

# **Planning in Dublin City, 2005 - 2012: a closer look at large-scale planning applications**

**January 2013**

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## ***Introduction / background***

Since 2005 Dublin City Council received a great many planning applications for large-scale developments. Most prominent in the public mind are a number of key proposals, including those regarding the Jury's/Berkeley Court site, the Mater hospital complex, and Liberty Hall.

For each of the developers involved, the cost in submitting an application ran to millions, and in excess of €30m in the case of the Mater proposal. The above-mentioned applications were all rejected by An Bord Pleanála for failing to meet the requirements of the Dublin City development plan. Therefore, in light of the significant amount of money committed by taxpayers, the decision-making process here is a matter of considerable public importance.

In this document An Taisce gives an insight into aspects of decision-making by Dublin City Council. In doing so, this document also serves to respond to the invitation extended by the Department of the Environment, Community and Local Government when it published its internal planning review on 12 June 2012 ("Planning Review to assess the application of planning legislation, policy and guidance within the development plan and development management systems at local level and to inform further policy development: Planning Review Report").

The Department invited An Taisce to offer substantiation for Dublin City Council's encouragement of planning applications in breach its own development plan, as well as allied breaches of planning policies and practices (see section 1.4.1, page 10 of the internal planning review).

In detailed documents submitted in Oct 2009 and Feb 2010, An Taisce pointed to on-going failures by Dublin City Council in terms of respecting its own development plan, the observation of Ministerial guidelines, and in complying with planning and development law in relation to the keeping of records of pre-planning meetings.

The 2009 submission outlined 19 cases while the Feb 2010 document detailed four more such instances. Between early 2010 and late 2012, a further three cases have emerged to bring the total to 26.

The three recent examples where Dublin City Council granted permission, or gave advice, in breach of its development plan concern, respectively, the National Paediatric Hospital proposed on the Mater site, the proposed replacement of Liberty Hall with a higher structure, and proposals for Canada House, an office block on the corner of Earlsfort Terrace and Stephen's Green.

Unless otherwise stated, references in this document are to the internal planning review conducted by the Department.

## ***Internal planning review***

In 2011 Minister of State for Housing, Mr. Willie Penrose, instigated (or progressed) an internal planning review which was conducted by Departmental officials into the practices of 7 councils.

The outcome of this internal review was published on 12 June 2012, and three months later, in mid September, independent planning expert, Mr Hendrick van der Kamp, was appointed to evaluate the internal review with a view to informing policy development. An Taisce has strongly welcomed Mr van der Kamp's appointment.

In April 2011 Minister Penrose told the Dáil that his Department was "currently reviewing in detail a number of specific complaints" (at section 1.2, page 8). And the internal planning review itself states that:

the Department's approach to the analysis involves assessing all the information provided and presenting it in a concise and thematic format for each of the seven planning authorities (at section 1.3, page 9).

Summarising its own findings, the Department concluded:

The Department's rigorous analysis finds that allegations do not relate to systemic corruption in the planning system. Nonetheless, they raise serious matters ranging from maladministration to inconsistency in application of planning policy or non-adherence to forward plans such as development plans (at section 1.4, page 9).

According to the Department, it "intensively examined all the complaints made" (at section 1.5, page 16), noting that "the allegations made by An Taisce are very serious. They deserve and have been given the fullest attention" (at section 2.1, page 28).

After reviewing the material that follows, readers will be in a position to draw their own conclusions as to whether the Department undertook a "rigorous analysis" which "intensively examined" all the relevant material.

This document concerns only Dublin City Council's planning practices and begins by looking at the issue of statistical comparison.

### ***Comparing like with like?***

In an initial step, the Department attempts to place the 23 major cases highlighted by An Taisce (i.e. the 2009 and 2010 submissions) on a par with all planning applications handled by Dublin City Council over the same period, 2005 to 2009 (section 2.1, page 28).

In effect, the Department tries to deny any difference or distinction between approximately two dozen planning applications with the capacity to alter the city scape on the one hand, with the general preponderance of planning applications on the other.

A large category of general planning applications are for domestic household extensions and changes in the use of buildings. Taken collectively, this category of applications is very significant – and a large number can change the character of an area significantly over time: however, these decisions cannot be compared on a one-to-one basis with landmark developments.

In other words, if a given number of applications for buildings of great height, bulk, scale and mass were allowed to be constructed – and let loom over Georgian Dublin, over the Liffey, and over historic buildings, this cannot be compared with an equal number of proposals for domestic household extensions which would not have such severe consequences on the fabric of our streets.

Unfortunately, in failing to recognise the foregoing point, and by, in effect, equating all applications, the Department slips into comparing apples and oranges at the outset, and goes on to produce statistical results which are not meaningful.

It is precisely because the major applications highlighted would constitute some of the most significant developments in the State that the greatest of care should have been – and should be - taken to ensure that these applications complied with the development plan and with Ministerial guidelines, and that future applications do so comply.

As noted above, the initial 23 cases submitted by An Taisce have since been supplemented by three further highly significant cases where Dublin City Council again mis-interpreted its own Development Plan, namely the National Children's Hospital proposed for the Mater site, Liberty Hall and Canada House.

### ***A note on cases that were substantially varied***

It is suggested above that the Department slipped into error in marshalling statistics. Unfortunately, the Department also appears to have slipped into error in mis-describing the outcome of 8 of the 23 cases submitted in 2009. According to the Department:

15 of the 23 decisions were overturned by the Board while the remaining 8 were upheld (page 28).

The remaining 8 were not 'upheld'. Significant changes were made in all eight cases by An Bord Pleanála, with such far-reaching alterations in all 8 incidences that it is impossible to stretch the meaning of the word "upheld" to cover what was originally granted permission by Dublin City Council.

The terms used by An Taisce to describe the outcomes in these 8 cases is the applications were "significantly amended" or "significantly varied" by the insertion of conditions, or through the use of conditions to omit or radically alter elements of a given proposal that was granted permission by the Council. The images contained in this document give some insight into the real-world implications here.

### ***Height***

The idea that interpreting a Development Plan is a task unequal to ordinary citizens is a myth. In fact, as set out in a series of court judgements, a development plan is to be interpreted as it is understood by ordinary citizens without any particular expertise in town planning or in law.

The May 2008 judgement in *Cicol Ltd. v. An Bord Pleanála* refers to a 1986 case (*In re X.J.S. Investments Ltd*) which held that a development plan should be properly construed in its ordinary meaning as would be understood by members of the public:

a court, in interpreting a development plan, should ask itself what would a reasonably intelligent person, having no particular expertise in law or town planning, make of the relevant provision?

The 2005 Development Plan and relevant Ministerial guidelines are written in relatively straightforward English. In spite of a great many attempts at self-justification after the fact, it is not possible for either Dublin City or the Department to mask the Council's incorrect interpretation of its own development plan so often, and over such a relatively short space of time.

Unfortunately, however, the internal review devotes a great deal of print attempting to persuade the reader that interpreting a development plan is a very complex task (see, for example, page 28); as noted above, An Taisce draws attention to law on the matter.

Where a planning application brings out competition between different provisions in a Development Plan, the Council is called upon to bring balance to bear in its decision on the proposal. This balance is vital, which in turns calls for competence and judgment. All this is obvious, and, in fairness, the internal review acknowledges these points. The point An Taisce made it in original submission, and restates here, is that, in the case of Dublin City Council, that balance was too often lacking.

On the issue of height, the internal review does offer insights into how Dublin City Council led itself into imbalance and error – albeit that the Department seems slow to realise the significance of the information conveyed.

The following extracts, taken from the internal review, summarise the response of the City Manager regarding height:

The Development Plan in place at the time of the decisions referred to allowed for tall buildings to be proposed for any location in the City, but provided that such proposals could be considered only where they complied not only with the set of standards set out in the Plan, but also the range of conservation and other objectives contained therein.

The Manager stated that in reaching its determination in all of the cases referred to the City Council had taken cognisance of these requirements (section 2.1, page 22).

However, the above paragraphs appear to contain a critical omission, one which can go some way towards explaining what has happened since 2005. In the above text there is no reference to the Building Height study by DEGW, incorporated into the 2005 Development Plan by the following text:

A study commissioned by Dublin City Council to examine the issue of Dublin's building height (Managing Intensification and Change: A Strategy for Dublin Building Height, DEGW 2000) identified character areas and locations within the city that would allow for large-scale growth and innovation in building form.

The potential siting of higher building or high intensity clusters within the city will be planned using the principles and criteria enunciated in the study.

It is the policy of Dublin City Council to continue to protect the skyline of the inner city while having due regard to the criteria regarding building heights set out in the above DEGW study (emphasis added, par.15.6 of the 2005 Development Plan).

In other words, in addition to the standards and objectives set out in the plan, it was also policy to have due regard to the criteria set out in the DEGW study. The DEGW study distinguishes between individual high buildings and high intensity clusters by stating:

In Dublin the issue of form and composition can be discussed in terms of the high rise building vs. the high cluster or core.

...

A different evaluation framework is required to determine suitable or appropriate locations for development of each form or composition (par 5.3, DEGW).

The DEGW study identifies three criteria for the location of individual high buildings:

- Key focal or converging points within the road structure of the city wide plan,
- Primary public transport nodes which act as gateways for arrival into the city, and
- Locations which capture continuous, long views across city-wide corridors (at par. 5.4, DEGW).

Moreover, the DEGW study points to 15 locations (see exhibit 5, page 58, DEGW) saying:

The sites are dependent on emerging transport proposals, on detailed study of availability and the surrounding context. A detailed review of these locations is necessary to identify a few preferred and ideal locations (emphasis added; par. 5.4).

The detailed review to identify a few preferred locations never took place, begging the question: why not? And, turning to high-intensity clusters, the DEGW study sets out three criteria:

The potential for intensification in the form of clusters of buildings higher than their context relies on the need for high accessibility. This suggests the need for a different set of criteria for identifying potential locations based on:

- Direct access to public transport from regional and city-wide networks;
- Availability of large brownfield sites to support the scale and extent of such a development;
- Relative distance of new high activity 'places' from established activity nodes within existing areas to ensure they are not compromised.

The study notes that there are “three potential locations for the clustering of high buildings (Exhibit 6)”. Exhibit 6, in turn, identifies the three locations as being within a radius of the three main stations (as per the criteria), namely, Heuston, Connolly and Pearse St rail stations.

In assessing proposals for high buildings, therefore, Dublin City Council should have considered the principles and criteria set out in the DEGW. In other words, the guidance required was on hand.

Dublin City Council is unlikely to have decided or influenced the cases as it did with a clearer understanding of its own plan. The 2005 Development Plan stated that:

The potential siting of higher building or high intensity clusters within the city will be planned using the principles and criteria enunciated in the [DEGW] study (emphasis added).

If a high building were proposed on a site which did not fulfil the DEGW criteria, or if a cluster of high buildings were proposed in an area outside of those identified, Dublin City Council should have clarified the position for the applicant.

But Dublin City Council does not appear to have done this. Put simply, correct advice given during pre-application consultations with the applicant would have ensured key planning applications took the correct course.

Bad advice undermines pre-application consultations. And in some applications, not alone did Dublin City Council fail to discourage high buildings on inappropriate sites but it encouraged them – even though they were the wrong locations.

### ***Jury's/Berkeley Court***

Several impossible-to-explain issues arose in relation to the approach taken by Dublin City Council regarding the development of the Jury's/Berkeley Court site (reg. ref. 5051/07; PL29 S. 228512), most relating to the enormous scale of what was proposed.

An Bord Pleanála found the scale of the retail element to be a material contravention of the Development Plan – the retail element was so large it would impact negatively on city centre shopping. The scale of office development was likewise found to be a material contravention. Additionally, the scale, height and mass of the buildings proposed were found by An Bord Pleanála to be in contravention of the Development Plan.

To gain an insight into the exchanges between the City Council and the developer, we can look at the planning inspector's report on the oral hearing for the scheme. A key witness at the oral hearing was architect for the developer, Mr. Ulric Raysee, who gave evidence to the oral hearing on 19 Sept 2008. Hence, the material below is already on the public record. A notable extract from the inspector's report is as follows:

Mr Raysse told ... [the hearing] that he didn't know anything about the [Irish] planning system at the start of the process, he said he relied on the planners for those issues and took their advice.

The above quote is taken from page 82 of the planning inspector's report and the following two extracts below are from page 92. What was to be the tallest structure on the site was titled Building A:

Mr Raysse, in cross-examination, told the Hearing that some 40 - 50 study/working models were done for Building A during design stage, [and] he indicated that the height changed during the process, [and that] 32-storey and 40-storey versions were considered.

...

Mr Raysse told the Inspector that the p.a. [the planning authority, i.e. Dublin City Council] did not raise concerns about the height of Building A at the pre-application meetings, he said he was surprised that they had [ultimately] refused permission for the tower.

When asked how the height of the Building A was arrived at, Mr. Raysse stated that three different heights were presented to Dublin City Council officials - 32 storeys, 37 storeys and 40 storeys, and:

I remember Jim Barrett saying that the 37 storey tower was more elegant than the 32 storey and that the 40 was over the top. That was the design process that led us to the 37 storey tower.

There were several high buildings proposed in the scheme – not just Building A. The inspector asked: “was there ever any concern raised at those meetings in relation to height of this or other buildings?” Mr. Raysee answered: “not as I recall”. In relation to another high building on the site, Building E, Mr. Raysee said:

During the competition stage we had a lower building but we had a discussion with the city architect Jim Barrett at the time and he felt that it needed some more marking so we increased the floors on Building E.

The developer acted on foot of the Council's encouragement, and increased the height of Building E to 18 storeys – 68.6m OD, higher than Liberty Hall. The revised proposed building was then granted permission by Dublin City Council, as were other high buildings. (Buildings H and J for example were 70.65m and 51.95m OD, respectively.)

Even though Dublin City encouraged the applicant to design and seek permission for the 37 storey Building A, it ultimately went on to refuse permission for Building A of the scheme on the grounds it was a material contravention of the 2005 Development Plan. The Council did not appear to realise this when giving the developer bad/contrary advice.

But if Building A was a material contravention of the Plan, other buildings on the site also in excess of 50m (the global definition of a high building, as referenced in the DEGW study) were also in contravention of the Development Plan. Ultimately, it fell



to An Bord Pleanála to clean up the mess left by Dublin City – but the Council’s incoherence acted to damage the planning process and undermine confidence in advice issued.

### ***Mater Hospital Site***

Similar issues emerge with regard to pre-application consultations by Dublin City Council officials in relation to the National Children’s Hospital proposed on the Mater site (PL29N.PA0024).

The 2006 submission by the Mater to the Government’s Joint Task Group was informed by discussions held with DCC, and contains the following statement:

There are currently no known development constraints in relation to the Mater site (section 1.13, page 32, of the Mater submission, 3 March 2006).

Given the provisions of the 2005 Development Plan regarding height, and the conservation imperative to protect the setting of Protected Structures, the poor advice given by Dublin City Council also appears to have acted to seriously mis-inform the ultimate applicant in the case.

We are aware that the impression was given to representatives from the Mater that it was acceptable to accommodate expansion requirements on the site by increasing height. Similar information was conveyed to representatives of Our Lady’s Children’s Hospital, Crumlin, at a meeting held in Dublin City Council offices with Council officials on 30 April 2007, with the minutes of the meeting recording the following statement from the Dublin Planning Officer:

He also advised that there is no height restriction on the Mater site.

It is clear that the advice received by the applicant, and by representatives of Our Lady’s Children’s Hospital, Crumlin, from Dublin City Council did not comply with the provisions of the 2005 Development Plan, or with a range of conservation and other objectives of the plan. Yet, Dublin City Council continued to strongly defend the scheme throughout the An Bord Pleanála process.

As before, the Board refused permission for the proposal, noting the failure to protect and enhance Dublin’s skyline, as required under the provisions of the Dublin City Development Plan.

### ***Liberty Hall***

A further example of Dublin City Council’s practice of encouraging applicants to apply for high buildings that breach its own development plan is the recent Liberty Hall case (Reg. Ref. 3770/11 PL29N.240350).

It was openly acknowledged several times at the An Bord Pleanála oral hearing, and in the press since (e.g. see the Sunday Business Post of 25 Nov 2012), that Dublin

City Council encouraged the developer to increase the height of the proposed tower. In relation to the height of the building, An Bord Pleanála found:

Having regard to policy SC18 of the planning authority, as set out in the Dublin city Development Plan 2011-2017, which seeks to protect and enhance the skyline of the inner city, inter alia, and notwithstanding the quality of the architectural design, it is considered that the scale and, in particular, the height of the development proposed, would be unacceptably dominant in the city, would be visually intrusive in the streetscape and riverscape and would seriously injure the visual amenities of the city and its skyline. (emphasis added)

### ***Conclusions on height***

If it were the case that An Bord Pleanála only needed to reject or substantially alter Dublin City Council's decisions or advice in a handful of cases then no issue would arise. But this is not the case.

As shown above, Council officials did indeed encourage a proposal in breach of the city's Development Plan in the case of the Jury's site. Again, on the Mater site, the City Council supported a proposal in breach of the city's development plan. Again, the City Council encouraged SIPTU to add height to the structure proposed to replace Liberty Hall, also in breach of the city Development Plan.

Taking these three cases alone – Jury's (encouragement contrary to the Development Plan), the Mater (ongoing support contrary to Development Plan), and Liberty Hall (encouragement of a building in breach of the plan) – the reader is entitled to draw the conclusion that substantiation has been provided for Dublin City's support and encouragement of proposals which were in breach of the Development Plan.

As noted above, the number of cases in which Dublin City Council misinterpreted its own Development Plan, or incorrectly applied Ministerial guidelines regarding major applications, now numbers 26.

### ***How poor City Council practice imposes economic losses on taxpayers***

In the case of the Mater site the consequences are clear: a cost of taxpayers of approx €30m. Where the developer is not the State there is also a cost to taxpayer even if it is less obvious. City Council officials, members of An Bord Pleanála as well as Departmental environmental and heritage officials that review planning applications are all publically-paid employees. The oral hearing into the Jury's / Berkeley Court application alone ran for three weeks – with all the attendant cost that this involves. It would be a very conservative estimate to say that the matters outlined in this document have cost taxpayers well in excess of €40 million.

Recently An Bord Pleanála overturned a decision by Dublin City Council to allow the Canada House office block to extend in height and bulk (21 Nov 2012, reg. ref. 3036/10; PL29S.239791). Canada House is located on the corner of St Stephens Green and Earlsfort Terrace. The appeal was taken by An Taisce.

The amendments allowed by the City Council increased the permitted floor area of the proposed structure by 1,011 sqm to 7,608 sqm, its height from 25.2m to 27.2m, and brought forward the fifth and sixth floors. On appeal, An Bord Pleanála refused the changes, stating:

Having regard to the prominent corner location of the site on Stephen's Green, to the significant number of Protected Structures in close proximity... , the planning history of the subject site and nearby sites, and to the provisions of the Z8 zoning in the Dublin City Development Plan 2011-2017, where it is an objective to protect the architectural design and the overall setting of such areas, ... the proposed amendments to the development permitted under planning register reference number 3036/10 would introduce an obtrusive and visually dominant structure into this historic streetscape setting by reason, in particular, of the solidity of the long elevation to Earlsfort Terrace which lacks adequate visual relief and articulation.

Furthermore, it is considered that the increased prominence and over-elaborate design at fifth and sixth floor levels would be inappropriate. It is considered, therefore, that the proposed development would seriously injure the visual amenities of this area in a manner that would contravene the Z8 zoning objective of the development plan and would be contrary to the proper planning and sustainable development of the area.

This decision shows that An Bord Pleanála will overturn decisions of Dublin City Council where the former contravenes the Dublin City Development Plan. An Taisce is not suggesting that the City Council encouraged the applicant in this case.

The point made here is an economic one: the Council, by its decision-making, continues to grant permission for proposals of undue height, bulk, scale and mass – in spite of the provisions of the Development Plan.

Applicants respond to signals, and invest money in preparing applications. So even though the City Council's approach to major proposals has repeatedly been shown to be mistaken, the Council is causing the owners (and, by extension, leasehold occupiers) of buildings to waste money. The end result is that Dublin City is rendered - needlessly - a more expensive place to locate.

At a city scale, the Council appears to be missing the wood for the trees. This is discussed further below but, in short, a key characteristic of Dublin as a tourist draw for domestic and overseas visitors is its low-rise coherence and proportionality. Throw this out the window and a significant proportion of tourism revenue is likely to be compromised.

Big high bulky buildings here and there may be good for a discrete number of individual developers but a disaster for city tourism as a whole. At City Council level, the economic importance of a vital ingredient in Dublin success – the coherent skyline of the city - appears undervalued.

The costs of addressing the failure of Dublin City Council to comply with its own Development Plan also fall upon ordinary citizens.

Today's legal framework, as amended to take account of the Aarhus Convention, guarantees access to review procedures which "shall be fair, equitable, timely and not prohibitively expensive".

This was not the case for Dublin citizens in recent years. The cost of dealing with the failure of Dublin City Council to respect its own Development Plan was, in a great many instances, "prohibitively expensive". Clearly, further changes are required so that administrative decision-making can be reviewed at reasonable cost. The proposed Planning Regulator, as recommended by Mr Justice Mahon in his tribunal report, also has an important role to play.

### ***The Department's analysis regarding height & next steps***

The Department suggests that:

In relation to building heights, there is an acknowledgement that the previous Development Plan (in place at the time the complaints were made) did not provide sufficient clarity with regard to height policy (page 29).

With the greatest of respect to the Departmental officials who compiled the internal review, this is not accurate. The DEGW study was and is quite clear.

Again, the standards applying to medium and high rise buildings were also plainly set out (in section 15.6 of the Plan). The treatment of protected structures is guided by the conservation objectives of the 2005 Development Plan and Ministerial guidelines. In short, adequate guidance was provided for the proper planning and sustainable development of the city: the trouble, as set out above, was application.

Page 29 of the Internal Review goes on to state that in response to the alleged 'lack of clarity' on height in the 2005 – 2011 Plan,

a new policy to guide strategy for building height in Dublin was set out in the 2007 publication "Maximising the City's Potential". A public consultation was held on the document and as a result of the strong response to the proposed strategy, the Members of Dublin City Council included clarity on height policy as a key policy area in the new Development Plan.

The "strong response" to the proposed strategy was one of overwhelming rejection of high buildings in the city. In fact, the public opposition to the height strategy was so strong that the document was, in effect, shelved.

Instead, contrary to the wishes of the public, and contrary to the international norm, Dublin City Council officials encouraged Councillors to change the definition of low-rise. Instead of the globally-accepted definition of 15 metres, the term "low-rise" in Dublin now applies to an office block in the Inner City of almost twice that height, i.e. 28 metres. In key cases under the 2011 – 2017 Development Plan, for example, Liberty Hall and Canada House, An Bord Pleanála overturned the decision of Dublin City Council, finding that the structures proposed were simply too tall or obtrusive.

And so, despite the contentions of the City Manager, the provisions relating to height in the current Development Plan are not sufficiently clear. An Taisce suggests that the only coherent approach now is to go back and develop the DEGW study. And yet, the response of the Department in relation to height is that:

No further action is therefore required (page 28).

It is queried if the Department is aware that the 2011 – 2017 'height policy' has been adopted not only in the absence of the 'detailed review' to identify the few locations called for in the DEGW study, but also in the absence of a Views and Prospects Study to assess the impact of high buildings on the skyline and the architectural heritage of the city.

In terms of explaining Dublin City's treatment of its Development Plan, one suggestion is that the Council sought to place itself in the shoes of applicants, adopting a genuinely held belief that higher, bulkier buildings would better serve the economic interests of applicants.

But, as noted above, the key point is that such a perspective overlooks the welfare of the city as a whole: Dublin's coherent low-rise profile makes it welcoming to domestic and overseas visitors alike, from day-trippers to film directors.

Moreover, because decisions of Dublin City Council have generated such uncertainty, this has a chilling effect on transactions and the take-up of new occupancy, particularly between the canals.

Today, with cultural tourism a key growth area, it would be very foolhardy – from a national economic perspective, as well as regional one – to depart from the recommendations of the DEGW study, and undermine the benefit of the decisions by An Bord Pleanála since 2005.

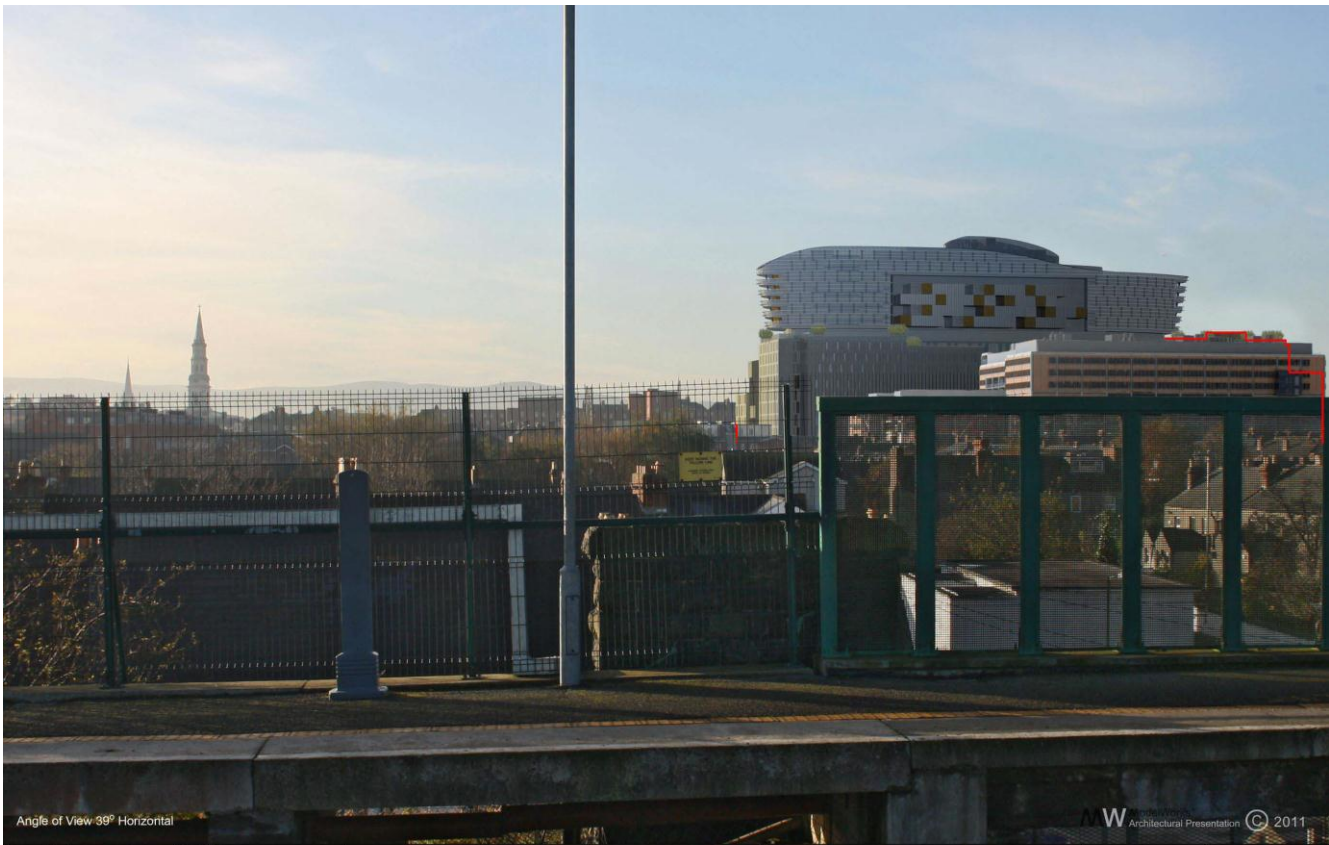
Put very simply, an out-scaled or excessively high building might bring benefits to an individual developer. However, over the longer term, where more incongruous buildings pock-mark the city, the overall effects on the regional and national economy are negative.

To give a picture of the real-world implications here, please see below images of buildings that were either granted permission by Dublin City Council, or strongly supported / encouraged by it.

Given the importance of tourism revenue to the economy as a whole, An Taisce submits there is a case for the Department of Finance to take a keener interest here and has therefore copied this report to both Fáilte Ireland and the Department of Finance.

### ***Sample images***

Images below: the first four images are of the Mater proposal. Endorsed by Dublin City Council the plans were rejected by An Bord Pleanála on 21 Feb 2012.



Angle of View 99° Horizontal			NW Architectural Presentation © 2011	
Issue Date:	15-03-11	Photo Info:	19-11-2010 10:20	Drumcondra Train Station
			VIEW 14	PROPOSED







Image below: an 11 storey structure on the site of the former Motor Tax Office close to the Four Courts was granted permission by Dublin on 11 Aug 2008. Permission was refused by An Bord Pleanála on 10 June 2009, with its inspector's report noting:

the Council was prepared to grant permission for an eleven-storey building close to the Four Courts without really knowing what it was going to look like. I also think that the lack of any specialist conservation appraisal of the proposal is significant.

The case formed part of the 5 Oct 2009 dossier submitted by An Taisce.



The first two images below are of the 37 storey tower proposed for Ballsbridge, a structure encouraged by Dublin City planners. While Dublin City Council granted permission for most other elements of the proposal, the tower was refused for materially contravening the Development Plan (by the City Council itself). On appeal to An Bord Pleanála, the scheme was comprehensively rejected.

The third image below shows the proposal for Liberty Hall. Dublin City Council granted permission. On appeal to An Bord Pleanála, the permission was overturned.







### ***Massing and scale***

In relation to massing and scale, the combined analyses of Dublin City Council and the Department appear somewhat confused.

In something of a jumble, Dublin City Council claimed to the Department that virtually all of the relevant cases found by An Bord Pleanála to have excess mass, scale and/or bulk in fact support the City Council's approach. The perplexing paragraph reads as follows:

In respect of the issues of massing and scale, the Manager outlined that these are a combination of density, plot ratio and site coverage and are tools for measuring the quantum of development. The current Plan sets out indicative standards for these and he considered that, on examination of the cases referred to, the Board appeared to support the Council's approach (emphasis added, section 2.1, page 23).

Where the Department stands on this incorrect claim is not exactly clear; little analysis is apparent. What the record shows is that An Bord Pleanála, far from endorsing the City Council, made its lack of support for the Council clear in either deciding to refuse permission because there was excessive scale or mass/bulk - or by requesting significant changes to the proposed schemes which involved reductions in scale.

In fact, of the 23 cases listed, the only exception to this was the proposal for a floating pontoon on the River Liffey (reg. ref. 6814/07; PL29N229147). No reference was made to mass or scale in this instance, for obvious reasons.

### ***Zoning***

In relation to the Jury's site, the Manager's response attempts to justify the granting of permission for the large scale retail element of the proposal on land zoned Z1 (where the relevant permitted use is "neighbourhood shop"), as follows:

The subject site was adjacent to the designated district centre zoning Z4 and the proposed level of shopping was deemed to be complementary to this existing district centre zone (emphasis added).

The “level of shopping *deemed to be complementary* to the existing district centre zone” was twice the size of the total retail offering of Rathmines, and, to take another comparison, greater than the retail offering of the following three developments combined: the Blackrock Shopping Centre, the Frascati Centre and the Merrion Centre. An Bord Pleanála itself found that:

the quantum of retail development is excessive and would thereby militate against achievement of the residential land use zoning objective and would divert retail investment and activity away from areas designated for such use (including the city centre).

The Manager’s Response also refers to the ‘embassy’ use on the site in the following terms:

It is acknowledged that the Bord also omitted the proposed “Embassy Office” on grounds of constituting a material contravention of the land-use zoning of the area. The Bord considered it to be a general office use whereas we considered it to be ancillary to an Embassy use which is a unique land-use in this area of Dublin.

The above paragraph could easily mislead readers. The planning application did not propose “Embassy Office” use (such a use category did not exist in the 2005 Development Plan), as the response of the city manager describes. In fact, the use proposed was 13,251sqm of “embassy”; “the development will comprise a mixed use scheme comprising ... embassy (13,251sqm)”.

The blocks were designed as offices (something which emerged at the oral hearing and from pre-application records). As the application progressed, it was realised that the Development Plan did not support office blocks, and so they were re-labelled as ‘embassy’.<sup>1</sup> Seeing through the re-labelling hokey pokey, An Bord Pleanála declined permission.

### ***An Bord Pleanála’s alleged miscalculation***

With regard to one application, the Department accepts a contention made by Dublin City Council that An Bord Pleanála made a miscalculation. Unfortunately, from the text of the internal review, there is no evidence the Department actually examined the situation itself. According to the internal review:

the fact that a planning authority and An Bord Pleanála can arrive at different judgements on the same application is not necessarily a reflection on the abilities or competence of the staff of the planning authority, nor does it necessarily signify a disregard for the Council’s planning policies. The argument put forward by Dublin City Council that An Bord Pleanála arrived at

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<sup>1</sup> For clarity, a comment by the City Manager regarding the ‘Veterinary College Site’ appears to imply a suggestion by An Taisce that An Bord Pleanála found that the proposal for development on the Veterinary College site did not comply with the zoning designation. An Taisce made no such suggestion.

an incorrect decision as a result of a miscalculation in respect of permissible office development is, therefore, a perfectly valid one (section 2.1, page 28).

The suggested 'miscalculation' above relates to a planning application for office development in south Dublin (where Brookvale Road meets Donnybrook Road; see page 3 of the Manager's response, 16 July 2010). In the Department's internal review, the case (reg. ref. 2352/09 PL29S.233611) is summarised as follows:

[The] Board ruled that the proposed office development was considered a material contravention of the zoning objectives of the Development Plan. However, on examination of the file, the City Council are [sic] of the opinion that the Board may have miscalculated the extent of the office development proposed. It is the opinion of the City Council that the office suites proposed are within the range stated in the Development Plan and are therefore compliant with the Plan.

As noted above, no analysis of Dublin City Council's claim to the Department is evident. The application in question sought permission for office space with a gross floor area of 5,371 sqm. (This, in turn, was divided between Block A of 3,361.7 sqm, net, with suites ranging in size from 363.4 sqm, gross floor area (GFA), to 846.8 sqm GFA, and Block B, 976.7 sqm, net, with suites ranging in size from 163.8 sqm GFA to 208 sqm GFA).

In spite of what was applied for, the site is located in an area designated Z4 which, in the 2005 Development Plan, is capped in terms of permissible office space at "max. 600 sqm" (section 14.4.4 of the 2005 Plan). And so, the second reason given by An Bord Pleanála in refusing the development was:

The proposed development is located in an area zoned Z4, 'to provide for and improve mixed services facilities' in the Dublin City Development Plan 2005-2011, wherein (section 14.4.4) it is stipulated that office (maximum 600 square metres) is a permissible use, while warehousing and office (maximum 1,200 square meters) is a use which is open for consideration in this Zoning objective. The proposed development, by reason of the total office gross floor area proposed would contravene materially the development objective as set out in the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.<sup>2</sup>

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<sup>2</sup> In reality the total maximum permissible is 600 sqm, i.e. 11% of what the applicant sought to build. Rather than refusing permission for all 5,371 sqm, it is true that the Board could, by way of condition, have allowed 600 sqm (11%), and refused the rest.

But, by claiming a miscalculation, is the City Council suggesting that each individual suite should be taken on its own, and the maximum figure of 600 sqm applied office-suite-by-office-suite? Under such a rationale there would be no effective maximum at all, and a developer could provide thousands upon thousands of square metres of office space - once all the suites were no larger than 600 sqm. This would seem to be a curious position for the City Council to take but it is the one the Council conveys: "it is the opinion of the City Council that the office suites proposed are within the range stated in the Development Plan and are therefore compliant with the Plan". It will be noted that some of the office suites proposed exceeded the 600 sqm limit.

## **Conservation**

The failure of Dublin City Council to have adequate regard for the built heritage of the city has been of great concern to An Taisce, among others, and it was a central issue in the October 2009 and February 2010 submissions. The City Manager's response states:

In relation to all the cases referred to, proper consideration was given to all relevant conservation policies and guidelines and these were balanced against all the other policies that the Council is obliged to consider in making its decisions.

The internal review then goes on, essentially, to reiterate this statement without any real further examination (section 1.2, page 23).

In fact, of the 23 cases identified in the 2009 and 2010 submissions, An Bord Pleanála clearly found the consideration given to conservation to be inadequate in 20 cases, while, in the remaining 3, conservation did not arise (Veterinary College Site, reg. ref. 4798/07; PL29S228224; Usher's Island/Island Street, reg. ref. 5623/07; PL29S.228245, and the site at Donnybrook Rd / Brookvale, reg. ref. 2352/09; PL29S.233611).

Turning to the 20 cases, An Bord Pleanála typically found that the development in question would *"injure the visual amenity of the area"*, or *"depart significantly from the established character of the existing architecture in the vicinity"*, or *"intervene with views and prospects of special amenity in the environs of the site which it is necessary to preserve"*, or *"fail to respect the character of the historic residential area"*, or that the proposed development would *"adversely impact on the setting of protected structures"*.

If, in spite of all this weight of evidence, decision-making and authority from An Bord Pleanála as Ireland's planning appeals board, the Department is still somehow able to conclude that the consideration of conservation by Dublin City Council was a balanced one, it begs a question: did the Department officials read the relevant 20 decisions?

## **Records of pre-application meetings**

The failure to place records of pre-application meetings on the public record came to light in the Carlton case after An Taisce brought it to the attention of the Minister. (The issue also arose in Carlow where the Director of Services for Planning was transferred from one post to another after failing to keep notes of meetings with developers. For clarity, this was not the only matter of concern in Carlow.)

A failure to record notes of a pre-planning meeting is a breach of the law. Section 247(5) of the Planning and Development Act provides, under penalties that extend to jail sentences, that:

The planning authority shall keep a record in writing of any consultations under this section that relate to a proposed development, including the names of those who participated in the consultations, and a copy of such record shall be placed

and kept with the documents to which any planning application in respect of the proposed development relates.

Where mistakes are made, such records are also vital in establishing afterwards how things went wrong, and why. It had been hoped that an investigation by Departmental officials might shed some light on this aspect of Dublin City Council's planning practices for the Minister but, in something of a recurring trait, the internal review appears to accept yet again the Council's account without any real scrutiny:

The failure to maintain pre-planning consultation records in all cases has also been addressed, the City Council having acknowledged that the pre-application records in respect of one of the cases cited by An Taisce were incomplete (section 1.4.1, page.10).

Taking the case where Dublin City accepted it breached section 247, (and has acknowledged this to the Department), what sanctions were applied? The Department does not address this but simply states what should happen:

Properly maintained records of pre-application consultations are essential for the purpose of full transparency and accountability in the planning process. All relevant records should be maintained on file and made available for inspection in accordance with the provision of planning legislation and statutory Guidelines (page 11).

The failure to record pre-planning meetings extends beyond one case (and we detail that below). But, moreover, the failure has persisted even after the Dublin City Manager pledged that it had stopped. In his response of 16 July 2010 to the Department, the City Manager states that:

Arrangements were put in place to ensure that all pre-application consultations are recorded and maintained.

And yet, just over two months later, on 24 Sept 2010, a contrary situation emerged at an oral hearing. The hearing concerned a proposed development at the RTE site in Donnybrook (reg. ref. 4057/09; PL29S.236717). In response to a request from An Taisce for records of meetings under section 247, copies of notes of some 'informal' meetings were provided to the hearing.

Then, in the oral hearing, the practice of having 'informal' meetings with applicants was discussed. Mr. Niall McDonnell, Senior Planner with Dublin City Council handed over to Mr. Patrick Healy, Senior Executive Solicitor with Dublin City Council, and the Council's solicitor stated:

"The Planning Authority ('PA') distributed notes to the parties here present concerning the meetings which were held prior to the commencement of the formal planning process, on receipt of a request from An Taisce. The details of the meetings were not recorded on the public record.

[Counsel for Mr Dermot Desmond] Mr. O'Donnell asserts that they are required to be recorded in accordance with Section 247(5) of the Planning and Development

Act 2000. Section 247 of the Planning and Development Act provides the statutory procedure for consultations with the PA in relation to a proposed development.

The PA is of the view that the Section does not preclude the holding of other types of meetings and/or informal discussions with the party concerning a proposed development prior to the completion of a formal application for planning permission. As such, there was no breach of the planning legislation on the part of the PA. It holds this view for the following reasons:

1. The holding of informal meetings and/or discussions is not specifically excluded by Section 247
2. The Section envisages a very specific procedure referred to in Section 247(2) as consultations under subsection (1). Should a party evoke a consultation under the Section 247(1), the terms of Section 247(2) indicate that the PA shall give advice in relation to: a) the procedures involved in considering a planning application, b) any requirements of permission regulations, and c) must indicate the relevant objectives of the Development Plan which may have any bearing on the decision of the PA under Section 247(1). The PA is not required to give advice on any other matters but, of course, it may give advice if it so wishes. The terms of Section 247(1) and (2) can be said to be somewhat limited in their remit and scope and for this reason it is submitted that the section contemplates, and does not specifically exclude, other types of consultation.
3. The wording used in Section 247 would also appear to confirm this point. Section 247(2) specifically refers to consultations “under subsection (1)”. However, in contrast, Section 247(3) refers more generally to the carrying out of “consultations” which would appear to include types of consultations other than consultations “under subsection (1)”. Moreover, under Section 247(5) the PA is required to record details of the consultations made “under this section”, i.e. Section 247, and by implication, is not required to record details of consultations made otherwise than under the specific statutory procedure.

The PA thus reiterates its view that not all pre-application consultations are required to be recorded on the public file.”

Following this, Mr. Dirk Hutterman, Town Planner (acting for appellant Dr. Michael McKillen), asked senior planner Mr. Niall McDonnell, whether he was aware of the Development Management Guidelines for Planning Authorities, and Mr Hutterman stated his belief that the spirit of the Development Management Guidelines require all pre-planning meetings to be recorded. Mr. Healy requested that he be permitted to answer the question, and said:

The Development Management Guidelines refer to Section 247 as well. It's very specific – it's talking about meetings under 247. It doesn't really talk in terms of the informal meetings. I suppose there were always informal meetings before this provision was actually introduced. It's a little bit confusing.

In fact it might have been better if they had said all meetings have to be recorded but that's not the way it is and sometimes when minutes aren't properly taken, sometimes it can be more beneficial – as you know.

Ms. V. O'Shea for An Taisce then asked Mr. McDonnell how the Council determines which meetings are formal and what criteria distinguish formal and informal meetings, to which Mr. McDonnell replied:

Well if somebody requests a meeting it's not unusual for people to say 'I want to have a meeting in accordance with section 247' – that would then be a meeting.

Ms. V. O'Shea followed up by asking: "so people will request a meeting in accordance with section 247?" And Mr. McDonnell responded:

People will say that, yes, and in some cases we might even ask them 'Do you want this meeting to be in accordance with section 247?' People say 'yes' or 'no' and it's up to the individual.

Hence, under Dublin City Council's planning practices, the applicant seems capable of determining what records are kept on file – simply by 'saying' whether or not he or she wants the meeting to fall under section 247 – and the Council also seems capable of steering the applicant (largely through sharing - or withholding - the Council's own, somewhat involved, interpretation of section 247).

In the first instance, the evidence given at the September 2010 oral hearing by Dublin City Council's own Senior Executive Solicitor directly contradicts the City Manager's statement to the Minister two months earlier, namely, that -

Arrangements were put in place to ensure that all pre-application consultations were recorded and maintained on the file (emphasis added).

Pre-application records were missing for more than the Carlton planning application. In the Jury's / Berkeley Court application, for example (Reg.Ref.5051/07), the records of meetings held on 6 Dec 2006, 21 Feb 2007 and 13 July 2007 could not be found on file.

Another example of the failure to observe the Manager's assurance of 16 July 2010 (that "arrangements were put in place to ensure that all pre-application consultations are recorded and maintained") occurs in the case of the application for the National Children's Hospital on the Mater Hospital site (ref.PA0024).

Here, a number of the pre-application records of meetings between Dublin City Council officials and the developer, referenced in the Environmental Impact Statement, could not be found on the file available to the public. (The missing records concerned meetings which took place from late 2009 to early 2011.)

Following a request for records, notes of some meetings were subsequently made available. In other words, section 247 was breached again here, with the failure to make and place records on the public file.



### ***Pre-application consultation records***

To provide an insight here, we have included as the first annex to this document the record maintained by Dublin City Council for the meeting held on 19 April 2010 with the applicants of the National Paediatric Hospital then proposed on the site of the Mater hospital (ref.PA0024).

Permission for the Mater proposal was sought under the Strategic Infrastructure Act and consequently further pre-application consultations took place between the applicants and An Bord Pleanála. It is interesting to contrast the detailed minutes taken by An Bord Pleanála - copies of which were made freely available to the public well in advance of the oral hearing – with those written by Dublin City Council.

In terms of the quality of the records, we refer readers to the annexes to view for themselves as to whether “the issue of properly maintaining records of pre-application consultations” has been addressed, as the Department of Environment states it has been in its internal revenue. Please see Annex 1 and Annex 2, below.

A final point worth noting is that at its meetings with the applicants of the Mater proposal, Dublin City Council did not appear to consider height a primary planning issue; again, this contrasts with the consideration by An Bord Pleanála, which realised the critical nature of the height of the proposed building, as well as its bulk and massing.

As the above shows, there is a need for action on section 247.

### ***Claimed inaccuracy***

In spite of a claim to the contrary (by the Dublin City Manager), the correspondence from An Taisce did not suggest that the Council had approved the development of a 13 storey building on the Carlton site. (We are not sure how confusion arose here: for clarity, Dublin City granted permission for a structure of 9 storeys. An Bord Pleanála sought and received revised drawings from the applicant which involved very substantial changes, with permission later granted by the Board for a much-changed scheme.)

Similarly, An Taisce made no suggestion that Dublin City Council officials instigated a local area plan for the Ballsbridge area. We understand that the file submitted in July 2009 by Ballsbridge residents sets out how a local area plan came to be proposed, and how it was subsequently rejected by Councillors. For An Taisce, the key point was that the local area plan envisaged for Ballsbridge was inconsistent with the City Development Plan.

Whatever support given by planning officials of Dublin City Council for the Draft Local Area Plan, it was roundly rejected in June 2007. An important point worth recalling is that, by backing such a draft, Council planners abandoned a long-held goal of distributing re-development to areas that really need it, something well captured in the following editorial:

Ballsbridge has long been a target in the sights of property developers. Its leafy roads have always been prized for their relatively high values since they were first laid out by the Pembroke Estate and others in the 19th century. The area first came under attack in the 1960s for office blocks and hotels, and it was in the wake of this wave - which continued until the 1980s - that Dublin's planners adopted a more restrictive approach to preserve as much as possible of Ballsbridge and redirect development to areas that really needed urban renewal, notably the inner city. This policy benefited places that had been scarred by dereliction and redundancy.

Over the past two years, however, the planners changed tack and appeared to indicate that higher density - including high-rise - mixed-use schemes would be permitted right in the heart of Ballsbridge. Certainly, some developers such as Seán Dunne were under the impression that they would get some comfort from the planners... (Irish Times, 14 June 2007).

### ***Actions taken, or to be taken, by Dublin City Council***

In terms of actions taken, or to be taken, to address the non-application of the Development Plan and Ministerial guidelines, we retain our optimism that change will come and hope this document will play a progressive part in outlining the case for change.

According to the City Manager, it is established practice to undertake a number of actions, including the following two, which we address in turn below:

- Presentations by the planning department on particular applications to Area Committees, and
- The availability of all supporting documentation in respect of a planning application for inspection, including planners' reports.

### ***Presentation to Area Committees***

An Taisce has some reservations regarding presentations to Area Committees, reservations that are best illustrated by noting the information which was conveyed at one such presentation on 10 Sept 2007. The presentation, which concerned the Jury's / Berkeley Court application, was made by the Senior Planner, who communicated as follows:

- The scheme was described as "*fairly high*": in truth, this scheme contained the greatest number of buildings ever proposed in Ireland with heights in excess of 50m.
- Ballsbridge is the city's embassy district and there was a building "*designed for embassy*" use. The building in question was found by An Bord Pleanála to be an office block;
- The scheme was a "*well considered ... almost ideal mixed-use scheme*", but again this was roundly rejected on appeal;
- There was "*positive emphasis on sustainability*": An Bord Pleanála found it to be contrary to sustainable development on five counts;

- It “*would provide district facilities for the area*”: An Bord Pleanála found that it constituted gross over-development and that the scale of retail was so vast it would take shoppers from the City Centre.

At the meeting itself City Councillors themselves pointed out to the Senior Planner that the proposal did not comply with the Development Plan. (There was one exception to this, with Cllr. Deirdre Keane explaining that, when she talked to planners, “I’m told that it’s in keeping”.)

### ***The availability for inspection of all supporting documentation regarding a planning application***

We would refer back to the section 247 issue here (discussed in detail above).

Clearly, sparse or sketchy notes of pre-planning meetings are of limited benefit to the decision-making process, and/or to guide any future planning application/s. An Taisce would point to the standard of records made by An Bord Pleanála as offering a good template in this regard (please see the second annex).

In terms of the issues above, An Taisce hopes for change, and the enhanced decision-making which would result.

### ***Overall conclusion***

The decisions of An Bord Pleanála point to a seeming on-going inability within Dublin City Council’s planning department to respect core provisions of both its development plan and of national policy, with particular regard to the impact of height, scale, mass and bulk of proposed structures – a conclusion underpinned by the City Council’s endorsement of over-scaled plans for a National Children’s Hospital at the Mater, a higher Liberty Hall, and an enlarged Canada House, all of which have since been roundly refused.

With regard to the suggestion by Department of Environment officials that there was “no evidence” to support the view that officials had “encouraged applications which breached the development plan” (section 1.4, page.10), the contrary has been shown.

Based on just three cases alone – Jury’s/Ballsbridge, the Mater/Children’s Hospital, and Liberty Hall – the reader is entitled to draw the conclusion that substantiation has been provided for Dublin City’s support and encouragement of proposals breaching the Development Plan.

Similarly, the reader is entitled to draw the conclusion that substantiation has been provided for the failings encountered relating to records of pre-planning meetings.

Bad advice given by Dublin City Council has burdened taxpayers with additional costs in the region of €30m to €40m directly, as well as further millions, or tens of

millions, in indirect losses to the economy as a whole due to the incoherence, confusion and delays Council planners caused.

More positively, however, if the seminal nature of the decisions concerning the Mater site, Liberty Hall and Canada House comes to be realised and acknowledged by Dublin City Council, it will be possible to avoid these costs in future.

An Taisce remains of the view that only independent investigation (for example, similar to the Quinlivan Report in County Carlow) can inspire the necessary public confidence and help rebuild widespread trust in the planning system.

The key recommendation of the Mahon Tribunal report for the establishment of a fully independent Planning Regulator should form the basis for reform – including the implementation of a great many positive steps to enhance the planning system outlined in the internal review.

As recommended by Mahon, a fully independent Planning Regulator will ensure that, at the very least, bona fide complaints are independently investigated and evaluated within a single process. An Taisce strongly commends what is the leading reform proposed by Mr Justice Mahon: is it the single most important step the Minister can take and one that will leave a lasting and positive legacy, benefitting planning in Ireland today and for generations to come.

Finally, An Taisce looks forward to working constructively to help shape an enhanced and responsive planning system of greatest benefit to all.

**Annex 1 – Pages 29 to 31: Minutes recorded by Dublin City Council at its meeting with the applicants for the National Children’s Hospital then proposed at the Mater, 19 April 2010.**

**Annex 2 – See accompanying document: Minutes recorded by An Bord Pleanála at its meeting with the applicants for the National Children’s Hospital then proposed at the Mater, 2 December 2010.**

8/10/2010

April 19<sup>th</sup> 2010

WATER HOSPITAL - CHILDREN

APRIL 19<sup>th</sup> - KGM - ROOM 13.

PAUL KEARNS - PLANNING DCC

Ali GREHAM - DCC ARCHITECTS.

MICHAEL STUBBS - PLANNING DCC

Dick Gleeson DCC Playlight

Nicki Matthews. Conservation

Johnny Kelly RPS Planning & Environment

Christina <sup>MS</sup> George RPS Planning + Environment

Paul de la Roche - NGE.

Sam Martin - OCMA.

KEN SCHWARTZ NBBJ

CLARE WHITE OCMA(NBBJ).

PAUL HERDE. NPH PROJECT MANAGER.

CHUCK KELLEY EIS Hd

D. Q. STEIN EIS EIR

ATTENDANCE sheet

- ~~MADE TO~~ - Mon 14th April.

April 14th -

PUE APP.

→ APPLICANTS MEET REP LEOST  
AREA ON TENT/SCOPE OF DEVELOP.  
two CLRS - conclusions -

→ PRESENTATION OF FOOTPRINT/  
STREET SCENES PRESENTATION  
legibility -

→ PODIUM/THERAPY PARK - PRESENTATION  
- MODEL PENETRATED  
CLIPPING/FORMATION

→ <sup>ALL GIVEN</sup> UNDERSTANDING THE MODEL  
DIFFICULTY OUT OF CONTACT  
JUMPING FROM MODEL TO DETAIL  
VISUALS OF PANELS

→ How RELATED WITH  
'UPPER LEVEL' - PRESENTATION

1/

→ Visual impact  
Argument -

Presentation:  
Choice of visual  
importance.

→ D. Chrysol V. C. B. E.  
VIEWS - RANGE.  
(How style is viewed -)

Serious concerns.  
(Ali) - uncommunicating proportion of '3' elements  
(Dirk) - uncommunicating 'chrysol' means  
- Cellin Appearance  
- Comparison to 'Anva' landscape and stream  
Impart  
→ Shadow stones