



An
Bord
Pleanála

Inspector's Report

ABP-318150-23

Development	Protected structure: Demolition of extension to protected structure, construction of mixed use building and associated site works.
Location	11/12 Richmond Street South, Dublin 2, D02 HX76, 13 Richmond Street South and 17 Richmond Street South, Dublin 2.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4148/23
Applicant(s)	Gordon Properties Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Gordon Properties Limited.
Observer(s)	None.
Date of Site Inspection	7 th June 2024.

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to the 0.22 hectare plot enclosed by Richmond Street South to the west, Richmond Villas to the north and east, and Gordon Place to the south. It is a cleared site with the exception of the former Bambrick's Public House (also known as the Bernard Shaw) which is a Protected Structure that has been vacant since 2019 (RPS Ref.7631) (NIAH Ref. 50110435). The Protected Structure, which dates from 1895, is in a poor state of repair both internally and externally. The Protected Structure and the western part of the site are located within a conservation area.
- 1.2. The site lies approximately 800m to the south of St Stephen's Green and 150m north of the Grand Canal. The site is bounded to the north by Richmond Villas where there is planning permission for a 10 storey commercial development. To the east and south, the appeal site is bounded by the Charlemont Square Development, with the immediate eastern boundary comprising an eight storey office building, and the southern boundary being marked by a new part six/part seven storey residential block. To the west on Richmond Street South are four storey over basement Georgian buildings in residential use and a modern four storey office building on the corner of Richmond Street South and Lennox Street.

2.0 Proposed Development

- 2.1. Planning permission is sought to redevelop the site for an office led mixed use development of up to eight storeys and a total floor area of 14,314sqm (GIA). The development would incorporate the demolition of No. 13 Richmond Street South and the non-original rear extension to the Protected Structure, which would also be subject to internal alterations, repair, and refurbishment.
- 2.2. The mixed use development would surround the Protected Structure, which would be majority enclosed within a four storey glazed atrium. The overall building would rise to eight storeys, with setbacks at 2nd, 4th and 6th floor level. The development would incorporate an arts/cultural space at basement level, three café/retail/restaurant units at ground floor and first floor level, and office space on all upper levels.
- 2.3. Works to the Protected Structure would include demolition of the non-original rear extension, the removal of some internal walls (mostly non-original), and the creation

of new openings in the external walls which would include two on the north façade at ground floor level and five on the south façade (three at ground floor level and two at first floor level). The most significant change to the Protected Structure would be the removal of the first and second floor level internally to create a double height void in addition to the creation of a roof garden/terrace. Works would also be required to embed the atrium wall within the structure.

- 2.4. The material palette for the proposed new build office would comprise brickwork, concrete cills and parapets, stone cladding, granite plinths, and aluminium glazing. The main pedestrian access points would be from Richmond Street South, although the community space would be accessed from the rear on Richmond Villas. Vehicular access would be via Richmond Villas/Gordon Place to the rear of the site. The key development statistics are set out below:

Key Details	
Office	9,347sqm (NIA)
Café/Retail/Restaurant	370 sqm (NIA)
Arts/Cultural	362sqm (NIA)
Cycle Parking	184 spaces
Car Parking	7 spaces
Plot Ratio	7.41
Site Coverage	0.89

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission was issued by Dublin City Council on 6th September 2023 citing the following three reasons for refusal:

1. The proposed development is located in an area zoned Z10 with an objective 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses' in the 2022-2028 Dublin City Development Plan. Having regard to the extent of office development and the lack of residential within the overall proposal, it is considered that the

proposed development would conflict with the objective for a mix of residential and commercial uses on Z10 lands. The proposed development is also contrary to policy QHSN10 which seeks to encourage the establishment of residential development at sustainable densities on vacant and/or underutilised sites. The proposed development would, therefore, be contrary to the zoning objective for the site, policy QHSN10 of the 2022 Dublin City Development Plan, would set an undesirable precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.

2. The extensive demolition of the interior of the Protected Structure would represent an unacceptable loss of historic fabric and would cause serious injury to the historic plan form and hierarchy of internal spaces of the Protected Structure. Having regard to the proximity of the proposed new development to the protected structure it is considered that it would overwhelm the Protected Structure and would cause serious injury to its amenity, architectural significance, legibility, special architectural character and setting. Therefore, the proposal is considered to be in contravention of policies BHA2 and BHA9 of the Dublin City Council Development Plan 2022-2028, would set an undesirable precedent for similar development and would be contrary to the proper planning and sustainable development of the area.
3. The submitted Daylight and Sunlight Analysis did not assess the impact of the proposed development on all surrounding properties in particular the permitted residential development to the south of the site in accordance with Appendix 16 of the 2022-2028 Dublin City Development Plan. The Planning Authority cannot be satisfied, beyond reasonable doubt, that the proposed development, would not adversely affect the daylight of adjoining sites and the residential amenities of future occupants of permitted residential developments. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The Planner's Report contains the following points of note:

- On Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses. Flexibility may be considered on smaller sites under 0.5 hectares.
- The Planning Authority does not accept the Applicant's argument that the proposed development complies with the Z10 zoning objective, in particular in relation to the 30/70 percent use mix. When gross office floor area is used, office use accounts for 89% of the total floor area of the development. It is considered that the mixed-use objective of Z10 lands is not adhered to in this proposal.
- Given the current housing crisis, national planning policy, and the quantum of development proposed, the Planning Authority consider that the development should adhere to the zoning objective, and not rely on the overall Z10 land bank to comply with the zoning objective.
- The Dublin City area has a high demand for long term residential rental properties such as apartments, and it is considered that this site with a zoning requirement for a mix of residential and commercial use could assist in meeting this demand.
- The proposed art space at basement level amounts to 2.5% of the total floor area and therefore does not comply with the 5% requirement of policy CU025.
- The Architectural Heritage Impact Assessment (AHIA) has been submitted but limited information is provided on the proposed interventions to the Protected Structure and the scope of works and methodology included in the AHIA is considered to be largely generic and not sufficiently specific to the proposed works.
- The Conservation Officer considers the proposed demolitions to be excessive and would cause serious injury to the historic fabric and legibility of the

Protected Structure. It is considered that the Protected Structure would be subsumed and diminished by the proposed development.

- The proposed development is considered to be located in such proximity to the Protected Structure that there would be an excessive, seriously injurious, and negative impact on its special architectural character and setting.
- The proposed roof garden on the Protected Structure is not supported and the Conservation Officer considers that a more suitable proposal would be for the original roof profile of the historic building to be reinstated and traditional roofing finishes introduced.
- A default height of 6 storeys will be promoted in the city centre and within the canal ring subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities. It is noted that there is significant height permitted on surrounding sites and the proposed height is broadly in line with recent permitted developments.
- Materials and detailed design are considered acceptable but there are concerns with the proportions of the upper floors which do not help the building to sit comfortably within the surrounding context as demonstrated in the Visual Impact Assessment.
- The development does not fulfil the performance criteria of Appendix 3 due to the impact on the Protected Structure and the failure to promote a mix of use and diversity of activities, largely due to the absence of residential use and the arts/community use being below 5%.
- The daylight and sunlight report is inadequate as it does not assess the impact of the proposed development on all surrounding properties and in particular the permitted residential scheme and its communal open space to the south of the site. The layout, assessment and analysis of the report is not considered in accordance with the development plan requirements.
- Concerns with the tight separation distances to the north and east of the site in addition to overlooking concerns to the permitted residential block to the south of the site.

3.2.2. **Other Technical Reports**

3.2.3. **Archaeology Section:** No objection, subject to conditions.

3.2.4. **Conservation Section:** The condition of the Protected Structure is regrettable, but a great deal of historic fabric still exists. The AHIA is generic and not sufficiently specific to the proposed works and the drawings are not sufficiently detailed. The proposed demolitions are considered to be excessive and would cause injury to the legibility of the Protected Structure.

3.2.5. The proposed demolition of the entire structure between the principal rooms at ground and first floor level should be omitted, as should the demolition of the wall and fireplace at first floor level. The number of new openings in the party wall should be reduced to one only, at ground floor level.

3.2.6. The proposed upgrading of the exterior has not been considered in accordance with best conservation principles which advocate a minimum intervention approach, and the proposed new use is not compatible with the architectural character and interest of the structure. The proposed internal alterations to facilitate the change in use are of poor quality, with no information for the proposed works identified.

3.2.7. The Protected Structure would be wholly subsumed and diminished by the proposed development which is excessive in scale and proximity and would have a seriously injurious and negative impact on its special architectural character and setting.

3.2.8. The introduction of a new planted outdoor area on the roof of the Protected Structure is wholly inappropriate. The extant flat roof is not original and extensive structural work would be required to support appropriate soil and construction build up for a new decking area and soft landscaping which has not been appropriately designed nor described on the submitted drawings. A more suitable roof proposal would be for the original roof profile of the historic building to be reinstated and traditional roofing finishes introduced that would have respect for and compliment the Protected Structure.

3.2.9. **Drainage Division:** No objection, subject to conditions.

3.2.10. **Environmental Health:** No objections, subject to conditions.

3.2.11. **Transportation Planning:** Further Information was recommended to address concerns as follows:

- The provision of 7 no. car parking spaces is excessive and should be substantially reduced.
- The provision of one cycle lift for 168 basement cycle parking spaces is insufficient and access arrangements should be reconsidered. The potential for cycle parking to be provided at ground floor should be considered (taking into account the comments regarding excessive car parking). The Applicant shall seek to improve and increase the ancillary cycle parking accommodation, consider further segregation of cycle parking, and provide clarity on cycle parking numbers.
- Potential conflict between ground floor spaces and car park manoeuvring, layout to be reviewed and auto track to be submitted. The entrance width is considered to be excessive at 7m. and clarity is required on internal car park access.
- Clarification is sought on pedestrian and service/delivery access to the basement community space. If relying on the laneway then its ability to facilitate this needs to be demonstrated.
- There are concerns with the information submitted with regard to servicing and the absence of awareness and recognition of committed and completed developments along Richmond Villas and Gordon Place and the restricted nature of these laneways. Clarity is required on how servicing, delivery, and emergency access will take place, as well as addressing concerns raised in submissions.
- With regards to the proposed changes to the public realm, existing and proposed footpath and laneway widths should be provided, building lines should be reviewed to address pinch points, revised plans shall be required to ensure no doors open outwards, consent is required for changes to public roads and streets, clarity required on taking in charge, clarity is required on piling and potential impacts on the public footpath/road, and cognisance must be taken of the permitted scheme at Harcourt Place and Charlemont Square where access is required along Richmond Villas.

- Acknowledging that the basement and building footprint occupy almost the entire site and the nature of Richmond Street as an arterial bus route where no stopping of vehicles will be permitted, a Construction Management Plan should be submitted addressing construction and access arrangements.
- A revised and separate Mobility Management Plan shall be submitted to reflect the requested changes to cycle and car parking.

3.3. Prescribed Bodies

- 3.3.1. **An Taisce:** Concerns regarding the relationship and proximity of the eight storey block to the Protected Structure. Recommend that revisions are considered to reduce possible or likely detrimental impacts on the Protected Structure in terms of overbearance, streetscape setting, and the scale and pattern of development on both sides of Richmond Street South.
- 3.3.2. **Transport Infrastructure Ireland:** Recommend a Section 49 Levy be imposed by condition (if not exempt), in the event that planning permission is granted.

3.4. Third Party Observations

- 3.4.1. Two observations were submitted to Dublin City Council in response to the planning application. The main points of the observations are summarised below:
- 3.4.2. BKD Architects on behalf of Slievécourt DAC, owner of the development site immediately to the north of the site (Harcourt Place).
- Potential overlooking to the permitted office development on the adjacent development site at Harcourt Place. Windows should be rearranged or obscured to prevent overlooking.
 - Concerns regarding the reduced width of the laneway at Richmond Villas and the implications this could have for access of service vehicles and emergency services.
- 3.4.3. McCutcheon Halley Planning Consultants representing McGarrell Reilly, developer of the adjacent site at Charlemont Square.

- Potential overlooking and loss of privacy to the residential roof terrace of Block 7 at Charlemont Square.
- The development should incorporate setbacks in a similar manner to One Charlemont Square in order to reduce the impact of height, scale, and massing on the Richmond Street South laneway.
- Concerns that refuse vehicle tracking would require reversing across the ramp and entry/exit point for the adjacent Charlemont Square development and would require a wayleave which has not been sought. A collection point to the north may be more suitable.

4.0 Planning History

- 4.1.1. I note that there is a detailed planning history for the former Bernard Shaw Public House mainly comprising permissions for development ancillary to the primary use of the premises as a Public House. In my opinion they are of no relevance to the current appeal.

Adjacent Sites

Charlemont Square

- 4.1.2. The land bounding the site to the east and south form part of a large regeneration scheme known as Charlemont Square which is bound by Charlemont Mall, Richmond Street South, Charlemont Street, and Harcourt Street. The development is formed of five blocks. Blocks 1 and 2 are offices and the remaining three blocks are in residential use. Block 1 immediately bounds the site and practical completion appears to have been achieved. The parent permission is set out below, followed by relevant amending permissions.
- 4.1.3. **ABP Ref. 238212/Planning Authority Ref. 3742/10:** A 10 year permission was granted by the Board in May 2011 for a mixed use urban regeneration project comprising 260 new residential units, retail units, offices, restaurants, multiplex cinema, community sports centre, and childcare facility, across five blocks rising to between five and eight storeys on a c.2.0 ha site with a new public street. The proposed heights of the various blocks were:
- Block 1: 6 storeys

- Block 2: 7-8 storeys
- Block 3: 5-7 storeys
- Block 4: 4-6 storeys
- Block 5: 4-5 storeys

4.1.4. Condition 4 of this permission set out various amendments that were required. In terms of heights, the conditioned amendments were as follows:

- Block 2 shall be reduced in height from eight/seven storeys to six storeys.
- Block 3 shall be amended such that the southern side adjoining the Charlemont Clinic, proposed as 6 storeys high, shall be reduced to 5/4 storeys.
- The required amendments reduced the total number of homes by 7 (Block 3)

Amending Permissions

4.1.5. There is a detailed history of amendments to the parent permission. Those of direct relevance to the appeal are set out below:

4.1.6. **ABP Ref 240620/Planning Authority Ref. 2286/12:** This appeal sought permission for various amendments including an increase in height of the approved Block 2 to provide a sixth floor element (seven storeys) and changes to the total number of homes provided in Block 3 to 79 (bringing the permitted total to 257). The Board granted permission in May 2012 to all of the amendments with the exception of the additional storey on Block 2 which was refused on the basis that the additional storey would be an obtrusive element in the streetscape which would adversely affect the historic setting of the Protected Structures at numbers 5, 6, 7 and 8 Charlemont Street and that the proposal would materially contravene a condition attached to an existing permission for development, namely, condition number 4(a), attached to the permission granted by the Board (238212).

4.1.7. **Planning Authority Reference 4443/16:** Permission was granted by Dublin City Council in July 2017 for amendments to Blocks 1, 2, 4 and 5. These amendments resulted in the omission of the cinema, an increase in officer floorspace and an overall increase in housing, bringing the total number of apartments permitted on the wider site to 263.

- 4.1.8. **Planning Authority Reference 3735/18:** Permission was granted by Dublin City Council in November 2018 for amendments to Block 1. The most substantive amendment was the change of use of 41 residential units to office space.
- 4.1.9. **Planning Authority Reference 4707/18:** Permission was granted by Dublin City Council in February 2019 for amendments to Block 2 which included an overall increase in height from six storeys to eight storeys.
- 4.1.10. **Planning Authority Reference 4758/18:** Permission was granted by Dublin City Council in April 2019 for amendments to Block 1 increasing its height to eight storeys.
18-20 Richmond Street South and 14 Gordon Place
- 4.1.11. **Planning Authority Reference 3546/21:** Planning permission was granted by Dublin City Council in March 2022 for a part six/part seven storey mixed use building comprising retail at ground floor level and 22 no. apartments on the upper levels. This is part of the wider Charlemont Square development (Block 7) and directly abuts the appeal site on its southern boundary.
Site Bound by Charlemont Street, Harcourt Street and Richmond Street South
(immediately north of the appeal site)
- 4.1.12. **Planning Authority Reference 4628/18:** Planning permission was granted by Dublin City Council in June 2019 for redevelopment of the site to provide a part seven/part eight/part nine storey office led, mixed use development.
- 4.1.13. **Planning Authority Reference 3581/20:** Amendments to permission 4628/18 and 4476/19 were granted by Dublin City Council in February 2021. The approved amendments include the provision of an additional floor, resulting in a ten storey building.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The site is zoned Z10: Inner Suburban and Inner City Sustainable Mixed Uses, the stated objective of which is 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'.
- 5.1.2. The western edge of the site is in a Conservation Area.

- 5.1.3. Nos. 11 and 12 Richmond Street South (formerly Bambrick's Public House and latterly the Bernard Shaw Public House) is a Protected Structure (RPS Ref. 7361) and listed on the NIAH (Ref. 50110435).
- 5.1.4. Chapter 3: Climate Action contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policies from this section include:
- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility
 - CA8: Climate Mitigation Actions in the Built Environment
 - CA9: Climate Adaptation Actions in the Built Environment
 - CA24: Waste Management Plans for Construction and Demolition Projects
 - CA27: Flood Risk Assessment and Adaptation
- 5.1.5. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter are:
- SC5: Urban Design and Architectural Principles
 - SC10: Urban Density
 - SC11: Compact Growth
 - SC13: Green Infrastructure
 - SC14: Building Height Strategy
 - SC15: Building Height Uses
 - SC16: Building Height Locations
 - SC19: High Quality Architecture
 - SC20: Urban Design
 - SC21: Architectural Design
- 5.1.6. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable

communities in the compact city is a key issue for citizens and ensuring that Dublin remains competitive as a place to live and invest in. The relevant policies from this chapter include:

- QHSN6: Urban Consolidation
- QHSN10: Urban Density

5.1.7. Chapter 6: City and Enterprise is of relevance. This chapter recognises that Dublin is an international city and gateway to the European Union for many businesses. The city region contributes significantly to Ireland's economy and is a major economic driver for the country. The relevant policies from this chapter are:

- CEE1: Dublin's Role as the National Economic Engine
- CEE2: Positive Approach to the Economic Impact of Applications
- CEE3: Promoting and Facilitating Foreign Direct Investment
- CEE7 Strategic and Targeted Employment Growth
- CEE21: Supply of Commercial Space and Redevelopment of Office Stock

5.1.8. Chapter 7: The City Centre, Urban Villages, and Retail, notes that Dublin's village and neighbourhood centres are the heart of their local communities, providing a focus for local activities, allowing sustainable urban living and allowing people access to local shops, services, employment and facilities. The relevant policies of this chapter include:

- CCUV30: Cafes/Restaurants
- CCUV32: Outdoor Dining

5.1.9. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related CO2 emissions.

5.1.10. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity, and flood risk/surface water management. The relevant policies of this section are:

- SI14: Strategic Flood Risk Assessment
- SI15: Site Specific Flood Risk Assessment

5.1.11. Chapter 11: Built Heritage and Archaeology, recognises that the city's heritage contributes significantly to the collective memory of its communities and to the richness and diversity of its urban fabric. It is key to the city's character, identity and authenticity and is a vital social, cultural, and economic asset for the development of the city. The Development Plan plays a key role in valuing and safeguarding built heritage and archaeology for future generations. The plan guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology. The relevant policies of this section include:

- BHA2: Development of Protected Structures
- BHA4: Ministerial Recommendations
- BHA9: Conservation Areas

5.1.12. Chapter 15: Development Standards contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed, both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. Relevant sections of Chapter 15 include (but are not limited to):

- 15.4: Key Design Principles
- 15.5: Site Characteristics and Design Parameters
- 15.6: Green Infrastructure and Landscaping
- 15.14.4: Office
- 15.15.1: Archaeology
- 15.15.2: Built Heritage
- 15.18: Environmental Management

5.1.13. Relevant Appendices include:

- Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.
- Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments.

5.2. Regional Policy

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

- 5.2.1. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient economic base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

5.3. National Policy and Guidance

Project Ireland 2040, National Planning Framework (2018) (NPF)

- 5.3.1. The NPF addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places. Relevant Policy Objectives include:
- National Policy Objective 2a: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
 - National Policy Objective 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment

activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

- National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

Section 28 Ministerial Guidelines

5.3.2. Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018). The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011) - This guidance is a material consideration in the determination of applications and sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

5.4. Natural Heritage Designations

5.4.1. The site is an urban brownfield site and is not located within any designated site. The nearest European Sites are as follows:

- South Dublin Bay and River Tolka Estuary SPA (site code 004024), 3.4km.
- South Dublin Bay SAC (site code 00210), 3.2km.
- North Dublin Bay SAC (Site Code 000206), 6.3km.
- North Bull Island SPA (Site Code 004006), 6.3km.

5.5. EIA Screening

- 5.5.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A First Party appeal has been submitted by John Spain Associates of 39 Fitzwilliam Place, Dublin 2, for and on behalf of the Applicant, Gordon Properties Limited of 11 Cornelscourt Cottages, Cornelscourt, Dublin 18, against the decision of Dublin City Council to refuse planning permission for the proposed development. The appeal submission is accompanied by reports from Barrett Mahony Consulting Engineers (transport issues), and Cathal Crimmins Conservation Architects. The grounds of appeal can be summarised as follows:

Zoning

- The Z10 zoning objective has been misapplied by the Council. The zoning objective was subject to material alterations which altered the wording.
- The Z10 zoning objective states that the land use mix requirements relate to the Z10 landholding as a whole, rather than individual sites within. The intention of the Z10 zoning is to ensure that there is a sufficient mix of uses across the entire Z10 zoned area at any given location rather than on individual sites, and that the use mix is acceptable provided it falls within the 30-70% bracket across

the entire Z10 land area and does not result in an undue concentration of one-particular land use.

- The zoning objective makes provision for flexibility on sites below 0.5 hectares, in recognition that the delivery of a mix of uses may not be possible or an efficient use of land for such smaller sites. The site falls below 0.5 hectares.
- The scheme should be assessed in the context of the wider Z10 site where the majority land use is residential, even when accounting for the proposed development. It is incorrect to apply the 70:30 land use mix ratio to this site on its own.
- The mix of uses is considered appropriate and will complement the existing uses in the surrounding area, particularly on the Z10 landbank, and improves the overall mix of uses on offer within the Z10 landbank. The proposal is not a mono use development, it includes office, retail/restaurant, and an arts facility. The land use mix objective of the Development Plan and the Z10 zoning objective are comfortably complied with.
- Policy QHSN10, which forms an element of the reason for refusal, seeks 'to promote' residential rather than residential being a requirement of individual applications. There is no explicit obligation to provide residential use individual applications, either under policy QHSN10 or the zoning objective.
- In terms of Section 6.5.2 of the CDP (which refers to the strategy for the inner city), the proposed mixed-use development would significantly enhance the employment offering in the city and would also encourage more sustainable modes of transport due to its location near major public transport networks and low provision of car parking spaces.
- The area surrounding the subject site includes high density residential and residential comprises 48% of land use in the Z10 lands. The provision of residential use is already provided for.
- The Planning Authority have misapplied the policy, the proposed mix of uses would be in compliance with the zoning objective at this location and the overall land use mix is adhered to.

Heritage

- The external interventions to the Protected Structure are limited to the removal of non-original elements with the intention being to return the Protected Structure back to its original visual form as much as is practicable.
- The development would not subsume and diminish the Protected Structure, there is instead an element of contact between the old and new, creating visual interest.
- There are many precedent examples where the growth of the city is allowed to continue whilst respecting the existing historic fabric and creating visual interest and interactivity. Precedent examples include:
 - ABP-309265-21 – Columbia Mills, Sir John Rogerson Quay, Dublin 2.
 - DSDX2533/18 – Tropical Fruit Warehouse, Sir John Rogerson Quay, Dublin 2.
 - DSDZ3799/18 – Heysham Building, North Wall Quay, Dublin 1.
 - DSDZ3856/17 - 10-12 Hanover Quay, Dublin 2.
- Incorporating new structures is appropriate in meeting the requirements of the Z10 site requirements and provides a segue between the finer grain, older, and smaller structures on Richmond Street and the larger scale development of Charlemont Place.
- The proposal seeks to sympathetically restore the Protected Structure and ensure its future use. There is little original fabric remaining within the Protected Structure as noted in the Architectural Heritage impact Assessment submitted with the application.
- The Conservation Officer notes concern regarding Policy BHA2(e), and internal the works required to facilitate a change of use of the PS. The proposed use is suitable for this type of structure and would not be a deviation from the character and initial designed use of the structure.
- The main internal amendments allow for improved use and removal of damaged and non-original elements. The uses proposed are compatible with the architectural character and special interest of the structure.

Daylight and Sunlight

- A revised Daylight and Sunlight note has been prepared by IN2. This confirms that there are no impacts beyond the BRE Guidelines in terms of the additional residential properties assessed.
- Further assessment of commercial properties demonstrates that the proposed development has had due regard to the interface with adjoining commercial properties.

Cultural/Arts/Community Uses

- The proposed arts space within the development is 362sqm which equates to 3.77% of the total net floor area, which is noted as being below the 5% requirement. The 2.5% figure given in the Planner's Report appears to be based on comparing net with gross and is both incorrect and unreasonable.
- The Applicant has liaised with DCC for them to become the leaseholder with the space managed by the Arts Office and occupied by artists or an appropriate arts organisation that will engage with the local area and general public as well as providing much needed arts practice space. A confirmatory letter has been provided by the City Arts Officer for DCC.
- If required, the arts space could be expanded at basement level to achieve the 5% area, and this could be secured by condition.

Overlooking/Privacy

- In terms of overlooking of residential properties to the south, the subject glazing along the southern elevation fronting onto the adjacent roof terrace is solid backed spandrel glazing.
- Additional glazing facing Block 7 of the Charlemont Square development (overlooking the lightwell), is set back four metres from the boundary with a planted screen that would mitigate against any overlooking impacts.
- Any potential overlooking to the east or to the north is from office to office and a typical arrangement in inner city areas.

Report by Barrett Mahony Consulting Engineers re: Transport

- The Transportation Planning Division recommended that a number of items be requested as Further Information which was not requested by the Council due

to the reasons for refusal. In terms of car parking, the appellant has reduced the level of car parking from seven spaces to five spaces. One space would be an accessible bay, two spaces would be used for car sharing, and the remaining two spaces would be for servicing vehicles.

- One cycle parking lift would be standard for a development of this size and there is a service lift that could be used as a backup. Other bicycle services such as shower and changing facilities are considered to be appropriate for the size of the development.
- The removal of two car parking spaces allows the provision of an additional 17 cycle parking spaces at ground floor level.
- Updated tracking drawings have been provided.
- Segregation of cycle stores will be considered when the tenancy of the building is established and there is space available to allow for this.
- Occasional deliveries by van to the community space will be to the rear laneway or from the ground floor depending on the length of stay. Pedestrian access to the community space would be via Richmond Villas or Gordon Place and a 1.2m wide footpath is provided to the rear of the building.
- A further setback of 1m at ground floor level on Richmond Villas has been submitted as part of the appeal. This will have sufficient height to allow a refuse truck to enter at Gordon place and leave at Richmond Villas.
- Accessibility along the side and rear of the building has been considerably increased as a result of building setbacks and use of shared surfaces.

Report by Cathal Crimmins Conservation Architects

- The project as submitted was designed to consider the best way to ensure the success of the project and pay due respect to the history and character of the Protected Structure.
- An alternative development option is proposed as part of the appeal that could be secured by condition. This option shows the Protected Structure taken out of the atrium and proposes a landscaped plaza, improving the relationship between the Protected Structure and the proposed higher buildings.

- The works would be supervised by a firm of Grade 1 Conservation Architects who have years of experience working on historic structures and dealing with the Conservation Officer who it is noted has not visited the building and has made no request to do so.
- The submitted scheme shows the front elevation to the Protected Structure repaired, without any significant change. Colours can be agreed on site with the Conservation Officer by condition.
- The area adjoining the site has permission for higher buildings, as has the multitude of permitted schemes and projects already built, or currently being built in the nearby area altering the Georgian and Victorian personality of this south city urban place.
- The proposal is of a quality design, includes active uses and a landscaped inner plaza that will enhance the local character. Land use and activities are fundamental to the character and appearance of Dublin's Conservation Areas. The retained 'former pub building', the restaurant/retail at ground floor, while of a different, scale and design does continue the traditions uses on Richmond Street South and will be of value to the local community.
- Working standards for drawings dealing with Protected Structures, and the level of detail required by the Conservation Officer is unreasonable at this stage, especially where the Conservation Officer has not inspected the interior of the building, opening-up has not occurred and there are hidden items. This detail can be addressed by an appropriately worded condition, which is common practice in respect of Protected Structures.
- Wholesale demolition of the historic structure was never proposed, and the appeal document demonstrates how amendments can be made to the proposal to reduce demolition to comply with the Conservation Officer's recommendations, subject to conditions to be attached by the Board if appropriate.
- The Georgian and Victorian character of the area, visually and in terms of use, has dramatically changed. The retained and restored former public house along with the contemporary café, retail ground floor space, and plaza, would contribute to the Richmond Street South Area. The overall proposal is of a

contemporary design of high quality and is in accordance with the aspirations of the Development Plan.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority request that the Board uphold the decision to refuse permission. Should permission be granted then the Planning Authority request that conditions be applied regarding Section 48 and 49 development contributions.

6.3. Observations

- 6.3.1. None.

6.4. Further Responses

- 6.4.1. None.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues to be considered in this appeal are as follows:

- Zoning
- Design and Heritage
- Amenity
- Transport
- Other Matters

7.2. Zoning

- 7.2.1. The first reason for refusal relates primarily to land use. The Planning Authority consider that the development would conflict with the Z10 zoning objective, which seeks a mix of residential and commercial uses on Z10 lands, due to the extent of

office space proposed and the lack of any residential provision. Owing to the absence of a residential element to the proposal, the Planning Authority also consider the development to be contrary to policy QHSN10, which seeks to encourage the establishment of residential development at sustainable densities on vacant and/or underutilised sites. The Planning Authority does not accept the Applicant's argument that the proposed development complies with the Z10 zoning objective, in particular in relation to the 30/70 percent use mix, and the Planner's Report states that the application site should adhere to the zoning objective and not rely on the overall Z10 land bank to comply with the zoning objective.

- 7.2.2. The Applicant considers that that Planning Authority have misapplied the zoning objective, which was subject to material alterations which amended the wording and states that the land use mix requirements relate to the Z10 landholding as a whole, rather than individual sites within. It is also argued that an appropriate mix of uses are proposed, that these uses would complement the surrounding area, and that flexibility on the mix of uses can be provided for Z10 sites that are below 0.5 hectares.
- 7.2.3. When considering housing, the Applicant argues that the area surrounding the site includes high density residential and that Policy QHSN10 seeks 'to promote' residential and that there is no explicit obligation to provide residential use on individual applications, either under policy QHSN10 or the zoning objective.
- 7.2.4. Zoning Objective Z10 was subject to amendments at drafting stage of the Dublin City Development Plan 2022-2028. Key changes to the policy removed references to 'site' which was replaced with 'lands'. This followed a recommendation by the Chief Executive of Dublin City Council, as set out in Volume 1 – Issues Raised and Chief Executive's Response and Recommendations - April 2022, which states:
 - 7.2.5. *It is intended that the land use mix requirements relate to site area not GFA and relate to the Z10 landholding as a whole, rather than individual sites within.*
- 7.2.6. The adopted Z10 Zoning Objective reads as follows:
- 7.2.7. *In order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment). For very small sites, typically less*

than 0.5ha, flexibility on mix requirement may be considered on a case-by-case basis, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use on the Z10 landholding as a whole.

- 7.2.8. In my opinion, the wording of the Z10 Zoning objective is clear that the mix requirements are to be applied across the Z10 area as a whole, as opposed to discrete sites within the Z10 area, and this would certainly align with the Chief Executive's comments at draft stage, when specific amendments were made to the wording of the zoning objective.
- 7.2.9. The appeal site is located on Z10 land that forms the urban block bounded by Richmond Street South, Richmond Villas, Charlemont Street, and Charlemont Mall. The greater majority of this Z10 landholding is occupied by the Charlemont Square development (set out in detail in the Planning History section above) which is a mixed use office, residential and commercial development. Following an analysis of the surrounding land uses within the Z10 landholding, including the proposed uses on the appeal site, the Applicant considers that 10% of the Z10 land relates to mixed uses, 42% predominantly commercial use, and 48% predominantly residential use. The greater balance of use on the Z10 landholding relates to residential use and even when adding the mixed uses to commercial uses, the overall land use mix would remain compliant with the 30%-70% requirement of the zoning objective.
- 7.2.10. I am therefore satisfied that the development would comply with the Z10 zoning objective and would contribute an appropriate mix of uses, ensuring that the Z10 land achieves the required mix with regard to the 30%-70% requirement for the Z10 landholding and having regard to the flexibility to be applied to sites below 0.5 hectares. On the basis that the requirements of the zoning objective have been fully met in terms of land use, I do not consider that the 'promotion' of residential under policy QHSN10 would outweigh the otherwise compliant land uses, particularly given that the Z10 zoning objective does make provision for residential, which in this case has been met on the wider Z10 lands. I am therefore fully satisfied that when considering the Z10 lands as a whole, in addition to the recent development of Charlemont Square, a suitable balance between residential and commercial would be achieved. For this reason, I am of the view that the first reason for refusal should be set aside.

7.3. Design and Heritage

- 7.3.1. The second reason for refusal relates to the impact of the development on the Protected Structure. The Planning Authority consider that the Protected Structure would be overwhelmed by the proximity of the proposed new development which would cause serious injury to its amenity, architectural significance, legibility, special architectural character and setting. It is also considered that the level of internal demolition would be excessive, with an unacceptable loss of historic fabric that would cause serious injury to the Protected Structure.
- 7.3.2. Of particular concern to the Conservation Officer is the proposal to demolish the entire structure between the principal rooms at ground and first floor level and the number of openings proposed. The Conservation Officer considers that the proposal does not take a minimum intervention approach and that the introduction of a new planted outdoor area on the roof would be wholly inappropriate. It is considered that a more suitable roof proposal would be for the original roof profile of the historic building to be reinstated and traditional roofing finishes introduced that would have respect for and complement the Protected Structure.

Height, Scale, and Massing

- 7.3.3. On the basis of the above, the Planning Authority consider that the development would fail to comply with the provisions of Appendix 3 of the CDP which gives guidance on appropriate heights, noting that where a scheme proposes buildings that are significantly higher and denser than the prevailing context, the performance criteria set out in Table 3 of the Appendix shall apply. In my opinion, these criteria are consistent with the requirements of the Building Height Guidelines (2018).
- 7.3.4. The scale of the surrounding context is varied, with the properties on the opposite side of Richmond Street South rising to four storeys, the new buildings enclosing the site to the east and south rising to between six and eight storeys, and I note that is also a permission for up to ten storeys on the site immediately to the north, although from my site inspection this does not appear to have been commenced other than site clearance works. Appendix 3 of the CDP states that heights greater than six storeys within the Canal Ring will be considered on a case by case basis, subject to the performance criteria set out in Table 3 of the Appendix I have applied the relevant performance criteria in my assessment below:

Criteria 1 - To Promote Development With a Sense of Place and Character

- 7.3.5. In my view the building appropriately addresses the urban block within which it sits, having due regard to the taller buildings to the east and south and steeping down towards Richmond Street South. This approach is broadly acceptable, however further modulation of the height and massing is required in order to reduce impacts on the Protected Structure and the adjacent dwellings (further detail below).
- 7.3.6. Overall, the design strategy is acceptable, and the facades/materials would be of a sufficiently high quality. The building would not appear monolithic, and it is appropriately located in a highly accessible place of greater activity and land use intensity.

Criteria 2 – To Provide Appropriate Legibility

- 7.3.7. The development would complete the urban block and would maintain legibility, reinforcing the role and function of the street. Given the size of the site, I accept that there is limited potential to enhance permeability with routes through the site.

Criteria 3 - To provide Appropriate Continuity and Enclosure of Streets and Spaces

- 7.3.8. The street would be appropriately enclosed and in my opinion the development would not provide any canyons or overbearance on surrounding streets. I acknowledge the scale of the proposed building and the adjacent completed development at Charlemont Square and how they present to Richmond Villas, but I am satisfied that this is acceptable given the role, nature, and function of Richmond Villas as a secondary street/urban laneway.

Criteria 4 - To Provide Well Connected, High Quality and Active Public and Communal Spaces

- 7.3.9. Given the size of the development site and the nature of the proposed use, there is limited ability to provide meaningful public open space. Significant microclimate impacts in terms of wind would not be anticipated on a building of this scale and as such surrounding streets, thoroughfares, and open spaces would not be expected to experience negative impacts in this regard, as demonstrated in the submitted BRE report.

Criteria 5 - To Provide High Quality, Attractive and Useable Private Spaces

7.3.10. I am satisfied that the private spaces within the development (terraces) would be usable, safe, accessible and inviting. Wind conditions on the roof terraces in the summer months are suitable for the intended use (sitting) and the limited instances of higher winds in the winter months could be suitably mitigated by way of screening.

7.3.11. As set out in section 7.4.15, I am satisfied that separation distances are adequate to ensure no overlooking or privacy impacts. In my opinion, whilst there would be some significant and noticeable impacts on daylight and sunlight to a very limited number of properties, I am of the view that the impact would be acceptable on balance and that the development would provide an appropriate transition in scale from the eight storey developments at Charlemont Square to the lower rise nature of Richmond Street South.

Criteria 6 - To Promote Mix of Use and Diversity of Activities

7.3.12. In my opinion the range of uses being proposed are acceptable and would be in compliance with the zoning objective for Z10 lands. I note the Planning Authority's concerns regarding the shortfall in community space. However, the Applicant has identified an end user/operator and Heads of Terms appear to have been agreed with the Dublin City Arts Office. As such, I am content that the shortfall in community floorspace, in the region of 2%, can be suitably addressed by way of a condition requiring an in-lieu payment.

Criteria 7 - To Ensure High Quality and Environmentally Sustainable Buildings

7.3.13. In my opinion, the development would comply with the relevant. The development would be governed by a Construction Environmental Management Plan and the drainage proposals would be acceptable, subject to conditions.

Criteria 8 - To Secure Sustainable Density, Intensity at Locations of High Accessibility

7.3.14. The development is appropriately located in a central, highly accessible area with excellent access to frequent public transport. Issues identified in the Transport section below regarding cycle parking and access to cycle stores could be addressed by condition or further information should the Board be minded to grant permission.

Criteria 9 - To Protect Historic Environments from Insensitive Development

7.3.15. The proposal would largely envelope the Protected Structure and whilst I am satisfied that the general height is acceptable, I do share the Planning Authority's concerns

regarding the overall impact on the Protected Structure. In my opinion, the works proposed to the Protected Structure to incorporate it into the atrium are significant and would damage its legibility and prominence, with the Protected Structure being subsumed by the development. I also have concerns regarding the scale and massing of the northern arm of the proposed office building and its relationship to the Protected Structure, directly abutting the flank elevation of the structure and sitting proud of it on Richmond Street at the upper levels.

- 7.3.16. In my opinion there needs to be more breathing space between the Protected Structure and the northern arm of the building, with the Richmond Street South façade being pulled back by at least one bay at the upper levels, consistent with the ground floor in order to give prominence to the Protected Structure in views along the street and allow it to sit more comfortably and independently within the development. Whilst I agree that contact between the buildings could be achieved, I am not of the view that the entire six storey massing rising sheer from the flank wall would be an appropriate response. I understand the Applicant's rationale, and undoubtedly there are benefits to the Protected Structure being so physically incorporated into the new development, however, I am of the view that the proposed design, interventions and relationship between the two buildings would largely diminish the role and character of the Protected Structure, with it becoming little more than a retained facade. The development would therefore have a significant injurious impact on the character, setting and special interest of the Protected Structure and I do not consider the development to comply with this requirement of Appendix 3 or Policy BHA2 of the CDP in this regard and permission should be refused on this basis. Internal alterations to the Protected Structure are considered separately below.

Criteria 10 - To Ensure Appropriate Management and Maintenance

- 7.3.17. Matters of security, management of public/communal areas, waste management, servicing and delivery can all be satisfactorily addressed by condition in the event that the Board grant permission.

Protected Structure

- 7.3.18. During my site inspection, I viewed the Protected Structure both internally and externally. Both the exterior and interior are in a state of disrepair and intervention will be required to bring the building back into meaningful use. I share the Planning

Authority's concerns that the level of demolition and internal alteration to the protected Structure would be excessive and damaging to its legibility and character. I have significant concerns regarding the additional openings and removal of the first floor and internal walls to create an open void, as well as alterations to the roof to create the garden terrace and accommodate the atrium curtain wall, reinforcing my opinion that the Protected Structure would largely be reduced to a retained facade, and I consider the development to be unacceptable in this regard and contrary to Policy BHA2 of the Dublin City Development Plan.

- 7.3.19. The remainder of the proposed interventions, both external and internal, such as the demolition of the non-original extensions and removal of non-original fabric, would be acceptable in my view, particularly when balanced against the benefits of bringing it back into sustainable use. I note the Planning Authority's concerns that no detailed information has been provided for the proposed works, but I am satisfied that appropriate Conservation Method Statements and Photographic Survey/Record could be addressed by way of condition should the Board grant permission.

7.4. Amenity

- 7.4.1. The Planning Authority's third reason for refusal relates to the potential impact on the residential amenity of surrounding homes in terms of a loss of daylight and sunlight. The Planning Authority consider the submitted daylight and sunlight report to be inadequate as it does not assess the impact of the proposed development on all surrounding properties, and in particular the permitted residential scheme and its communal open space to the south of the site. The layout, assessment and analysis of the report is not considered to be in accordance with the development plan requirements.
- 7.4.2. Further amenity concerns raised in the Planner's Report relate to the tight separation distances to the north and east of the site, in addition to overlooking concerns to the permitted residential block to the south of the site.

Daylight and Sunlight

- 7.4.3. Appendix 16 of the Dublin City Development Plan deals with sunlight and daylight, primarily from a residential perspective. Section 3.21 of this appendix refers specifically to the 2011 BRE Guidance: Site Layout Planning for Daylight and Sunlight,

a Guide to Good Practice. The Board should note that the BRE Guidance was updated in 2022 and I have applied this updated guidance in my assessment.

- 7.4.4. A daylight and sunlight report has been submitted that assesses the scheme based on the BRE guidelines. This has been supplemented by an additional report submitted as part of the appeal that seeks to address the Planning Authority's concerns regarding the lack of assessment of commercial properties and the recently completed residential development to the south.
- 7.4.5. The BRE Guidance provides a technical reference for the assessment of amenity relating to daylight, sunlight, and overshadowing. The guidance within it is not mandatory and the advice within the guide should not be seen as an instrument of planning policy. The guidance notes that within urban environments, including historic city centres and areas with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings. Although the BRE gives numerical guidelines, these should be interpreted flexibly, since natural lighting is only one of many factors in site layout design
- 7.4.6. The BRE sets out the detailed daylight tests. The first is the Vertical Sky Component test (VSC) which considers the potential for daylight by calculating the angle of vertical sky at the centre of each of the windows serving the buildings which look towards the site. The target figure for VSC recommended by the BRE is 27% which is considered to be a good level of daylight and the level recommended for habitable rooms. The BRE have determined that the daylight can be reduced to 0.8 times its former value (or by 20%) before the loss is noticeable.
- 7.4.7. The second test is the No Sky Line (NSL) test. This test measures the area of the working plane in a room that can receive direct skylight. As with VSC, NSL can be reduced to 0.8 times its former value before the loss is noticeable. For windows that face within 90 degrees of due south, sunlight availability can be assessed using the Annual Probably Sunlight Hours (APSH) test.

Adequacy of Information

- 7.4.8. In the original submission, the Applicant assessed the impact on the dwellings located at Nos. 52-59 Richmond Street South. Two scenarios were tested. Scenario A assesses the impact of the development against a baseline that includes the permitted

schemes at Charlemont Square and Harcourt Place. I have no objections to the baseline used in this assessment given the significant build-out to date. Scenario B assesses the impact of the proposed development against a baseline that includes the surrounding permitted development, in addition to a building of 28m height on the appeal site, on the basis that this height is considered acceptable on a Z10 site under the 2016-2022 CDP. In my opinion, this assessment is of less relevance, given that it relies on assumptions from the previous development plan. In any event, Scenario A is effectively an existing versus proposed assessment which I consider to be sufficient to allow an assessment of daylight and sunlight impacts on 52-59 Richmond Street South.

- 7.4.9. The additional information submitted by the Applicant as part of the appeal considers the VSC and APSH impacts of the development on Block 5 and 7 of the Charlemont Square Development, as well as considering the impact on the neighbouring commercial buildings using a mirror image test. Again, I am satisfied that this approach is reasonable.
- 7.4.10. Finally, I note that the Triangular Building, located on the narrow island site to the north of the appeal site where Richmond Street South splits towards Harrington Street, is in residential use and has not been included in the daylight and sunlight Assessment. This building has windows on its very narrow southern elevation that would clearly experience measurable impacts from the development, however, without being included in the Daylight and Sunlight Assessment, including an assessment of Annual/Winter Probable Sunlight Hours given the southerly orientation of the windows, the Board cannot be satisfied as to the intensity or acceptability of these impacts. On this matter, I would agree with the Planning Authority that the Daylight and Sunlight Assessment is somewhat inadequate, and the additional information submitted as part of the appeal does not address this issue. I am mindful that the potentially affected windows serve rooms that are double and in some cases triple aspect, including windows on facades that face away from the proposed development and would therefore be unaffected. As such, I do not consider that the omission of the Triangular Building should be a reason for refusal, as an updated assessment could be required by Further Information in the event that the Board were minded to grant permission.

52-59 Richmond Street South

- 7.4.11. Nos 52-59 Richmond Street South are in residential use, with the exception of the ground floor of No. 52 which is commercial. A total of 56 windows were assessed for VSC, of which 30 would remain compliant with the BRE guidance. In terms of NSL, 48 rooms were assessed and 22 would remain compliant with the BRE. This would result in a compliance rate of 53% for VSC and 46% for NSL. Most of the impacts would be experienced by Nos. 52, 53, and to a lesser extent, No. 54 Richmond Street South.
- 7.4.12. A number of the VSC impacts would be significant and result in noticeable effects. At Nos. 52 and 53 Richmond Street South, all 14 of the windows assessed for VSC would experience impacts, with retained VSC levels of between 0.49 and 0.68 of the former value which is well below the BRE guidance of 0.8. The real terms retained VSC level would be between 12.4 and 15.1, averaging out at 13.8.
- 7.4.13. The impact on Nos. 54-55 is fairly minor in my opinion, with retained VSC levels of between 0.65 and 0.81 of the former value and real terms VSC levels of between 13.7 and 17, averaging out at 15.4. The remaining dwellings at nos. 56-59 would remain compliant with the BRE.
- 7.4.14. In terms of NSL, noticeable impacts would again be experienced at nos. 52-54 with some levels of NSL being reduced to just 0.37 times the former value. Of the 26 windows that would experience a noticeable loss of NSL, eight would see reductions of 50% or more, and seven would see reductions of at least 40%.
- 7.4.15. Impacts on VSC and NSL are largely limited to Nos. 52-54 Richmond Street South and in some case these would be significant and noticeable, particularly regarding NSL, although in my opinion the retained VSC levels would not be uncommon for dense urban environments. I am also mindful of the fact that these dwellings have had a fairly unimpeded outlook across a cleared city centre site and as such any development of the land is likely to have a noticeable impact.
- 7.4.16. I note the city centre location and the need to regenerate inner-city sites, the benefits of bringing forward a significant employment generating use and the benefits to the city economy, the CDP default position of 6 storeys on inner city sites and the need for development of the site to contextualise with the large scale developments both completed and permitted on the adjacent sites. In my opinion, whilst acknowledging that some of the impacts would be noticeable, only a limited number of dwellings would be affected.

7.4.17. Given the small number of windows and properties overall that would experience noticeable effects and the site specific circumstances set out above, I am of the view that the impact on 52-59 Richmond Street South would be acceptable on balance, having regard to the benefits of the proposed development in redeveloping a currently under developed site, the provision of new offices, retail, community space and significant employment opportunities. On balance, therefore, it is my considered opinion that, when reading the BRE guidance with the required flexibility, and in view of the positive benefits of the development proposal in its urban context, the degree of harm to amenity would not justify withholding planning permission.

Block 5 and Block 7 Charlemont Square

7.4.18. In terms of VSC and APSH, all of the assessed apartments in Blocks 5 and 7 would remain fully compliant with the BRE guidance, with no perceptible changes anticipated and in the majority of cases, no measurable changes taking place. This would also be the case for the rooftop amenity space on Block 7, which would experience no perceptible change or significant increase in overshadowing, remaining fully compliant with the BRE.

Harcourt Place and Charlemont Square Block 1

7.4.19. Harcourt Place is a permitted ten storey (max) office scheme to the north of the appeal site. Block 1 of Charlemont Square is new eight storey office building. The standards set out in the BRE are mainly intended for use in residential developments. In regard to non-domestic buildings, the BRE states:

'The guidelines given here are intended for use for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Windows to bathrooms, toilets, storerooms, circulation areas, and garages need not be analysed. The guidelines may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight; this would normally include schools, hospitals, hotels and hostels, small workshops, and some offices.'

'In designing a new development or extension to a building, care should be taken to safeguard the access to sunlight both for existing dwellings,

and for any nearby non-domestic buildings where there is a particular requirement for sunlight.'

7.4.20. It has not been brought to my attention that either of the adjacent commercial buildings has a particular requirement for sunlight. I am therefore of the opinion that these offices provide general use office space and that the BRE guidance and numerical targets contained therein should not be applied rigidly. The updated daylight and sunlight information submitted as part of the appeal applies a mirror image baseline in the assessment of both of the above commercial schemes. In my view this is acceptable, given the scale and position of the permitted and constructed buildings on their respective boundaries. Having considered the results presented as part of the appeal submission, I am satisfied that there would be no detrimental impact.

Separation Distances and Overlooking

7.4.21. The Planning Authority have raised concerns regarding the separation distances between the proposed development and the adjacent commercial development sites to the north and east. The adjacent commercial developments have either been constructed or permitted to the back edge of the pavement on Richmond Villas. In my opinion, the relationship is acceptable given the commercial nature of the adjacent developments and the nature of Richmond Villas as a typical tight knit urban laneway where opposing buildings of scale are not uncommon.

7.4.22. Further concerns raised by the Planning Authority that the development would result in overlooking of the adjoining residential building to the south (Block 7 Charlemont Square) are, in my opinion, unfounded, given the proposal to use 'no vision' glass on the lightwell and the fact that the use of obscure glazing could be extended for the rest of the seventh and eighth floors facades adjacent to the roof terrace, as confirmed by the Applicant.

7.5. Transport

7.5.1. Whilst not forming part of a reason for refusal, several issues were raised by the Transportation Planning Division and the Applicant has sought to address them as part of the appeal submission.

Car Parking

- 7.5.2. The Planning Authority are of the view that the provision of seven car parking spaces would be excessive and consider there to be potential manoeuvring conflicts within the car park itself, in addition to the car park entrance being excessive in width. As part of the proposed amendments, the Applicant has reduced the level of car parking from seven spaces to five spaces. One space would be an accessible bay, two spaces would be used for car sharing and the remaining two spaces would be for servicing vehicles.
- 7.5.3. I acknowledge that the surrounding commercial developments have an element of car parking, but these schemes were approved under a different development plan. The current development plan mandates zero car parking for offices and retail/servicing uses, with the exception of accessible parking. In my opinion, car parking should be reduced further and be limited to accessible parking, having regard to the site location and the various public transport options available in the immediate vicinity. This could be secured by way of condition as could any required works to reduce the car park entrance width.

Cycle Parking

- 7.5.4. The Planning Authority consider the provision of one cycle lift for 168 basement cycle parking spaces to be insufficient and the Transportation Planning Division recommended that the access arrangements should be reconsidered, including the potential for cycle parking to be provided at ground floor.
- 7.5.5. The Applicant has argued that a single bicycle lift would be standard for a development of this size and have stated that the service lift could be used if the dedicated bicycle lift is out of operation. The cycle store accommodates 168 cycle spaces with the main access by means of the bicycle lift. I have concerns regarding the fact that the bicycle lift is the primary means of accessing the bicycle store. Whilst access could technically be gained via staircases in the core, this would be a convoluted route that would not ensure ease of access. In my opinion, the cycle store lift should be supplemented by an alternative, convenient route, perhaps in the form of a dedicated staircase with bicycle running rail.
- 7.5.6. I also have concerns regarding the location of the bicycle lift onto Richmond Street South. The lift is positioned directly adjacent to the loading bay at one of the narrowest points of the pavement. In my opinion, the size of the cycle store and limited capacity

of the lift could lead to congestion at street level, resulting in conflict with pedestrians, and I am of the view that reconfiguration/relocation of the cycle store and access points would be required. However, I am satisfied that these amendments could reasonably be secured by condition or by Further Information and as such do not recommend that permission be refused for this reason.

Servicing and Access

- 7.5.7. As stated previously, Richmond Villas is a narrow laneway with large scale development completed and permitted directly adjacent to the site. Servicing vehicles would use Richmond Villas and concerns have been raised by the Planning Authority (and in observations) that the narrowness of the lane in the context of proposed/approved developments would lead to difficulties for larger vehicles.
- 7.5.8. The Applicant has proposed a further setback of 1m at ground floor level on Richmond Villas which has been submitted as part of the appeal on the basis that this would have sufficient height to allow a refuse truck to enter at Gordon Place and leave at Richmond Villas. I've reviewed the updated information however, the updated auto tracking drawings still appear to show vehicles having to mount the pavement on both the north and south sides of Richmond Villas, with a particular pinch point close to the façade of the proposed development as vehicles emerge at the junction with Richmond Street South. I am not satisfied that it has been demonstrated that larger service and emergency vehicles could use this route in a safe way. However, I consider that this could be addressed by way of further setbacks to the northern edge of the development, which could be secured by condition or Further Information should the Board be minded to grant permission.

Management

- 7.5.9. Concerns raised by the Planning Authority regarding Construction Management, Mobility Management, doors opening over the highway, and taking in charge can all be resolved by condition in my opinion.

7.6. Other Matters

Scheme Revisions

- 7.6.1. The Applicant has proposed various revisions as part of the appeal, the most substantive of which include:

- Omission of the office atrium and associated amendments to the office elevations.
- Reducing the number of new openings in the Protected Structure from seven to one, retaining additional internal walls at ground and first floor level, retaining existing floor at first and second floor level (and connecting door), retention of stairs to the front.
- Installation of a pitched roof to the Protected Structure

7.6.2. The amendments summarised above, and detailed in the appeal submission, would clearly be beneficial in terms of reducing the impact of the development on the Protected Structure, particularly the removal of the atrium and reducing the level of demolition within the Protected Structure, as well as the benefits of creating a public space onto Richmond Street South. However, the scope of the amendments proposed and their effect on the final scheme are such that I would consider them to be significant and material alterations to the scheme as submitted and advertised. As such, I am of the view that they cannot be considered as part of the appeal. In any event, whilst the proposed amendments would be broadly positive in terms of reducing the impact on the Protected Structure, they do not address my concerns regarding the northern arm of the proposed building and the impact on the Protected Structure as a result of the scale, proximity and prominence of this element of the development.

8.0 AA Screening

- 8.1.1. Article 6(3) of the Habitats Directive requires that any plan or project not directly connected with or necessary to the management of a European site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the sites in view of the sites' Conservation Objectives. The Board is the competent authority in this regard and must be satisfied that the development in question would not adversely affect the integrity of the European sites having regard to their conservation objectives.
- 8.1.2. The Applicant has submitted an Appropriate Assessment Screening Report prepared by Altamar Marine and Environmental Consultancy (July 2023). This report considers the closest European sites to the appeal site (within a 15km radius) and evaluates and screens the proposed development to assess if full Appropriate Assessment is

required, with all European sites screened out and no direct pathways identified. This assessment examines the implications of proceeding with the project in view of the conservation objectives for the protected habitats.

- 8.1.3. The Applicant's AA Screening Report concludes that the project would have no direct or measurable indirect impacts on any European sites in close proximity to the appeal site and that no significant impacts of the qualifying interests of any SPA or SAC is likely. Having reviewed the AA Screening Report, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects.
- 8.1.4. The proposed development is not located within or immediately adjacent to any European site. In my opinion the nearest European sites of relevance are the South Dublin Bay and River Tolka Estuary SPA (004024), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), and the North Bull Island SPA (004006). Whilst there are other European sites within a 15km radius of the appeal site considered in the Screening Report, I do not consider that they fall within the zone of influence of the project, having regard to the nature and scale of the development, the distance from the development site, and the lack of an obvious pathway from the development site.
- 8.1.5. There are no watercourses running through the site and the operational development would connect to existing municipal services in terms of water supply and wastewater/drainage. Therefore, there is an indirect pathway to the European sites of Dublin Bay via the Ringsend Waste Water Treatment Plant. I therefore acknowledge that there are potential connections to the European sites within Dublin Bay via the wider drainage network and the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.
- 8.1.6. In terms of potential effects, habitat loss and fragmentation would not arise given the location and nature of the site. Given the site characteristics in terms of location and scale of development, I consider that surface water drainage and wastewater

generation should be considered for examination in terms of implications for likely significant effects on European sites.

- 8.1.7. I note that surface water and foul water would discharge to the combined sewer for onward treatment at the Ringsend WWTP. I do not consider that the increased loading from the proposed development would generate any significant demands on the existing municipal sewers for foul water. I acknowledge that there would be a marginal increase in loadings to the sewer and the WWTP, however, upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening. I also note that evidence shows that negative effects to European sites are not arising.
- 8.1.8. Therefore, having regard to the location, nature and scale of the development, the dilution capacity of Dublin Bay and the insignificant additional loading on the Ringsend WWTP, I am satisfied that there is no potential for the development to result in significant effects on the Dublin Bay European sites, either on its own or in combination with other developments.
- 8.1.9. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. The measures to be employed at construction stage are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.
- 8.1.10. The proposed development was considered in light of the requirements of section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including (but not limited to) European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC) in view of the sites' Conservation Objectives, and Stage II Appropriate Assessment is not, therefore, required.

9.0 Recommendation

- 9.1.1. I recommend that the Board uphold the decision of Dublin City Council and refuse planning permission for the reasons set out below.

10.0 Reasons and Considerations

1. Having regard to the scale, massing of the proposed development and its proximity to the Protected Structure, it is considered that the proposed development would be overbearing on the Protected Structure and would be injurious to its special architectural character, setting, significance, and legibility. Furthermore, the excessive demolition of the interior of the Protected Structure would represent an unacceptable loss of historic fabric that would cause serious injury to its legibility, historic plan form and the hierarchy of internal spaces. Therefore, the proposal is considered to be contrary to the Dublin City Council Height Strategy (Appendix 3) and policy BHA2 of the Dublin City Council Development Plan 2022- 2028 and would be contrary to the proper planning and sustainable development of the area.

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.

Terence McLellan

Senior Planning Inspector

28th June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318150-23		
Proposed Development Summary	Protected structure: Demolition of extension to protected structure, construction of mixed use building and associated site works.		
Development Address	11/12 Richmond Street South, Dublin 2, D02 HX76, 13 Richmond Street South and 17 Richmond Street South, Dublin 2.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
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?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (b) (iv) Urban Development >2 hectares (business district).	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318150-23	
Proposed Development Summary	Protected structure: Demolition of extension to protected structure, construction of mixed use building and associated site works..	
Development Address	11/12 Richmond Street South, Dublin 2, D02 HX76, 13 Richmond Street South and 17 Richmond Street South, Dublin 2.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for offices and retail/commercial development. The wider surrounding area is mixed use comprising both large and medium scale office developments, residential and commercial uses at ground floor. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions, or pollutants.</p>	No.
<p>Size of the Development</p> <p>Is the size of the proposed development</p>	<p>The development would be maximum of eight storeys and the prevailing context is four storeys to the west and between eight and six storeys to the east and south. Permission exists for a ten storey building on the site to the north.</p>	No.

<p>exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>Therefore, the size of the development would not be exceptional in the context of the existing environment.</p> <p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a serviced built up area and would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impacts on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. Impacts have been identified to the Protected Structure on the site, and part of the site is within a Conservation Area, however, the issues raised are not of a scale that would warrant the submission of an EIAR.</p>	No.
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____