Employment/Enterprise lands' and containing a mixture of more compact and taller mixed-use buildings when compares to Lauderdale Terrace.

7.3.5. Moreover, the site under the previous plan was located within the area subject to the now expired Liberties Local Area Plan. With the lands associated with this LAP now subject to the provisions set out in the current Development Plan for Strategic Development Regeneration Area for the Liberties and Newmarket Square (Note: SDRA 15).

7.3.6. Section 13.17 of the Development Plan in relation to this area states that there is: *“significant opportunities for regeneration and enhancement still exist, as identified in the guiding principles for this SDRA. It is an objective of the plan to recognise the unique role the Liberties plays in Dublin’s character and to ensure that regeneration safeguards the Liberties’ strong sense of community identity and cultural vibrancy into the future”*. In the context of this SDRA the proposed enterprise building would in my view be consistent with its guiding principles as well as would complement the emerging development that has occurred in this former Liberties LAP area in recent decade.

7.3.7. Furthermore, like the previous Development Plan, Enterprise and Employment generation is supported by the Core Strategy and in various provisions set out in this plan with as said the adjoining land to the south being subject to the 'Z6' land use zoning. Additionally, Section 2.5 of the Development Plans Core Strategy indicates that the strategy for the city economy and enterprise is to: *“safeguard and enhance Dublin’s role as Ireland’s internationally competitive capital; to promote strategic and targeted employment growth; to support regeneration and tackle vacancy; to support the creation of high quality urban spaces and the transition to a low-carbon, green, circular economy; to support key economic sectors; and to foster local economic development and social enterprise”*. With this approach aligning with enterprise and employment goals set out in the NPF, RSES and MASP for the economic development of Dublin City as Ireland’s leading global city of scale. With Chapter 6 of the

Development Plan providing further supporting local planning policy provisions including Policy CEE1 which reiterates the above stated strategy.

- 7.3.8. It is of further note that the Core Strategy encourages the delivery of compact growth through active land management measures and by way of a co-ordinated approach to developing appropriately zoned lands aligned with key public transport including vacant sites and underutilised sites (Note: Objective CSO7). Through to it supports development of brownfield, vacant and regeneration sites. (Note: CSO10).
- 7.3.9. Chapter 6 of the Development Plan also seeks to support regeneration and reversal of vacancy in the city through Policy CEE19 and Policy CEE20.
- 7.3.10. In relation to permitted development in the vicinity of the site since the parent scheme was permitted the Board has recently granted permission for ABP-315887-23 (P.A. Ref. No. 4778/22) at No.s 27 to 29 New Row South which adjoins part of the site's south westernmost boundary. This appeal case comprised of modifications to development permitted under ABP-307217-20 (P.A. Ref. No. 4423/19) including the change of use to 86 hotel rooms, alterations to building together with all associated site works and services. The site includes Protected Structure (RPS Ref. No. 5821) and included an increased floor area as well as an increase to its permitted height by 300mm (Note: resulting in a maximum height of 27.7m for this building that in terms of its overall built form graduated in its height, massing and scale up to 8-storeys).
- 7.3.11. It is of note that this adjoining site is subject to 'Z6' land use zoning objective which I note seeks: *"to provide for the creation and protection of enterprise and facilitate opportunities for employment creation"*. With enterprise centres being a type of land use that is synergistic with the permissible and open for consideration land uses listed under Section 14.7.6 of the Development Plan for 'Z6' zoned land.
- 7.3.12. As said this appeal case relates to permission being sought for alterations to the enterprise centre building permitted under ABP-307062-20 and as set out under Section 2 of this report above it comprises of a number of components including but not limited to an increase in its floor area from 4,459-sq.m. to 5,323.6-sq.m. (Note: with this including an increase in the basement level from 1,101.3-sq.m to 1,129-sq.m.). With this increase in floor area occurring at each floor level from basement, ground to fifth floor level and resulting in a change to the built form, massing and volume of the permitted building. Alongside the amendments would include the

provision of additional height to the permitted building increasing it from 23.37m to a maximum height of 24.28m.

7.3.13. I note that the Planning Authority and the appellants have not raised any substantive concerns in terms of the principle of the proposed development sought alongside I further note that the Planning Authority granted permission for it subject to safeguards.

7.3.14. In addition to the above, I note that the site is within c48m of New South Street which includes cycle lane and Quality Bus Corridor provisions with Dublin Bus stops on either side of this regional road serving Bus Routes 49 and 54A, with these having a frequency of 15mins to 30mins respectively. Of note Bus Route 49 provides connection to Pearse Street in the heart of Dublin City and Tallaght on the western outskirts of the Dublin metropolitan area. Whereas Bus Route 54A provides connection between Pearse Street and Ellensborough/Kiltipper Way. Within c220m of the eastern boundary of the site and the public domain is St. Patricks Cathedral Bus Stop which serves a wide number of additional Dublin Bus Routes, i.e. 27, 56A, 74, 77A, 150 & 151 as well as to the north east the nearest bus stop on Kevin Street is within c230m of the said boundary with it serving the Dublin Express.

7.3.15. At a further distance from the site but within walking distance of the site there are other bus stops serving other Dublin Bus routes serving the inner city and Dublin's hinterland.

7.3.16. As such the site is located in an inner-city area of Dublin city that is well served by public transport and with this transport providing connectivity to other travel modes including Luas, Rail and Air. It is also in an inner-city area with good and improving cycle as well as walking permeability.

7.3.17. Conclusion: Having regards to the above, I am satisfied that the general principle of the proposed amendments sought under this application are acceptable.

#### **7.4. Amenity Impact – Residential**

7.4.1. I consider that the substantive concern in this case is the potential for the proposed development to give rise to undue residential and/or visual amenity impacts. In this regard, the Third-Party Appellant raises concerns that the enterprise centre as granted on the subject site on appeal to the Board under ABP-307062-20 (P.A. Ref. No. 3752/19), if implemented, would result in significant adverse residential and visual

amenity impact on their properties. They contended that the proposed amendments, if permitted, would be further compound these adverse impacts. They further contend that the level of disamenity that would arise represents an unbalanced loss of their established amenities from the redevelopment of this site at a height and scale that was previously refused on the basis of undue amenity impact on Lauderdale Terrace. Particular concerns are raised in relation to the proposed development giving rise to additional visual overbearance, further diminishment of daylight and sunlight to their properties, further undue overshadowing of their properties and a further diminishment of privacy due to the additional opportunities for overlooking of the rear of their properties. The level of disamenity that would arise from the cumulative development would in their view be contrary to the 'Z1' land use zoning of the site and their properties.

- 7.4.2. I also note that they raise a number of other sundry concerns arising from the proposed development raised by Third Parties with these including the treatment of the boundary with Lauderdale Terrace being such that would that by its very design could easily be scaled from inside of the site and therefore giving rise to additional security concerns.
- 7.4.3. In the event of the Board being disposed to grant permission they seek that the proposed fifth floor level is omitted and also that use of this building is restricted to enterprise centre use only.
- 7.4.4. The First Party consider that the amended design whilst giving rise to some additional residential amenity impacts, contend that these are not material or significant in their nature and as such would not give rise to any undue amenity impacts on its setting, including on Lauderdale Terrace.
- 7.4.5. As part of supporting that this is the case an amended daylight, sunlight and overshadowing assessment of the proposed development is provided as part of the appeal documentation, with it correcting errors in the original assessment lodged with this application and also providing further detail in assessing the potential impact on the adjoining Lauderdale properties, including their private amenity space which bounds the western boundary of the site, as well as a more detailed examination of the site's immediate context.

- 7.4.6. They also object to the Appellants requests that the Board omit the proposed fifth floor level and restriction of the buildings use by way of condition as part of a grant of permission.
- 7.4.7. They contend that there is no planning basis that would warrant the omission of the fifth floor or for the restriction of the building's future use to an enterprise centre.
- 7.4.8. In summary they seek that the Board uphold the Planning Authority's decision to grant permission for the proposed development sought under this application.
- 7.4.9. Having regards to the above I consider that Lauderdale Terrace which adjoins and neighbours the main western boundary of the site is the most sensitive properties to change arising from the reversal of this site's brownfield and vacant state. Alongside the substantive removal of buildings above the now remaining concrete slab over what appears to be an unused basement level developments have resulted in the rear of this period terrace group receiving additional daylight, sunlight through to likely less overshadowing given their juxtaposition, orientation and the nature of development in the urban block they form part of. Particularly the absence of tall and dense man-made and natural features has allowed additional morning easterly light.
- 7.4.10. I am also cognisant that the properties within this terrace have since their first occupation been subject to change with this including the *ad hoc* provision of rear extensions with these including two storey rear additions which having regard to the orientation of this terrace as well as the tight grain nature of its individual plots have given rise to additional overshadowing to the rear of these properties.
- 7.4.11. Additionally, immediately inside the western boundary of the site adjoining Lauderdale Terrace there is an existing linear planting that occupies what is indicated as a right-of-way that runs alongside the western boundary of the site. This planting buffers some views towards the rear elevations and the private amenity open space provision of this period terrace, particularly from the unnamed cul-de-sac lane that provide public domain access for the site.
- 7.4.12. Further, the more recent taller buildings to the east forming part of the Cathedral Court development nearest blocks have relatively blank western facades with limited opportunities for overlooking. Where there is opposing windows and balconies these have lateral separation distances that were consistent with the relevant planning provisions at that time.



7.4.13. This is similarly the case for the residential block on the northern side of the unnamed cul-de-sac road whose building height increases to where it bounds New Street South.

7.4.14. In the case of Fumbally Square and Fumbally Studios the buildings in proximity of Lauderdale Terrace gave rise to a level of overlooking in the historic building retained nearest to this historic terrace. I also note that the new built forms northerly façade has transparent glazing that has resulted in additional overlooking through increased perception of being overlooked due to their design, solid to void treatments, lateral & oblique separation distance through to orientation.

7.4.15. Against this context I consider that there is an established level of overlooking within this urban block and with Lauderdale Terrace forming part of an urban inner-city location where some level of overlooking is to be expected.

*7.4.16. Overlooking arising from the Amended Scheme*

I note that the amended building has been designed to include opaque glazing and angled windows in its floor levels above ground floor facing into its western and southern western sides so that the privacy of existing residential properties is not further impacted by this proposal. I also note that the potential for overlooking arising from the roof terrace has gone by way of its omission and as such there are no outdoor spaces above ground floor level for use by future users of the enterprise building when operational. I consider this to be a positive outcome in terms of diminishing actual overlooking that would arise from this building in comparison to the building as permitted.

I also consider that the stepped nature of the landscaped belt and boundary along the western and south western boundary of the site is not one that has been designed to be actively used as an amenity space by future users of the building. But rather is a designed landscaped belt to settle and soften the building for future users of the buildings spaces at grade and when viewed from adjoining properties. With the more qualitative natural features including enhanced tree planting that would improve in time screening of the lower levels of enterprise building when viewed from the rear of Lauderdale Terrace.

Whilst I raise a concern that there is a gap in tree planting alongside the western boundary with No.s 22 and 23 Lauderdale Terrace, which would appear to result from a mature tree within the rear garden space of No. 23 Lauderdale Terrace. To this I

also raise a concern that the overall height of the boundary is given as 1.8m I otherwise consider the planting and boundary treatment along the western boundary to be of good quality. These two concerns could be addressed by way of appropriately worded condition should the Board be minded to grant permission.

Given the design rationale put forward for the amended enterprise building, I do not anticipate levels of overlooking or impacts on privacy to be excessive despite the buildings 6-storey height.

There will be a change in outlook, however, this is not unexpected given the urban location of the site.

I also consider that the western and south-western façade treatments step backs and angled window and facade detailing together with the additional floor areas in the amended scheme sought under this application are largely provided for away from the western boundary and this is also a measure in this amended design to minimise any undue additional actual overlooking of Lauderdale Terrace.

Additionally above ground level there is no above ground outdoor amenity provision, and the rooftop area is provided with screening of plant with access limited to those carrying out maintenance.

I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the residential amenity of adjoining and neighbouring properties of Lauderdale Terrace but also Fumbally Studios by way of overlooking.

#### *7.4.17. Visual Overbearance*

The Third-Party Appellant raise concern that the proposed development would give rise to additional overbearing effects when viewed from Lauderdale Terrace. I consider that these impacts are associated with the additional height, mass and bulk of the amended enterprise centre building and its relationship with properties in its immediate vicinity. In particular, Lauderdale Terrace and Fumbally Studios, to the west and south west of the site, due to the residential units they contain.

While I acknowledge that the proposed amendments to the enterprise centre building sought under this application results in it being of additional height, scale, mass and volume, notwithstanding the subject site is located in the inner-city area of the Liberties

where there is a mixture of buildings of scale, height, periods and land use function present.

This is the situation with the irregular triangular shaped urban block. With the site centrally located in. With the heights within this urban block consistent with the 6 to 8 storey benchmark height for lands within SDRA 15, which it forms part of, subject to safeguards. But also including the more modest 2-storey built form of Lauderdale Terrace to the west. For the most part however, this urban block contains a mixture of taller buildings with the tallest buildings within it rising to 8 storeys in terms of existing and yet to be implemented permitted height which relates to the permitted development at No. 27-28 New Row Street to the south-west of the site (Note: ABP-315887-23).

As such this is a location where maximising the development potential of inner-city serviced plots including at locations like this where they are highly accessible. It is not a location where the constraints of more suburban residential location should be applied as this would not achieve the critical scale of development that inner city locations require to sustain their function and vibrancy.

I am therefore of the view that constraining the scale in this inner-city site on the basis of the existing adjacent period residential terrace alone in a context where the proposed development has included a number of design features that has together mitigated the visual and amenity of what is a more prominent building in comparison to the historic period terrace of Lauderdale Terrace would not be appropriate.

The proposed development would be prominent when viewed from Lauderdale Terrace and also Fumbally Studios, but I consider this prominence is not overbearing or visually overwhelming. Not only is the presence of tall buildings an anticipated feature in an inner-city area, importantly, the proposed development has as said included mitigation visual and amenity measures as part of its design resolution, with this including setting back of the building at each level away from the western and south western boundaries which are sensitive to change. The additional floor areas for each of the level including the new sixth floor level are largely provided to the north and south of the enlarged building envelope.

Additionally, as said angled windows, the use of opaque glazing together with a palette of materials, finishes and treatments that give rise to a visually interesting and not

oppressive building when viewed from the private domain of the residential properties adjoining and neighbouring it. The treatment of the western and southern elevation would also break the visual monolithic through to blank poorly resolved elevations of the adjoining residential to the north and north east of the Lauderdale Terrace properties.

The proposed amended design further adds to the buildings ability to be a standalone building that would add interest and focus without over overwhelming or overbearing the streetscape scene of the unnamed cul-de-sac lane with would address. With it also providing a focal point of interest that would add architectural interest when viewed from New Street South. With this further added to by qualitative landscape, palette of materials through to added animation of the eastern façade of the building that would address the said lane but also provide access to its basement level. As well as the stepped façade treatment of what would be a triangular shape building which would still allow for a level of easterly light to penetrate to the rear of Lauderdale Terrace. Overall, in its context I am of the view that the amended building would not be visually overbearing or out of character with its context.

#### *7.4.18. Loss of daylight, sunlight through to overshadowing*

One of the primary concerns of the Third-Party Appellant is that the amendments sought to the enterprise centre building under this application would further compound the already significant and material adverse impact that would arise to their properties by way of loss daylight, sunlight and overshadowing from ABP-307062-20 (P.A. Ref. No. 3752/19).

Although the proposal does not rely on SPPR 3 of the Urban Development and Building Height Guidelines (2018), due to the pattern of development that characterises the adjoining site context and that of the urban block it forms part of. Notwithstanding, I note that Section 3.2 of the said Guidelines states 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.

Of further note, these 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'.

It also provides for circumstances where a proposal may not be able to fully meet all the requirements of the daylight provisions above. Where this is the case, it provides that this must be clearly identified as well as a rationale for any alternative, compensatory design solutions must be set out, in respect of which the An Bord Pleanála on appeal 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.

At this juncture I note that the site as discussed throughout this assessment forms part of a Strategic Regeneration Development Area (SDRA 15) where the guiding principles for height advocate a benchmark of 6 to 8 storeys, subject to safeguards (Note: Section 13.17 of the Development Plan).

Of further relevance are the building height provisions and building strategy set out under the Development Plan.

In particular, Appendix 16 of the Development Plan, which deals specifically with Sunlight and Daylight in the context of development management. It indicates that neither the Building Height Guidelines 2018 or the Apartment Guidelines 2020 refers to BS EN 17037 or IS EN 17037, which relates to the British and Irish adaption, respectively, of the European wide standard for daylight (EN 17037). Section 3.6 of Appendix 16 indicates that the Planning Authority understand that, at present, there is some ambiguity in what may be considered the appropriate standard to apply for daylight and sunlight assessments. There is a period of transition at present, during which BS 8206-2 has been superseded, but the relevant guidance within BR 209 has not yet been updated. Thus, both BS 8206-2 and BS EN 17037 have relevance. As such, both for clarity and as an interim measure during this transition period, the Planning Authority will look to receive relevant metrics from BR 209, BS 8206-2 and BS EN 17037.

I note that it does not outline exact, city wide, expected/accepted results and states that proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location.

I note the publication of a new (3rd) edition of the BRE Guide in June 2022. The adopted Development Plan has not yet been amended to reflect this.

I also note the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK).

It is also of further note that the Sustainable Compact Settlement Guidelines state that: *"in drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance 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"*.

I propose to examine daylight, sunlight and overshadowing impact in turn having regards to the above below. With this examination having regard to the amended Daylight, Sunlight and Overshadowing Assessment provided by the First Party as part of their response to the grounds of this Third-Party Appeal. This assessment also sought to overcome the concern of the Appellants that a number of windows in Lauderdale Terrace were omitted from the analysis provided on this matter with the original application. As part of the amended assessment provided it is indicated that this was further informed by the carrying out a revised laser scan survey by an independent specialist surveying firm in order to capture any missing windows and with the results informing the new assessment carried out which is indicated to have been undertaken in accordance with the BRE Guidelines (2022).

- *Daylight to Existing Residential Properties Adjoining the Site:*

I am cognisant that in designing new development, it is important to safeguard the daylight to nearby buildings. Notwithstanding, the existing context is one where that as a result of the site containing no building over its concrete slab this has resulted in

a situation whereby the rear of Lauderdale Terrace receives additional morning light from the east through the gap that exists between the northern and southern side of the unnamed cul-de-sac lane that adjoins the easternmost boundary of the subject site.

There is also overshadowing arising to the rear of the adjoining and neighbouring terrace arising from the Protected Structure to the south of it as well as the development that has occurred to the south east of it. In particular, Fumbally Studios, Fumbally Square and Cathedral Court.

Additionally, the orientation of this terrace group is one where its principal elevation addresses New Row South. With this having a westerly aspect and this street being contained due to its limited width. To the rear of Lauderdale Terrace there is an *ad hoc* provision of rear extensions with these properties of a restricted width. A number of these additions include extensions that result in varying levels of overshadowing of neighbouring properties. Notwithstanding this is in an inner-city context where these modest two storey dwellings have the positive benefit of easterly rear gardens with sufficient depth that can accommodate extensions as well as maintain a provision of private amenity space.

There is also a level of overshadowing arising from the linear belt of landscaping running along the western side of the site boundary as well as from mature natural features present to the rear of a number of these terrace properties. In the case of Fumbally Studios the upper-level terrace to the south west of the site would have southerly as well as westerly light penetrating it with the lower floor levels of its northern elevation consisting of small windows with northerly directions.

Against this context there is a concern that the amendments sought under this application to the permitted enterprise building given that it includes additional height, and the additional massing would, if permitted, result in further undue diminishment of morning daylight/sunlight access to the rear gardens and the rear elevation windows of existing Lauderdale Terrace properties adjoining and in proximity to the western boundary of the site. This I consider is a reasonable concern and there is an expectation that a reasonable balance be achieved between protecting the amenities of residential properties as well as providing for new developments like in this context

where a significant departure is sought in terms of the proposed development on this site relative to the historic Lauderdale Terrace.

The assessment provided with the appeal contains an updated 'light from the sky' (VSC) analysis for the windows of surrounding properties. 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 and that if the VSC is both less than 27% and less than 0.8 times its former value, with the new development in place, occupants of the existing building would notice the reduction in the amount of skylight.

In relation to the Lauderdale Terrace the assessment found that in the case of No.s 25 and 26 Lauderdale Terrace that all windows to the rear would retain a VSC of over 27% or would not experience a percentage alteration of greater than 20% of its existing VSC value within the proposed development.

In both of these adjoining properties it was found that the absolute reduction in VSC to windows is less than 1% VSC with the proposed scheme in place in comparison to the parent scheme.

The assessment also found in the case of these properties that all rooms would meet the NSL criteria, achieving a daylight distribution to over 80% of the room area or experiencing a change in NSL of less than 20% of their current existing values.

On this point it is contended that these changes would have no perceptible change to daylight between the permitted and amended scheme proposed under this application. It was also found that the annual probable sunlight hours (ASL) would also not be perceptible in sunlight amenity with all windows meeting BRE criteria.

I also note that in the case of the assessment of No. 25 Lauderdale Terrace that regard was had to the presence of rooflight to the ground floor living room and the presence of it materially improves the rooms daylight distribution from 55% to 85%.

In relation to No. 23 Lauderdale Terrace the revised assessment now includes the presence of a rooflight and an additional window serving a ground floor addition.

The examination found that all windows tested including the additional windows included in this assessment meet the BRE's VSC criteria retaining over 27% or will not



achieve a percentage of alteration of greater than 20% of its existing VSC with the proposed scheme in place.

It also found that all rooms meet the NSL criteria achieving a daylight distribution of over 80% of the room area or experiencing a change of NSL of less than 20% of its existing value with the proposed development in place. Further, it found that with the addition of the rooflight to the extension that the room will achieve a daylight distribution (NSL) of 74% for the room area. It contends that this revised assessment shows a better case situation than the assessment provided with this application as lodged to the Planning Authority which provides an NSL of 35%. Moreover, it contends that no change in NSL will occur between the permitted scheme and the proposed scheme as well as that all windows meet the annual probable sunlight hours criteria. In relation to this property, it found that there would be no perceptible change in light between the permitted scheme and the proposed scheme.

In relation to No. 22 Lauderdale Terrace, again the revised assessment now includes a first-floor window previously omitted and found that all windows meet the BRE's VSC criteria. It also found that three retained a VSC over 27% and that the fourth window (one of two windows serving the living/kitchen/dining space) will not experience an alteration of greater than 20% of its existing VSC value with the proposed development in place. It further found that the absolute reduction in VSC to this window would not be greater than 1% VSC with the proposed scheme in place. With all of the windows achieving a daylight distribution of 80% of the room area or experiencing a change in NSL of less than 20% of its existing value with the proposed development in place.

Of note to the Board, it did find that two windows at ground floor level would fall from 21% to 19% over the summer months but would retain a total APSH of 25%. With the second-floor windows both exceeding in winter and summer the probable sunlight hours.

In relation to this property, it found that there would be no perceptible change in light between the permitted scheme and the proposed scheme.

In relation to No.s 19 to 20 Lauderdale Terrace it found that ten of its eleven windows meet the BRE's VSC criteria, either retaining a VSC of 27%+ or experiencing a change in VSC of less than 20%. It considers that this suggests no perceptible change in light is likely to occur and that all habitable rooms were found to experience minor

alterations in NSL of less than 20% of their former value. This they contend suggests that no perceptible change in daylight amenity is likely to occur between the permitted scheme and the proposed development.

Of note it was found that one of the windows would reduce from 3.15% to 2.05% which is unlikely to result in a perceptible change given the small absolute change with the remaining windows ensuring acceptable levels of sky visibility.

It also notes that the revised analysis found an improved daylight distribution to what was presented with the analysis accompanying this application for the living/kitchen/dining space from 49% to 67%.

However, in comparison with the permitted scheme the change would be a reduction from 74% to 67% which it contends is not likely to be noticeable.

It was also found that three of the six windows serving the living/kitchen/dining space will meet or exceed BRE Guidelines for annual APSH, while three will exceed the BRE Guidelines for winter WPSH with the proposed development in place. As such it is contended that good levels of both winter and annual probable sunlight hours to these windows will remain throughout the year with no material difference between the permitted and proposed scheme. It would therefore appear from examination of the daylight, sunlight and overshadowing assessments that there will be no significant loss of daylight to this property.

In relation to the residential units in Fumbally Studio I note that it bounds part of the southern boundary of the site and the submitted assessment shows that the amended building which would be located to the north of it would not give rise to any undue daylight, sunlight and/or overshadowing impacts.

An examination of the analysis of daylight, sunlight and overshadowing impacts set out in the documentation accompanying this application and as revised by the documentation attached to the First Party Appeal response demonstrates that the amended scheme would not give rise to any significant and material additional impact when compared to the permitted scheme. I am satisfied that it supports that the changes that would arise would be non-perceptible alterations where they occur, they result in small reductions to VSC, NSL and/or APSH for the adjoining properties of Lauderdale Terrace that are sensitive to change. It also demonstrates that they relate to an isolated number of windows and rooms.

In relation to the impact on the adjoining rear private amenity open spaces of Lauderdale Terrace it is also demonstrated that the change that would arise would not be significant or materially different to that of the permitted scheme.

Crucially it shows that the 5<sup>th</sup> floor extension and modifications to the buildings mass, scale and volume would not result in any significant additional loss of daylight, sunlight or overshadowing for the rear elevations and rear private amenity space of the Lauderdale Terrace properties that are sensitive to change.

#### *7.4.19. Conclusion on Daylight, Sunlight and Overshadowing*

Having regards to the above, I am satisfied that the First Party in this case has demonstrated by use of best practice methodology that the daylight, sunlight and overshadowing of Lauderdale Terrace in terms of the additional diminution of morning light, daylight & sunlight access as well as overshadowing to their rear private open space amenity would be relatively immaterial overall in comparison to the permitted scheme.

I am also satisfied that the level of change is not such that it would substantiate or support the omission of the fifth-floor level or the refusal of permission for the amendments to the permitted enterprise centre building sought under this application.

As previously noted, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives including the nature of regeneration deemed to be acceptable within the SDRA 15 – Liberties and Newmarket Square, under which a benchmark of 6 to 8 storeys in building height is advocated for new developments at this inner-city location.

Further, as discussed, the pattern of development is generally characterised by buildings of greater height, scale, volume of mass with built forms often maximising site coverage through to being built with strong sense of containment of adjoining properties. This results in a site location and circumstance where flexibility in consideration of this matter is in my view warranted as part of achieving appropriate regeneration of this site in a manner that accords with the vision and guiding principles for this strategic development regeneration area as well as would accord with the provisions to reverse brownfield vacant sites.

I am therefore satisfied that the proposed amendments would not give rise to undue significant, or material additional residential amenity impacts by way of loss of daylight, sunlight and additional overshadowing when compared with ABP-307062-20 (P.A. Ref. No. 3752/19).

#### 7.4.20. Conclusion on Residential Amenity Impact

I am not satisfied that the proposed development, if permitted, would give rise to significant additional and material adverse residential amenity impacts on residential properties in its vicinity by way of visual overbearance, reduced levels of privacy, diminishment of daylight/sunlight through to overshadowing. Other sundry residential matters are addressed under 'Other Matters Arising' in my assessment below.

### 7.5. Amenity Impact – Visual

- 7.5.1. The Appellant raises concern in relation to the visual impact of the proposed development. This application is accompanied by a Townscape and Visual Impact Assessment Report which examines the proposed amendments to the parent permission of ABP-307062 (P.A. Ref. No. 3752/19) as granted. In summary the proposed amendments as set out in Section 2 consists of increase in floor area at each level as well as an increase in height. With the latter arising from the addition of a six storey which increases the overall height of the building when regard is had to the roof level plant screening from c23.37m to c24.28m.
- 7.5.2. This assessment selected 10 viewpoints to assess the visual effect of the proposed development. These are set out in Section 5 of the Assessment. I note that the viewpoints chosen do not include any assessment of semi-private or private domains. The visual impact of the proposed development in terms of residential amenity on properties in the vicinity of it is examined in the previous section which deals with the matter of potential residential amenity impact.
- 7.5.3. However, I note that the viewpoint nearest to Lauderdale Terrace is labelled 01 (New Row South) describes the sensitivity of this viewpoint as low with the magnitude of change given as negligible and significance imperceptible/neutral effect. I do not disagree with this conclusion on the basis of the nature of the amendments proposed to the enterprise centre building maintains the maximum permitted height of the parent permission (Note: 32.51m) and with the building height above this consisting for the most part of opaque glazed screening panels of 1.8m in height. These panels wrap

around the plant at roof level and result in a height of 35.28m. As such giving rise to an increase in building height of 2.57m in comparison to the permitted enterprise centre building. I also note that there is a modest section of plant projecting above the screening panels around the plant. In terms of height this plant has a maximum height of 0.47m above the screening panels.

- 7.5.4. Additionally given the lateral separation distance between this view point, the restricted width of the public domain of New Row South and the presence of Lauderdale Terrace (Note: c19.04 to c19.5m ridge height) and the Protected Structure (Note: c27.27m) situated in between views towards the building as permitted or as amended would be limited and localised, i.e. between the gap of the Protected Structure and the southernmost end terrace of Lauderdale Terrace where there are limited views of Fumbally Square and Fumbally Studio. Due to the location of the site in this context the view would change by way of the placement in between of the enterprise building. Which I note is of a height that in either its permitted or amended built form is higher than both Fumbally Studio (Note: c27.47) and Fumbally Square (Note: c30.53m).
- 7.5.5. Further, views towards the proposed building as amended from this view point as well as the viewpoint labelled 02 would be largely concealed by Lauderdale Terrace located in between having regards to distance and perspective. With the enterprise building being taller than Cathedral Court (Note: c31m) and Fumbally Square.
- 7.5.6. It is of note that Cathedral Square occupies 'Z1' zoned land and Fumbally Square/Fumbally Studio occupy 'Z6' land as well as lie inside of the area to which SDRA 15 relates. With Section 13.17 of the Development Plan setting out a benchmark height of 6 to 8 storeys for new developments in this SDRA and as such the enterprise building while being taller than more recent developments in the Liberties, in particular within the urban block the site forms part of, is not inconsistent with the emerging pattern of development in terms of permitted and implemented height but also in terms of the more substantial built forms in terms of mass, scale and volume.
- 7.5.7. In relation to the other viewpoints the proposed amendments put forward under this application would not significantly impact the visibility of the enterprise building in its surrounding landscape given the nature of development that has occurred on it in recent decades particularly to the south, south east, east and north east. The

introduction of taller and more compact built forms effectively conceals views of the amended enterprise centre building having regards to distance and perspective. With the height difference being marginally taller than its permitted height and with the main parapet height remaining the same as permitted by the Board under ABP-307062-20.

- 7.5.8. Further the site is one that is setback from the public domain for the most part with it occupying a more central location within its irregular triangular shaped urban block whose northern most point addresses the inner-city staggered intersection where Dean Street, Patrick Street, Kevin Street Upper, New Street South, Francis Street, New Row South and St. Patricks Close converge.
- 7.5.9. This is heavily trafficked intersection with the pattern of new development including taller, more compact in scale, mass and volume buildings apparent in its streetscape contexts. With the significant regeneration of the Liberties also significantly impacting the visual context of Lauderdale Terrace. As such while the historic Lauderdale Terrace harmonises with the scale of development on the opposite side of New Row South it is of built height through to residential built form that is not reflective of its urban block or that which characterises emerging residential development in this inner-city locality.
- 7.5.10. In relation to viewpoints labelled 03 to 10, with view point labelled 06 being of particular importance given that it provides an assessment of impact in the context of St. Patricks Cathedral, an important and protected historic landmark building as well as setting in the Liberties. Views in a south west direction towards the site and the proposed amendment building are effectively obscured by the intervening-built landscape which as said includes similar in height building blocks, particularly on the perimeters of the urban block the site forms part of.
- 7.5.11. Further viewpoint labelled 05 which assesses the localised views that would occur from New Street South in proximity of its bus stop indicates that the magnitude of change would be medium. Notwithstanding, the assessment of significance of effects would be moderate and positive.
- 7.5.12. I concur with this conclusion given that the site as viewed from New Street South is not positively contributed to by the site's vacant appearance. With its eastern boundary where it bounds with the unnamed cul-de-sac lane that provides for its connection to the wider public domain via New Street South providing no positive

containment of this cul-de-sacs western end. It also provides no visual or functional activation of this cul-de-sac as appreciated from New Street South and in turn it provides no active passive surveillance for its users.

- 7.5.13. In its current circumstance its regeneration would be consistent with the provisions of the Development Plan which support the reversal of vacancy. It is also consistent with healthy placemaking through to enhancing the vibrancy and vitality of the city's inner-city neighbourhoods including historic inner-city locations like the Liberties. I further note that the guiding principles for SDRA 15 lands includes but is not limited to supporting the regeneration of large blocks.
- 7.5.14. I note to the Board that the Townscape and Visual Impact Assessment Report concludes that the proposed development would: *"protect and capitalise on the unique character of the site and receiving environment while introducing a discrete enterprise hub of high architectural and urban design quality, delivering compact growth and enhancement of the townscape and visual environment"*. Overall, it considers that the amendments sought under this application are appropriate for this location. The application is also accompanied by a number of photomontages which support the conclusions of the Town and Visual Assessment Report.
- 7.5.15. From inspecting the site and its setting within the Liberties it is very evident in my view that there is a mix of architectural styles, periods, building typologies through to built forms. With this reflecting the long history of human occupation of this central location that lies in close proximity to Dublin's historic city centre. This is reflected in the urban block the site forms part of.
- 7.5.16. Having regard to the provisions within the Development Plan for regeneration, brownfield land through to the guiding principles for development within the SDRA 15 lands and I am satisfied that the proposed amendments to the design which includes changes to the permitted enterprise centre's height, massing and volume would sit comfortably within the existing pattern of development as a standalone addition that compliments its visual context. I also consider that the external envelope comprised of mainly anodised aluminium panels wrapping around its stepped and angled upper floor levels with a balanced provision of solid and voids together with a ground floor level that is wrapped in brick but also punctuated by large areas of angular glazing

when taken together with the tonal hues of the materials, finishes and treatments are respectful of the varied building stock in its setting.

7.5.17. Further, the reversal of this sites vacant state would also improve the visual setting of Protected Structure (RPS Ref. No. 5821) and its curtilage which bound the south western corner of the site. I also consider that the contemporary design approach for the enterprise centre building and the provision of a new building that would be visually attractive when viewed from this historic building for which permission has been granted for its restoration, repurposing through to extension as part of a larger hotel development scheme. If this scheme is also implemented both would sit comfortably alongside one another as well as in a sympathetic manner add to the architectural variety within this inner-city block.

7.5.18. Additionally, the provision of a qualitative landscaping scheme would further visually settle and soften this building when viewed from the public to private domains in its vicinity.

7.5.19. Conclusion: I am satisfied that the proposed development, if permitted, subject to standard in nature conditions, would give rise to no undue visual amenity on its surrounding setting.

## **7.6. Restriction of Permitted Use**

7.6.1. The Third-Party Appellant seeks that the Board restrict the use of the building to which the proposed development relates.

7.6.2. In relation to this particular issue, I note that the parent grant of permission ABP-307062-20, did not impose such a condition and this application relates to amendments to the permitted enterprise centre building which includes an increase to its permitted floor area, from 4,459-sq.m. to 5,325.6-sq.m. with this increase accommodated over each level of the building including one additional level on top. This proposed development does not seek any change to the use to the amended enterprise centre building.

7.6.3. On this matter should in future there be a material change of use and/or material physical works to the permitted building this may constitute development that may require planning permission. This however is a separate matter that falls outside of



the remits of this appeal case. With as said the proposed development consisting of an extension to an already permitted enterprise centre building.

- 7.6.4. **Conclusion:** It is my considered opinion that there is no planning justification to restrict the future use of the enterprise centre permitted under ABP-307062-20 (P.A. Ref. No. 3752/19).

## **7.7. Other Matters Arising**

- 7.7.1. **Civil:** For clarity I note that 'right to light', which is a type of easement, that allows a property owner to receive natural light through apertures in buildings on its land e.g. windows, skylights, other openings and amenity spaces without obstruction from neighbouring properties, is a right that is independent from planning system and its provisions.

- 7.7.2. **Built Heritage Impact:** The westernmost section of the site lies in close proximity to No. 27 to 28 New Row South a designated Protected Structure (RPS Ref. No. 5821). Additionally, the site is within the Zone of Archaeological Potential for the Recorded Monument & Place (RMP) DU018-020 and is located in close proximity to a number of other RMP's as set out in Section 5 of this report above. The site also adjoins a section of the Victorian built Poddle Culvert to the west of its western boundary.

The proposed amendments to the enterprise building permitted on appeal to the Board under ABP-307062-20 (P.A. Ref. No. 3752/19) included an uplift in floor area and an increase in the building's height as well as it would increase this building's overall volume and massing. These changes would result in a modestly larger basement level with the existing site being brownfield with a concrete slab remaining, part basement car parking as well as access onto the unnamed cul-de-sac lane from which access onto the wider public road network/public domain is dependent upon.

I am satisfied that the archaeological condition provided as part of the Boards grant of permission addresses any potential for this modest increase in basement level to impact upon any potential yet to be discovered subsurface archaeology and is in my view sufficiently robust to deal with this brownfield site which has been subject to past substantial developments thereon. With this including significant below ground disturbance and the site whilst forming part of a zone of archaeological potential does not contain any RMP or Protected Structure.

In relation to the Protected Structure located at No. 27-28 New Row South this structure though having a highly intact external envelope has been subject to significant past internal interventions. Through to the recent grant of permission on the amalgamated site it forms part of which as said includes a RMP includes alterations and extensions to it which includes a contemporary addition above its eaves level. As well as linkage to a larger hotel building that would have a contemporary expression and palette of external materials. It would also have a maximum 8-storey height (Note: ABP-315887-23). In its existing state this former industrial building and its associated boundary treatments are visible from the site. If the grant of permission to which ABP-315887-23 relates is implemented its extensions and its integration into a contemporary larger hotel development scheme would also be visible as well as would be in close proximity to the site and against this context there would be a similar scaling of height within its proximity occurring within the site of No. 27 to 29 New Row South as proposed under this application.

There are also examples of successful juxtaposition of more modern through to contemporary architectural design resolutions as part of the emerging pattern of taller, more compact and denser buildings with surviving period buildings of merit incorporated in these regeneration schemes which often involve amalgamation of sites.

This has occurred in the development scheme of Fumbally Square which is a mixed-use development on the adjoining land to the south. It has also occurred in the Aloft Dublin City hotel development, The Dublin Liberties Distillery and Teeling Whiskey Distillery.

In these examples the design resolution for the site was informed by the presence of period structures of merit and these were incorporated into the scheme which resulted in health quality place-making in a manner consistent with relevant local through to national planning provisions and guidance in place at the time of their planning applications were determined.

The proposed development relates to amendments to an existing permitted development for an enterprise centre whose design is of its time and while it would form part of the visual setting of the aforementioned Protected Structure. The RMPs

and the Zone of Archaeological Potential relate to structures that in this case are below grade.

I also note that Policy BHA2 of the Development Plan, seeks to conserve, enhance, and protect such buildings from inappropriate development that would diminish their character and/or setting. In this case the proposed development would not be inconsistent with the pattern of development in this location and with the guiding principles of SDRA 15 setting out that the benchmark height supported for new developments is 6-8 storeys subject to conservation and design considerations.

Additionally, as said discussed previously in this report the reversal of the site's vacant and derelict in appearance state is consistent with the provisions of the Development Plan including its core strategy and the guiding principles for SDRA – 15 lands. The amended development when taken together with the permitted development on the adjoining site of 27-29 New Row South has the potential to cumulatively improve the visual setting of this neighbouring Protected Structure.

Conclusion: I am satisfied that the proposed development would not give rise to any significant or material visual impact difference on the setting of Protected Structure (RPS Ref. No. 5821) and like it would result in the positive reversal of this site's vacant state in manner that accords with the proper planning and sustainable development of the area.

- 7.7.3. **Basement Level:** The amendments sought under this application to the permitted development ABP-307062-20 (P.A. Ref. No. 3752/19) include changes to the basement level permitted. With this including a modest increase in its floor area from 1,101.3-sq.m. to 1,129-sq.m. Since the Board determined appeal case ABP-307062-20 as said local planning provisions have changed with the adoption of the Dublin City Development Plan, 2022-2028. Section 15.18.4 of the said Development Plan states: *“it is the policy of the City Council that a Basement Impact Assessment (BIA) shall accompany all planning applications that include a basement”*. This was not a requirement under the previous Development Plan.

Whilst this proposal gives rise to a 27.7m<sup>2</sup> increased basement level when compared to the basement level of the parent permission, given that basements are generally accepted to have the potential to affect the environment as well as nearby structures in a number of ways, including for example geological, hydrological and

hydrogeological impacts, I therefore recommend that the Board as a precaution include by way of condition a BIA.

With the details of the BIA to be agreed 'in writing' with the Planning Authority prior to the commencement of any development on site and I recommend that the details should include measures to ensure that the excavation and construction methodology is such that it has regard to the presence of the Victorian brick-built culvert that runs in proximity to the western boundary of the site, i.e. the River Poddle Culvert.

This historic and still functioning piece of urban infrastructure is sensitive to vibrations and the like arising from ground works in its vicinity. If not properly mitigated against cause structural diminishment to it and/or collapse could arise and as such it is appropriate in this case that a BIM is prepared with regard had to what measures are needed to be employed to safeguard and protect the River Poddle Culvert located in the vicinity of the site.

Overall, the requirement by way of condition for an agreed in writing with the Planning Authority BIM would ensure that the enterprise centre building, as amended, would accord with the provisions of Section 15.18.4 of the Development Plan as well as the local planning provisions that provide protection for such infrastructure and historic features of merit within Dublin City. It would also address the concern raised by Third Parties in relation to the potential of the proposed development to give rise to adverse impact on the Poddle River culvert running to the rear of Lauderdale Terrace.

- 7.7.4. **Sustainability and Energy Report:** The documentation provided with this application indicate that the rationale for the proposed amendments in part are intended to address and improve the sustainability credentials as well as operational energy efficiency of the permitted enterprise centre building. With this arising from the recent increases in energy costs alongside the need to focus on the longer-term operational demand of the proposed enterprise centre building. In this regard, it is contended that the amendments put forward in this application significantly improve the sustainability of the building in terms of energy demands as well as allows for more efficient use of floor plates through to layout optimisation.

This application is accompanied by an Energy Statement/Sustainability Report, dated October, 2022, with the purpose of this document given as supporting the planning application for the proposed 'Fumbally Enterprise Hub' at the Liberties.

This report indicates that the building would be 'Part L' (2021, NZEB) compliant with a target of 'A3' Building Energy Rating (BER) with the assessment validated by constructing a Building Performance simulation model in line with the Non-Domestic Energy Assessment Procedure (NEAP). With this level of efficiency achieved through a high performing building envelope, high efficiency building services plant through to the provision of reconfiguring the roof plant through to the inclusion of 60m<sup>2</sup> of photovoltaic panels at roof level.

This report also indicates that the building will be designed to achieve LEED V4 Gold Certification. I note that this is a voluntary based environmental rating scheme for buildings awarded across categories including location, transportation, sustainable sites, water efficiency, energy & atmosphere, materials & resources as well as indoor environmental quality.

Overall, I consider that the details set out in this report including a number of the amendments made to the building's envelope design accord with Chapter 3, Policy CA8 and Section 15.7 of the Development Plan as well as Dublin City Climate Action Plan (2019-2024).

Conclusion: Having regard to the above should the Board be minded to grant permission it may wish to require by way of condition compliance with the recommendations and measures set out in the Energy Statement/Sustainability Report and/or require an updated finalised report that aligns with the best practice Climate Action and Energy Statements given the consistent evolution of renewables through to sustainable building methodologies since this application was lodged with the Planning Authority. I consider that such a requirement would be consistent with Chapter 3, Policy CA8 and Section 15.7 of the Development Plan which align with higher level climate resilient planning provisions and guidance.

- 7.7.5. **Landscaping:** There is a linear belt of native hedge, tree and scrub on the western boundary of the site which follow what is indicated in the accompanying maps as a right of way that runs alongside this boundary in a general north south direction. It appears to be naturally derived since works on the site ceased sometime after the completion of the adjoining development on lands to the south of the site which this site originally formed part of.

The landscaping design scheme put forward under this application by and large updates that of the permitted parent application. With improvements to the planting and useability of the amenity open space as well as circulation space around ground floor level for future users of the enterprise centre remaining within what is a highly constrained site.

The primary landscape for future users is the proposed garden area to the west and south of the amended building with a curvilinear planter proposed along the western boundary as well as south-western corner of the site.

The proposed planting includes a mixture of trees, shrubs, ferns, grasses and perennials. With these including native species that would cumulatively result in an improved biodiversity gain as well as softening of the proposed building, particularly when viewed from Lauderdale Terrace, Fumbally Studios/Square through to in the context of the Protected Structure adjoining the site to the south west.

There is potential for further improvement of the landscaping scheme to provide a denser planting along the western boundary of the site that includes the provision of evergreen species like Holm Oak and the like which would provide more successful all year screening at this sensitive to change location through to further consideration of the planting of the banking of this boundary so that it deters trespass between the site and the rear of these properties.

Conclusion: I am satisfied that there are no substantive issues arising from the amended landscaping scheme and I consider it to be a qualitative response which includes consideration of natural features which can benefit in providing visual buffering along the sensitive to change boundary with Lauderdale Terrace including providing limited interventions to the existing boundary and it accords with urban greening by way of the improved biodiversity outcome for this site. Moreover, the landscaping scheme would provide a pleasant backdrop for future users of this building in this largely landlocked inner-city location through to the landscaping scheme has been designed with future pedestrians and cyclists permeability in mind. As said, there is potential to achieve a more robust year-round planting along the western boundary that addresses the rear of Lauderdale Terrace. This however could be achieved by way of an appropriately worded condition.

7.7.6. **Ecological:** This application is accompanied by a document titled 'Preliminary Ecological Appraisal Report'. The stated overall purpose of this appraisal is to identify potential ecological constraints within the subject site which may be material to the future development of the site.

It sets out that a field survey was conducted on the 17<sup>th</sup> August, 2022, and that the weather conditions at the time of the survey were dry, overcast with temperatures of 15°C and a force 0-1 wind (Beaufort Scale). It is also noted that the habitats were identified and classified using 'A Guide to Habitats in Ireland' (Fossitt, 2000) during this visit and during the inspection incidental sightings of birds, mammals and amphibians were noted. It is further noted that regard was had to the potential suitability of the sites for bat roosts through to whether the habitat was suitable for them to forage with the basement level also examined as part of the survey.

This report sets out that the dominant habitat on site is artificial surface which is man-made and of little ecological value. It also indicates that the species recorded within the site are all commonly occurring as were the habitats present. It acknowledges that the scrub habitat on site has the potential to support nesting birds and it is therefore recommended that all vegetative is cleared outside of breeding bird season, i.e. April to August inclusive. It notes that no invasive species listed in Part 1 of the Third Schedule of the European Communities (Birds & Natural Habitats) Regulations 2011-2021 were recorded on site during their field investigation, notwithstanding as a precaution the sensitive removal as well as disposal of non-native species is recommended to prevent further spread. It was considered that while one red fox was observed passing through the site that there is limited resource for terrestrial mammals within the immediate area and the site.

In relation to waterbodies, it indicates that there are no waterbodies on the site and no hydrological connectivity to the Grand Canal recorded within the zone of influence. Further, the Poddle River is culverted and therefore poses no constraint in terms of the development as there are no proposal to open up this culvert as part of the proposed works.

Conclusion: I am satisfied that the Preliminary Ecological Appraisal Report reflects the actual situation and circumstance of the site as well as its setting. I raise no substantive ecological impact concerns in relation to the proposed amended scheme

given the low biodiversity value of the site and I am cognisant that no substantive ecological concerns arose in the determination of the parent permissions by the Board under ABP-307062-20 (P.A. Ref. No. 3752/19).

**7.7.7. Condition No. 5 of the P.A.s Notification to Grant Permission:** Should the Board be minded to grant permission for the proposed development I recommend it include this bespoke condition on the basis that it would give rise to qualitative improvements to the development's provisions particularly for active travel modes such as bicycle space provision but also provides for a motorcycle, an accessible space through to electrical charging in a manner that ensures compliance with the operative Development Plans provisions and standards as well as the proper planning and sustainable development of the area. I also note that the reduction in car parking spaces proposed that would arise from the proposed amendments sought under this application, i.e. from 16 to 15 is consistent with the current Development Plan provisions which under Table 2.0 of Appendix 5 states 'none' as the maximum car parking provisions for offices for Zone 1 lands. Overall, the bespoke requirements of Condition No. 5 are reasonable given that they ensure that this development meets relevant required traffic standards for the nature and scale of the amended enterprise centre building sought and that the proposed development gives rise to no road safety or traffic hazard concerns.

**7.7.8. Impact on Development Potential of Lauderdale Terrace/Devaluation of Property:** The adjoining period terrace of Lauderdale Terrace, like the subject site, is zoned 'Z1' under the operative City Development Plan, which seeks to protect, provide and improve residential amenities. This objective is considered reasonable. Alterations and extensions to permissible residential in use buildings is deemed to be generally acceptable subject to safeguards. With Lauderdale Terrace having a pattern of extensions and other alterations to their rear elevation and within their rear private amenity spaces. These changes are not coherent in their design, nature, scale and extent. I am not satisfied that the amendments sought under this application would materially adversely impact on the principle of further alteration and extensions to the individual properties in Lauderdale Terrace. Moreover, where amendments require planning permission these would be assessed on their individual merits. Further I am also satisfied that there is no evidence-based information prepared by a suitable



expert to support that the proposed development would give rise to any and/or additional measurable devaluation of properties in its vicinity.

- 7.7.9. **Flooding:** As a precaution I note that whilst the site is located in vicinity of a location where flooding has been recorded the site itself can be categorised as 'Flood Zone C' (where flood probability is low) and that the proposed development would be 'appropriate' without the need for a 'Justification Test' and/or 'Detailed Flood Risk Assessment'. I also note that flooding was not a substantive issue in the Boards determination of the parent permission which this application seeks to amend. In addition, the Planning Authority's Drainage Division has reviewed the information provided with this application which includes a modestly larger basement and has no objections subject to conditions. I am satisfied that flooding is not a substantive issue that requires detailed consideration as part of the determination of this appeal case.
- 7.7.10. **Oversailing and Encroachment:** Due to this site being substantially landlocked it would be appropriate in my view as a precaution that the Board should it be minded to grant permission include an advisory note setting out the provisions of Section 34(13) of the Planning and Development Act, 2000, as amended. It states that: '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

## 8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 8.2. The subject site is not located within or adjacent to any Natura Site. The closest Natura Site, part of the Natura 2000 Network, is South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located c.3.8km to the northeast of the site and South Dublin Bay SAC (Site Code: 000210) which is located c4.1km to the east at their nearest point respectively.
- 8.3. The proposed development is located within a residential zoned and serviced location within inner city Dublin area and comprises of amendments to a permitted enterprise center building which would give rise to a 6-storey building with basement level and having a total 5,325.6-sq.m gross floor area together with associated site works.

- 8.3.1. Additionally, the subject site is located within an established serviced inner city urban area and is entirely composed of artificial or highly modified habitats, which are of negligible ecological and/or biodiversity significance. The River Poddle Culvert also runs alongside the western boundary of the site to the rear of the Lauderdale Terrace's private amenity open space. The proposed development, including its boundary works, do not propose any interference with this historic culvert.
- 8.3.2. It is accepted that the pathways between the site and the Natura 2000 sites noted above, all of which are located in Dublin Bay, would be via surface water drainage and wastewater drainage. The hydrological pathway would be greater than the lateral separation distance identified above.
- 8.3.3. Like the previous Appropriate Assessment carried out by the Planning Authority in relation to the amended development now sought and that carried out by the Board for the extant permission I concur that there is no direct hydrological connectivity to any Natura site within the sites zone of influence and beyond.
- 8.3.4. The proposed development is to connect to existing public water services, provides sustainable drainage measures which would improve the site's existing situation which as described in this assessment above is an artificial brownfield site that is for the most part covered by an existing concrete slab over a remaining basement level and hard surfaced entrance providing access from the public domain to this basement level. The existing natural features present are of low biodiversity value and appear to be naturally derived over a right-of-way running along the western boundary of the site.
- 8.3.5. Whilst the Ringsend Wastewater Treatment Plant is not currently compliant with its emission limit standards, there are major upgrade works underway which will enable it to treat the increasing volumes of wastewater arriving at the plant to the required standard, enabling future housing and commercial development within the City of Dublin. Further there are also improvements to drainage downstream including the River Poddle Flood Alleviation Scheme.
- 8.3.6. There are no effects arising which could act in combination with the subject proposal to result in significant effects to Natura 2000 sites.
- 8.3.7. Having regards to the above, in particular the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a Natura 2000 Site.

8.3.8. The main reason for this conclusion is as follows:

- The minor nature of the amendments sought to a permitted yet to expire development (Note: ABP-307062-20 (P.A. Ref. No. 3752/19)) with the Board having carried out an AA as part of their determination of this appeal case which concurred with that carried out by the Planning Authority that the proposed development would not have a likely significant effect on any Natura 2000 Site either alone or in combination with other plans or projects.
- Standard pollution controls that would be employed regardless of proximity to a Natura 2000 Site and effectiveness of same. Additionally, the surface water measures proposed are not needed to avoid, prevent, or reduce significant effects on Natura 2000 Sites within Dublin Bay and that no mitigation has been put forward in this regard.
- Separation distance from the site and the nearest Natura 2000 Sites.
- Absence of direct pathway to any Natura 2000 Site.
- Impacts predicted would not affect the conservation objectives of any Natura 2000 Site.
- The location of the development is in a serviced urban area and the intervening landscape between the site and the nearest Natura 2000 Site is urban nature.
- The AA carried out by the Planning Authority for the subject application to which this appeal case relates.
- The limited zone of influence of potential impacts of the proposed development and the potential impacts being restricted to the immediate vicinity.

8.3.9. Conclusion: I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a Natura Site and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required in this case. No measures intended to avoid or reduce harmful effects on Natura sites were taken into account in reaching this conclusion.

## **9.0 Recommendation**

- 9.1. I recommend that permission should be granted, subject to conditions, based on the reasons and considerations set out below.
- 9.2. I note that the conditions recommended below include the Planning Authority's bespoke Transportation Planning Divisions requirements which as set out in the report above ensure that the amended design complies with the Dublin City Development Plan, 2022-2028, provisions as well as ensures that the development is consistent with the proper planning and sustainable development of the area (Note: Condition No. 4).
- 9.3. I further note that Condition No. 5, 6 and 7 relate to new issues.

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the site's planning history (ABP-307062-20 (P.A. Ref. No. 3752/19)), the site's location within a transitional zonal in character area, the site's location within Strategic Development and Regeneration Area No. 15 – Liberties and Newmarket Square and the pattern of development in a surrounding area which is undergoing significant transformation, it is considered that subject to compliance with the conditions as set out below, the proposed development would constitute an acceptable quantum of development in this accessible urban location, it would reverse this brownfields site vacant state, it would be consistent with the Dublin City Development Plan's, 2022-2028, provisions which seek to stimulate the economy and to provide employment opportunities including by way of providing a critical mass of appropriate development and investment in a manner that is respectful of character of this inner city area.

It is further considered that the proposed development would not seriously injure the amenities of surrounding properties or the visual amenities of the area in a material manner over and above that of the development permitted under ABP-307062-20 (P.A. Ref. No. 3752/19), that it would not give rise to any adverse or material additional impact on Protected Structure No. 27 to 28 New Row South (RPS Ref. No. 5821) that occupies the adjoining site to the south west or any other built heritage or

archaeological feature of merit and that the contemporary design resolution together with the high quality palette of materials and landscaped setting would not be out of character with existing and permitted developments within its urban block.

Additionally, the design resolution includes future permeability to adjoining land and it would also be acceptable in terms of pedestrian and traffic safety. 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 proposed development shall be amended as follows:

- (a) A revised western boundary treatment shall be provided adjoining the rear boundary of adjoining Lauderdale Terrace properties. This boundary shall consist of a solid 2 meter in height boundary with a continuous belt of semi-mature tree/pleated tree planting including evergreen varieties and defensive planting to limit potential for trespass from this linear strip of planting along the western boundary of the site.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of residential amenity.

3. Apart from the amendments authorised in this permission, the development shall comply in full with the terms and conditions attached to planning permission ABP-307062-20 (P.A. Ref. No. 3752/19) and the conditions of this permission.

**Reason:** In the interests of orderly planning.

4. The following requirements of the Transport Planning Division shall be strictly adhered to:
  - a) Prior to commencement of the development, the applicant/developer shall submit revised drawings clearly demonstrating unobstructed pedestrian access across the front entrance area at the northeast corner of the site whilst retaining the vehicular drop-off zone.
  - b) The development shall provide 1 no. motorcycle space and 1 no. accessible parking space with electrical charging equipment at basement level. The drop off zone at surface level shall be noted as a drop off area with line markings. Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties.
  - c) A minimum 71 no. staff cycle parking spaces including 2 no. cargo bike spaces, at basement level and 14 no. visitor cycle parking spaces at ground floor level, shall be provided as part of the development. Staff cycle parking shall be secure, conveniently located, sheltered and well lit. Electric bike charging facilities shall be provided. Shower and changing facilities shall also be provided as part of the development. Key/fob access should be required to bicycle compounds. Visitor cycle parking design shall allow both wheel and frame to be locked.
  - d) The two car lifts shall be set to revert to ground floor level to prioritise incoming traffic and to minimise the potential for queuing at the vehicular access.
  - e) Details of the materials proposed in public areas is required and shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division.

f) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

g) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

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

5. The developer shall agree in writing with, the planning authority prior to commencement of development a Basement Impact Assessment (BIA). This assessment shall have regard to the proximity of the basement works to the River Poddle Culvert and include appropriate measures that limit the potential for any adverse structural impacts on it.

**Reason:** It is a requirement of Section 15.18.4 of the Dublin City Development Plan, 2022-2028, to provide a Basement Impact Assessment for this type of development and in the interest of the proper planning and development of the area.

6. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority an updated Climate Action & Energy Statement.

**Reason:** In the interest of the proper planning, sustainable and climate resilient development.

7. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts, or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of Planning Permission.

**Reason:** To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

8. 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.

9. The developer shall pay to the planning authority a financial contribution in respect of the 'LUAS Cross City Scheme' 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.



Advisory Note:

The applicant is advised that Section 34(13) of the Planning and Development Act, 2000, as amended, states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

*I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.*

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Patricia-Marie Young  
Planning Inspector

22<sup>nd</sup> August, 2024.

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	<b>ABP-316189-23</b>			
<b>Proposed Development Summary</b>	<b>Amendments to P.A. Ref. No. 3752/19 and ABP-307062-20 consisting of increase of total floor area and height of plant screen at roof level, basement level reconfiguration, and all floors to be extended together with associated site works and services.</b>			
<b>Development Address</b>	<b>Site at New Street, off New Street South, Dublin 8.</b>			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	✓	Is of a class but does not exceed the relevant quantity, area, or limit of that class. (Note: 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended).	Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>	✓	Is of a class but does not exceed the relevant quantity, area, or limit of that class. (Note: 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended).	<i>This should be read in conjunction with Section 5 of this report which contains an EIA Screening.</i>	No EIAR or Preliminary Examination required
<b>Yes</b>				Proceed to Q.4

<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

**Date:** \_\_\_\_\_