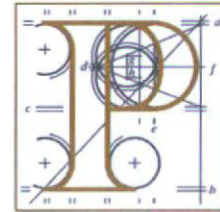


Our Case Number: ABP-315358-22

Planning Authority Reference Number: 4951/22



**An
Bord
Pleanála**

Dublin City Council South
Dublin City Council
Planning Department
Civic Offices, Wood Quay
Dublin 8
D08 RF3F

Date: 21 December 2022

Re: PROTECTED STRUCTURE: Conservation and refurbishment of the existing north wing and part of the east wing of the National Concert Hall and the Real Tennis Court building and the construction of a new four storey over basement extension with a planetarium dome to the west of the north wing at the boundary of the Iveagh Gardens. Change of use of the former UCD School of Civil Engineering to the National Children's Science Centre. The National Concert Hall, Real Tennis Court and Iveagh House (Department of Foreign Affairs) and Iveagh Gardens, including stone garden folly are designated Protected Structures (References RPS 2425, 2426 and 7791).
National Concert Hall, Earlsfort Terrace, Dublin 2

Dear Sir / Madam,

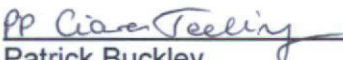
Enclosed is a copy of a further appeal under the Planning and Development Act, 2000, (as amended).

As you are aware, the planning authority's decision in the matter is already the subject of an appeal to the Board. Under section 129 of the Planning and Development Act, 2000, (as amended), as a party to the appeal you may make submissions or observations in relation to the enclosed appeal in writing to the Board within 4 weeks beginning on the date of this letter.

Please note that in accordance with section 251 of the Planning and Development Act, 2000, (as amended), the period beginning on 24th December and ending on 1st January, both dates inclusive, should be disregarded for the purposes of calculating the last date for lodgement of submissions or observations.

Any submissions or observations received by the Board outside of that period shall not be considered and where none have been validly received, the Board may determine the appeal without further notice to you. Please quote the above appeal reference number in any further correspondence.

Yours faithfully,


Patrick Buckley
Executive Officer
Direct Line: 018737167

BP06 - Xmas



Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

CUNNANE STRATTON REYNOLDS

CSR Ref 181222/EMP/22416

Dublin City Council Reg. Ref: 4951/22

20th December 2022

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 2

AN BORD PLEANÁLA	
LDG-	<u>060113-22</u>
ABP-	
20 DEC 2022	
Fee: €	<u>220</u> Type: <u>cheque</u>
Time: <u>15.04</u>	By: <u>hand</u>

BY COURIER

Dear Sir/Madam,

RE Third Party Appeal against the grant of planning permission by Dublin City Council for the conservation and refurbishment of the existing north wing and part of the east wing of the National Concert Hall and the Real Tennis Court Building and the construction of a new four storey over basement extension with a planetarium dome to the west of the north wing at the boundary of the Iveagh Gardens. The development includes the change of use of the former UCD School of Civil Engineering to the National Children's Science Centre.

**The National Concert Hall, Earlsfort Terrace, Dublin 2.
Dublin City Council Reg. Ref. 4951/22**

We, Cunnane Stratton Reynolds Ltd, 3 Molesworth Place, Dublin 2 have been appointed by the Irish Real Tennis Association (IRTA) with an address at 114 Silchester Park, Glenageary, Co Dublin to lodge this third party appeal against the grant of planning permission issued by Dublin City Council under Manager's Order P5266 dated 23rd November 2022.

Please see attached a cheque for €220 as the appropriate fee in this instance.

Please also see a copy of the acknowledgement in respect of our client's objection in respect of the planning application originally lodged.

DUBLIN OFFICE
3 MOLESWORTH PLACE DUBLIN 2
TEL: 01 661 0419 FAX: 01 661 0431
EMAIL: info@csrlandplan.ie

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Joe Cunnane BA (Hons) Dip TP MRTPI MIPI
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ARDA CONG, BALLYTRASNA, TUAM
CO GALWAY
TEL / FAX: 093 80854
EMAIL: galwayinfo@csrlandplan.ie

Our client reiterates its position on this application. It welcomes this planning application insofar as it purports to enable not just the restoration of the Real Tennis Court but its use in play. The restoration cannot be considered complete or in order if it does not involve the return of the Real Tennis Court to use for real tennis. The court is needed for play. Anything short of the return of the court to use for real tennis would fail to address the concerns not only of our client, but also of other interested parties, including some very informed individuals and organisations.

The IRTA

The Irish Real Tennis Association (IRTA) exists to promote the sport of Real Tennis in Ireland, and has been working for more than twenty years towards the return of the Earlsfort Terrace court to play. It organises annual tournaments, which by necessity are held abroad because there is no playable court in Ireland. The observation lodged by the IRTA sets the scene on the Dublin Court. The Real Tennis Court on Earlsfort Terrace is the only surviving real tennis court on the island of Ireland, and is distinctive amongst all real tennis courts in that slabs of Galway limestone were used to face its walls and to pave its floor, and these thus form the playing surfaces of the court.

The IRTA's objection to the appealed application

The IRTA does not object to the principle of the proposed development of the National Children's Science Centre under Dublin City Council (DCC) reg. ref. 4951/22. The key points from its original objection to this latest application are as follows:

1. The Irish Real Tennis Association ('IRTA') made observations to Dublin City Council ('DCC') in respect of Planning Application Reference Number 4951/22 by letter of 1st November 2022. These observations related in particular to the real tennis court on Earlsfort Terrace. The application is for the development of a National Children's Science Centre. The proposed project anticipates significant restoration / conservation of the fabric of the real tennis court, and the IRTA welcomes this aspect.
2. Planning Application Reference Number 4951/22 resembles a 2016 application (2362/16) on which the IRTA also made observations to DCC. The IRTA appealed the DCC grant of planning permission on 2362/16, giving rise to a Decision of An Bord Pleanála of 14th December 2016 (An Bord Pleanála ref. no. PL 29S.246621).
3. The IRTA considers that the real tennis court should be used for playing real tennis, and in this context we welcome the proposal that 'The Real Tennis Court building will be refurbished including the restoration of the tennis court (to a playable condition)' (Planning Report, page 7) or, as Blackwood Associates put it in their Architectural Heritage Impact Assessment, at page 5, 'the Real Tennis Building is to be conserved, and repaired and the Penthouses reinstated to make the court playable again.'
4. The real tennis court should be celebrated in its own right, rather than serving as a subsidiary venue for temporary exhibitions. An exhibition hall does not require the features of a real tennis court, and a playable real tennis court would be compromised if it were to be adapted for science exhibitions. An alternative venue should be identified. The problems with the dual aspiration of the application — to have a real

tennis court in playable condition which is also to accommodate temporary science exhibitions — emerge when one considers some of the alterations to the protected structure which are apparently required for the building to be used for exhibitions.

5. The real tennis court is a protected structure. It is also within a Conservation Area. It is DCC policy (CHC2, at p186 of the Dublin City Development Plan 2016–2022), '*To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures... and will... protect or, where appropriate, restore form, features and fabric which contribute to the special interest.*'

6. The real tennis court has seen various non-tennis uses since 1939, none of which contributed to the special, social, cultural or artistic interest of the tennis court. On the contrary, each of them compromised the character of the building, and some involved the removal, alteration, damage, or destruction of essential elements. The building was designed and constructed as a real tennis court. The playing of real tennis is the use which should be promoted and protected.

7. Certain aspects of the proposal give rise to concern from the perspective of real tennis. While we have had regard to the drawings and other aspects of the application, the following comments refer mainly to the Heritage Impact Assessment.

a. A polished finish to the limestone floor and walls (see p120 of the HIA, p23 of the Planning Report, and tests recently carried out on the floor of the court) would not be appropriate (and indeed while a polished finish may have been original, this feature was soon adjusted).

b. We would welcome the repair or replacement of damaged or missing slabs on the floor and walls. The wall and floor surfaces need to be sound and uniform.

c. The historic integrity of the real tennis court is inherently bound up with the playing of real tennis. Any proposed alterations need to be considered in the context of the activity for which the court was designed and built.

d. The proposed new entrance in the north wall would interfere with the fabric of the protected structure. Is this proposed new opening necessary? Would it achieve its intended object? If this object is to be achieved, is it appropriate that it should be at the expense of the demolition of a significant section of the north wall of the protected structure, and the compromise of an aspect of the court? It seems contradictory to carry out extensive restoration works to parts of the court while at the same time contemplating destruction of other parts.

e. We welcome the closure of the current set of doors in the south (main) wall (and the reinstatement of the limestone slab finish), but are concerned that two openings in the south wall are to be enlarged. One of these is under the penthouse at the east end of the building so should not be of concern as regards court playability. The other is problematic. Originally there would have been no opening at all in the main (south) wall in the playing area of the court. An opening in the wall of the playing area of the court would have a fundamental impact on the playability of the court.

f. If the court is to be playable, the court markings will need to be refreshed.

g. It is proposed that timber penthouses should be reinstated, but it is not clear what specifications are contemplated, and there is no reference to the battery walls upon which they would sit. The battery walls would be faced in the same limestone as the other walls and indeed the floor.

h. It is not clear how demountable penthouses might work, nor what advantage they would bring to alternative uses of the tennis court. While Messrs Blackwood indicate that the penthouses are to be 'demountable in areas, to provide a flexible exhibition space', the particular 'areas' do not seem to be specified, and the system contemplated seems not to be elaborated, so assessment of the feasibility of this aspect from the point of view of the intended playability of the court is not currently possible.

i. The glazed roof was part of the original design. Comparable roofs are to be found over other 19th century real tennis courts, to provide natural light to permit play. The court has surely never seen tennis played other than by natural light through its glazed roof, but any artificial illumination system would need to be consistent with the playing of real tennis if the court is to be returned to playable condition.

8. If the promoters of the museum need a large space for temporary exhibitions, with large entrances, perhaps such a structure should be designed and built from scratch? The proposal to adapt an existing protected structure for use as an exhibition space while at the same time attempting to restore / conserve it for its originally-intended use gives rise to conflicts and contradictions. The real tennis court was designed for a distinctive purpose; it is a protected structure; it is one of relatively few real tennis courts in the world; and it is unique in Ireland. It should be used for real tennis.

9. Conscientious conservation work to return the court to playable condition is contemplated. In that context, it seems paradoxical that significant compromises should be made concerning specific aspects of the protected structure, which is a "rare building" of "international significance".

10. Consultation with real tennis expertise will be required for the return of the court to playable condition. The IRTA has links with organisations and individuals with relevant expertise; it is keen to assist with the return of the Earlsfort Terrace court to play, and with the creation of a vibrant real tennis club for the people of Ireland.

11. The inclusion of the real tennis court in the proposal as an ancillary exhibition space for the proposed science museum is presented as providing 'a viable new use to a building that would otherwise remain redundant.' The IRTA has been promoting the return of the real tennis court on Earlsfort Terrace to play for more than 20 years. The IRTA agrees that the continuing use of an historic building greatly assists in prolonging its life. The best use of an historic building is for its original purpose. Alternative uses of the tennis court since 1939 have contributed to its deterioration, and indeed have led to the destruction of various essential features.

12. Other aspects of the court which require consideration include:

- a. The construction of the dedans, including its dimensions.
- b. The construction of the grille.
- c. The possible inclusion of a trough below the net to permit ball collection.

d. Arrangements for the installation of the net.

13. There are relatively few real tennis courts in the world, and the people of Ireland are fortunate to have been presented with one in 1939. If it were returned to use, it would not only provide a distinctive sports facility for Ireland, it would add another country to the select list of those with active real tennis courts, and it would also attract players from abroad to visit Dublin to use the court.

14. We welcome the proposal to return the real tennis court to playable condition. It is not clear from the application that the real tennis court is an essential part of the science centre development; it is at best a satellite, to be connected to the Butler building, somewhat surprisingly, by a tunnel. The inclusion of the tennis court in the science centre development would apparently necessitate the breaking of a new opening in its north wall, and the retention and enlargement of an incongruous and inappropriate opening in its south wall, as well as the special configuration or adaptation of certain other elements of the court. We submit that the court should not only be returned to its original configuration, and to playable condition, but also that it should be available for its original purpose, in accordance with good building conservation practice. As such, it would be restored to use as a sporting venue but would also re-emerge as a distinctive and attractive heritage building in its own right, unique in Ireland, and would be a particular magnet for enthusiasts for the game from around the world.

The objection from our client to the recent planning application also contained an analysis from historian Paul Rouse on the sporting and cultural significance of the existing court.

The subject planning application also received a number of other objections including a very informed submission from Jonathan Irwin. Significantly, An Taisce also objected to the proposed development, mainly on the impact on the Iveagh Gardens. An Taisce in their objection dated 2nd November state the following concerns in relation to the Real Tennis Court.

'An Taisce would reiterate our concerns as expressed in relation to planning application ref. 2362/16 in regard to the proposals for this unusual late-19th century redbrick building which is a Protected Structure. The Real Tennis Court at Earlsfort Terrace (originally belonging to Iveagh House) is an historically, socially and culturally significant building and a rare building type of Ireland's sport-related architectural heritage. It was the subject of a planning appeal in the late-1990s when inappropriate alterations were proposed (reference PL29S.109443). While it is proposed to refurbish the tennis court, the uses proposed – such as exhibition use – will, it is submitted, potentially endanger the fabric of the Protected Structure. The Irish Real Tennis Association has previously made a strong case for restoration of the building for Real Tennis only.'

Several points in An Taisce's submission stand out. Firstly, the court originally belonged to Iveagh House. Secondly, the court is an historically, socially and culturally significant building and a rare building type of Ireland's sport-related architectural heritage. Thirdly, they view that

the uses proposed such as exhibition use will potentially endanger the fabric of this protected structure. The IRTA concurs with all those points.

The Determination of the Planning Application by Dublin City Council

The planning authority granted planning permission subject to a very substantial number of planning conditions some of which were to be expected. This included development contributions, hours of construction etc. However, a very significant number of these conditions require provision of details of the proposal which indicate to us that there were several and significant gaps in the detail of the application for the City Council to consider when determining the appealed application. In a number of instances not only were details of the proposal requested but further conditions requested assessment of impacts of the proposed development. It is our view that if there were gaps in what was proposed no proper assessment could possibly have been undertaken to enable the City Council to come to a defensible decision and to properly consider impacts.

Some of the key conditions undermine our confidence that the City Council reached the right decision in this instance and, in particular, in respect of the court and related works and structures.

Condition 5 requested the following in relation to the penthouses:

'5. The developer shall submit a detailed proposal to the planning authority for the temporary re-instatement of the penthouse galleries and any other essential features required for playing Real Tennis matches. The temporary structures shall be robust and durable and designed in a manner which allow for efficient on-site assembly, dismantling and storage. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.'

It is significant that, pursuant to this condition, the reinstatement of the penthouses galleries is contemplated as being temporary, and that concerns our client greatly.

Condition 10 covers a great many items of the proposed development. In relation to the Real Tennis Court and ancillary components, Condition 10 states:

'Real Tennis Court Building

- The Applicant is requested to engage the input of a Real Tennis specialist in the Design Team to ensure that all of the key features are designed in accordance with all relevant Real Tennis Guidelines, and that no improvement works including the design of the Penthouses, wall and floor surfaces, services and additional or widened openings will interfere with the use of the Real Tennis Court for Real Tennis.*
- Submit a detailed strategy for temporary exhibitions/other uses to include protection measures for the floors and walls, and details of any demountable panels within the*

penthouses to facilitate additional access into the Real Tennis Court play area.

• Submit 1:20 details of the proposed new penthouse construction including viewing glazing/windows and all proposed repairs to the walls and finishes; a compromise shall be reached to address the damage to the previously polished limestone wall surface (BAA AHIA p.120) and providing a suitable surface for the playing of Real Tennis (if a highly polished surface is not desirable as noted in 3rd party observation and submit detailed internal and external elevations marked-up with proposed conservation repairs where damage has been caused by previous insensitive interventions.'

Our client has a number of concerns that there is some confusion between what was approved and what was applied for and whether there was a consistent line of thinking and understanding of the scheme as between the Conservation Officer and the planning case officer.

The Conservation Officer commented as follows on the application, in terms which are taken from the planning officer's report:

'The proposed refurbishment and repairs to this rare building are welcome and supported by the CO, but I note the serious concerns that have been raised by members of the Real Tennis Associations regarding the impacts on play of certain interventions such as the creation of new openings particularly on the south wall, and the mounting of services in such a way as to ensure there is no adverse impact on the play/court area etc.'

Our concern regarding the above relates to whether the requirements for exhibition use are compatible with the use of the Real Tennis Court for real tennis, and to the interventions necessary to accommodate both activities.

'In light of the rarity of this building type, I recommend that the input of a Real Tennis specialist is included in the Design Team to ensure that all of the key features are designed in accordance with all relevant Real Tennis Guidelines, and that no improvement works including the design of the Penthouses, wall and floor surfaces, services and additional or widened openings will interfere with the use of the Real Tennis Court for Real Tennis. I acknowledge the benefits of facilitating additional uses within the building and recommend that the servicing of any other flexible uses should be provided by roll-in units if necessary, in order to avoid interfering with the integrity and authenticity of the Real Tennis Court or its use for Real Tennis. A detailed strategy is requested for temporary exhibitions/other uses should include protection measures for the floors and walls, and provide details of any demountable panels within the penthouses to facilitate additional access into the Real Tennis Court play area.'

The intention here is clear and it is that the use of the court for the playing of real tennis is primary, albeit that there could be benefits in facilitating other uses. The difficulty in this case is trying to accommodate varying uses with real tennis's own requirements. The IRTA's position is that the involvement of the Real Tennis specialist is essential to this restoration project, and the IRTA would be happy to support the identification and involvement of such a specialist.

'The Applicant is requested to submit 1:20 details of the proposed new penthouse construction including viewing glazing/windows and all proposed repairs to the walls and finishes: a compromise shall be reached to address the damage to the previously polished limestone wall surface (BAA AHIA p.120) and providing a suitable surface for the playing of Real Tennis (if a highly polished surface is not desirable as noted in 3rd party observation). In addition, the Applicant is requested to submit detailed internal and external elevations marked-up with proposed conservation repairs where damage has been caused by previous insensitive interventions.'

We believe that the above issues are fundamental to reassuring parties that the restoration of the court to playable condition can be achieved satisfactorily given its own very specific requirements, alongside the separate and quite distinctive requirements for accommodating exhibitions.

Our Grounds of Appeal

The IRTA wishes to appeal the decision of the City Council on the following grounds.

1. It is clear that there is a lack of consistency between what was presented in the application and the interpretation of the proposal by various sections of the City Council. This lack of consistency is reflected in a contradictory range of planning conditions, in particular with regard to the Real Tennis Court;
2. The conditions imposed as they relate to the Real Tennis Court are contradictory;
3. Our client would advocate revised wording of a number of the conditions presented by the City Council;
4. The technical nature and volume of the conditions imposed and the agreement of detailing and further assessment through planning compliance effectively exclude informed third party involvement in the project, most likely to the detriment of the project; and,
5. The approach to the grant of planning permission in this instance is contrary to Ministerial Guidelines on Development Management (2007).

Our case is set out below:

1. ***It is clear that there is a lack of consistency between what was presented in the application and the interpretation of the proposal by various sections of the City Council. This lack of consistency is reflected in a potentially***

contradictory range of planning conditions proposed, in particular with regard to the Real Tennis Court

It is absolutely clear that the Architectural Impact Assessment undertaken by Blackwood and submitted with the application contemplated permanent penthouses. It is stated in the last paragraph of page 125 that *'the reinstatement of Real Tennis Penthouses to allow the court to be used again is hugely significant and a very positive addition to the scope of the project. The penthouses are demountable in localised areas to facilitate delivery and installation of temporary exhibits.'*

It is quite clear that Blackwood assessed a proposal for permanent penthouses with some localised demountable sections only where necessary. Blackwood's assessment gave approval to this as an acceptable intervention and to that alone. All that is referred to in that instance is temporary exhibits. It is clear that the temporary exhibits are seen as secondary to the reconstructed court and are to be facilitated by demountable sections. As one of our client's members puts it – real tennis facilitates exhibitions in the assessment undertaken by Blackwood, not exhibits facilitating tennis.

However, it appears, surprisingly, that temporary penthouses have been approved in the permission granted by DCC. Condition 5 states that *'The developer shall submit a detailed proposal to the planning authority for the temporary re-instatement of the penthouse galleries and any other essential features required for playing Real Tennis matches. The temporary structures shall be robust and durable and designed in a manner which allow for efficient on-site assembly, dismantling and storage.*' It seems from the underlining above, which is our emphasis, that pursuant to this condition, planning permission is granted for temporary penthouses. This is at odds with the application itself and indeed with other sections of the grant of permission. There can be no authentic tennis court if the originally provided penthouses are also not provided.

There is therefore, from the above, no planning approval or at best a contradictory planning permission in architectural heritage impact terms on what has been issued by DCC. The application has therefore been misinterpreted by the local planning authority and their grant of planning permission may be invalid, is contradictory and should be set aside.

For the avoidance of doubt our client is saying that the permission must be retracted rather than merely amendments made to a number of conditions with the reason being that the application has not been properly assessed because there are so many information gaps not rectified by the imposition of conditions after the event (ie post grant of planning permission). In other words, just like in terms of environmental assessment, the imposition of mitigation measures is no substitute for the adequate assessment of environmental impact in the first place. In this case the imposition of mitigation measures and compliance details does not obviate the requirement for a full assessment of all impacts on heritage.

A further contradiction emerges when comparing Condition 5 above, which refers to temporary facilities, with the wording of condition 10(g) which requires that no works 'will interfere with the use of the Real Tennis Court for Real Tennis'. Condition 10(g) makes reference to demountable panels within the penthouses indicating that all other aspects of the penthouses are permanent in association with the future, and we believe permanent, usability of the court for real tennis.

The Conservation Officer requested a detailed strategy for protection measures for the court, and details of any demountable panels within the penthouses to facilitate additional access for temporary displays. Clearly the Conservation Officer understands the proposal to involve permanent penthouses, with temporary displays being accommodated, and assessed the application on that basis.

The Planning Officer refers to the real tennis building (RTB) as a whole entity further adding confusion to what is being assessed ie other than the court and the penthouses. The planning officer stated: *'It is important that the RTB can accommodate exhibitions while also facilitating the use of the RTB for occasional RT matches'*. The reference to occasional matches suggests an entirely different emphasis on non-permanency to that clearly understood and stated by Blackwood and the Conservation Officer. The Planning Officer also refers to the 'detailed drawings of proposed temporary re-instatement of the penthouse galleries and other features, and details of assembly, dismantling and storage'. The Planning Officer's emphasis in his/her planning assessment is on temporary tennis facilities, court and penthouses. This does not reflect the technical assessments undertaken by both the applicant's conservation architect and the City Council's own conservation officer. The emphasis in the planning officer's report is on temporary features and their management, not permanent features as proposed in the application.

2. The conditions imposed as they relate to the Real Tennis Court are contradictory

As indicated above, condition 5 refers explicitly to temporary reinstatement of the penthouse galleries and any other essential features required for playing tennis. Condition 10 refers to some demountable elements implying that most components are not demountable and are indeed permanent.

Our client, with its particular knowledge and experience of real tennis, is concerned that there is no clarity or certainty as to what has been approved by way of this planning permission and what will be delivered. Our client has no choice but to appeal to seek such clarity as to the permanency of the works and features required for the Real Tennis Court to be restored to playable condition.

3. *Our client would advocate revised wording of a number of the conditions presented by the City Council*

As indicated above there needs to be clarity in respect of conditions relating to the features of the Real Tennis Court.

It appears that Condition 5 may have been inherited from the decision of the City Council in 2016 (DCC's 2362/16), and is no longer appropriate in the context of the present application. The IRTA suggests that it has been superseded by Condition 10(g).

Condition 10 of the City Council's permission indicates that the applicant is requested to engage the input of a Real Tennis specialist in the Design Team to ensure that all of the key features are designed in accordance with all the relevant Real Tennis Guidelines, and that no improvement works including the design of the penthouses, wall and floor surfaces, services and additional or widened openings will interfere with the use of the Real Tennis Court for Real Tennis. The IRTA would, as noted, be happy to assist in the identification of a suitable specialist.

The wording of condition 10 and the reference to a Real Tennis specialist would seem to exclude our client from formal consultation on or engagement with the compliance process relating to this project, which it would find disappointing, as it has, for over twenty years, championed the importance and significance of this particular facility and it would be 'shunted to the sidelines' from this point onwards.

4. *The technical nature and volume of the conditions imposed and the agreement of detailing and further assessment through planning compliance effectively exclude informed third party involvement in the project, most likely to the detriment of the project*

As indicated above there is a very significant number of conditions attached to this planning permission requiring a considerable amount of proposals, works, finishes etc to be submitted as compliance. The sheer volume of details to be submitted and agreed, would in this author's opinion have generated a requirement for Further Information and it is highly surprising based on the contents of the planning officer's report, the highly technical nature of the application and the response from the various departments within the City Council, that a Request for Further Information (RFI) was not issued. There was even the likelihood that upon receipt of the details as FI, the City Council would have considered such information as significant, under Article 35 of the Planning and Development Regulations 2001 as amended, and would have had to request the applicant to readvertise the application to give the many highly interested and knowledgeable third parties the opportunity to comment further on the application. The national interest in the project would have indicated that this should have been done. The application and the sensitivities of all protected structures on the application site, and the uniqueness of the real tennis building in particular would have demanded as such.

That the various conditions only require sign off from the local authority without any form of public consultation and in the absence of any FI Request is disappointing.

5. *The approach to the grant of planning permission in this instance is contrary to Ministerial Guidelines on Development Management (2007)*

Para 7.1 of the Planning Guidelines on Development Management states that planning conditions should be *'kept to a minimum as the attempt to regulate details to an excessive extent may defeat its own ends.'* It is also stated in 7.1 that: *'Moreover it is recognised that difficulties can arise for developers generally at conveyancing and other stages in attempting to provide evidence of compliance with numerous conditions.'*

Our main concern about the conditions imposed is raised in the context of the first paragraph of section 7.9 under the title *'Conditions requiring matters to be agreed.'* This goes to the core of our concern. The first paragraph of section 7.9 refers to *'a practice has developed of using a form of condition which requires that the matter shall be agreed with the planning authority. However, such conditions should be avoided in cases where the matters involved are of a fundamental nature or such that third parties could be affected.'* (Section 34(5) of the Planning and Development Act 2000 as amended, enables conditions to state that points of detail relating to a grant of permission may be agreed between the planning authority and the person whom the permission is granted and that in default of agreement the matter is to be referred to the Board for agreement.)

We believe that conditions contained within the City Council's permission cover matters such that third parties (such as the IRTA in this instance) will be detrimentally affected. The details of a number of the conditions posed are also of a fundamental nature. The conditions are considered inappropriate from both perspectives contained in the first paragraph of Section 7.9 of these Planning Guidelines for local planning authorities and An Bord Pleanála.

The sheer number of such compliance conditions is also a concern to our client. In this regard the above Guidelines indicate in the second paragraph of section 7.9 that *'The use of such conditions should be minimised, in order to reduce the number of compliance submissions that have to be dealt with subsequently'*. It is further stated in section 7.9 of these guidelines that:

'the number of such compliance conditions should be kept to a minimum, to ease the burden on both developers and planning authorities.'

It is further stated in section 7.9 that:

'There are circumstances where compliance conditions would not be appropriate, such as:

Where the details would be required by the planning authority or the Board in order to decide on the overall merits of the planning application, which situation would apply, for instance, in the case of proposals in connection with the restoration of a protected structure.

The above underlining, which is our emphasis, indicates clearly that local authorities and the Board should be judicious regarding the implementation of compliance conditions which has not been the case in this instance so far. Such a volume of conditions in this instance would clearly be contrary to the Planning Guidelines on Development Management. In this regard the Board has no option in this instance but to refuse planning permission. It cannot readvertise the application nor invite the necessary details and submissions that should have been requested and submitted to the City Council in the first instance.

However, if the Board is minded to grant planning permission, we urge it to remove the contradiction inherent in the planning conditions imposed by the City Council and to revise the conditions to ensure that the application's stated intent of restoring the Real Tennis Court 'to playable condition' is given true, meaningful and sustainable effect.

We trust the above will enable the Board to make a decision on the planning application decided by the local planning authority in a manner which addresses the above matters and which will ultimately result in the refusal of planning permission.

We look forward to your acknowledgement of this third-party appeal in due course.

Yours sincerely,



CUNNANE STRATTON REYNOLDS
LAND PLANNING & DESIGN
www.csrlandplan.ie



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3,
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning & Property Development Department, Dublin City Council,
Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8

T: (01) 222 2288

E. planningsubmissions@dublincity.ie

Irish Real Tennis Association
114, Silchester Park
Glenageary
Co Dublin

IMPORTANT: Please retain this letter. You will be required to produce it should you wish to appeal the decision issued by the Planning Authority to An Bord Pleanála in relation to this development.

PLAN NO.
DATE RECEIVED:
LOCATION :
PROPOSAL :

4951/22

29-Sep-2022

National Concert Hall, Earlsfort Terrace, Dublin 2

PROTECTED STRUCTURE: The development will consist of the conservation and refurbishment of the existing north wing and part of the east wing of the National Concert Hall and the Real Tennis Court building and the construction of a new four storey over basement extension with a planetarium dome to the west of the north wing at the boundary of the Iveagh Gardens. The development includes the change of use of the former UCD School of Civil Engineering to the National Children's Science Centre. The total floor area of the development is approx. 9580 sq.m. The National Concert Hall, Real Tennis Court and Iveagh House (Department of Foreign Affairs) and Iveagh Gardens, including stone garden folly are designated Protected Structures (References RPS 2425, 2426 and 7791).

In order to facilitate the new extension, the following demolitions are required:

- 450 sq.m two storey stone building, which houses a workshop, plant area and ancillary items; and a 120 sq.m maintenance shed located in the north western corner of the site;
- A section of the boundary along the Iveagh Gardens, allowing for a new access ramp and steps into the Iveagh Gardens.
- A 200 sq.m single storey lean-to structure located to the south side of the Real Tennis Court building, providing for universal access to the Real Tennis Court building.

The Real Tennis Court building will be refurbished including the restoration of the tennis court (to a playable condition), and to facilitate space for temporary displays and exhibitions. Construction of a single storey structure to the south side of the Real Tennis Court building will provide universal access, and will include a lobby, toilets, tea station, stairs, lift and ancillary works. Existing windows and roof lights are to be repaired, restored and upgraded as required. The construction of a new link tunnel with a single storey glazed box roof light will connect the Real Tennis Court building to the north east corner of the National Concert Hall.



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The restoration and refurbishment works to the north and east wings of the former UCD School of Engineering will include a new entrance to the existing north wing, new fire doors to corridors, new lift core to link all levels and permanent interactive display spaces from basement to second floor, a gift shop, lecture theatre, science demonstration laboratory, classrooms, schools lunch area, offices, new sanitary facilities and additional ancillary accommodation. Refurbishment work will also include the restoration of existing external and internal windows and doors, upgrading of the existing roof and roof lights and all minor/repair work. All existing plant to be removed from roof and replaced with new plant to be located on both the existing and new roof extension. The new extension will connect to the existing building through a glazed link and will include interactive display spaces, a domed planetarium, and external balcony, café, circulation cores and ancillary spaces. Additional plant, toilets and support accommodation will be housed in the basement.

The external works will comprise of hard and soft landscaping, lighting, new steps and ramps to facilitate universal access to the existing north wing and Iveagh Gardens, a section of new decorative railings to Iveagh Gardens to replace the proposed section of wall to be removed 26 no. bicycle stands, new surface water attenuation, new foul connection and all associated ancillary works on a site area of circa. 0.837 hectares. The development has been screened for both Appropriate Assessment and Environmental Impact Assessment.

Note: Submissions/Observations may be made on line at:

<https://www.dublincity.ie/residential/planning/planning-applications/object-or-support-planning-application>

To Whom It May Concern,

The Planning Authority wishes to acknowledge receipt of your **submission/observation** in connection with the above planning application. It should be noted that the Dublin City Council as the Planning Authority will consider this application strictly in accordance with the provisions of the Dublin City Development Plan. The contents of your submission/observation will be considered by the **Case Officer** during the assessment of the above application, and you will be notified of the decision in due course.

- All queries should be submitted to the e mail address shown above.
- Please note that a request for Further Information or Clarification of Further information is not a decision.

Ceannofig. Oifigí na Cathrach, An Ché Adhmaid, Bhaile Átha Cliath 8, Éire
Head Office, Civic Offices, Wood Quay, Dublin 8, Ireland

T 01 222 2222 W. www.dublincity.ie



Comhairle Cathrach
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- **You will not be notified**, if Further Information or Clarification of Further information is requested by the Planning Authority.

Please also note that a weekly list of current planning applications and decisions is available for inspection at the planning public counter.

Opening Hours 9 a.m. - 4.30 p.m. Monday to Friday (inclusive of lunchtime)

A weekly list of planning applications and decisions is available for inspection at all Dublin City Council Libraries & on **Dublin City Council's website**. www.dublincity.ie.

Yours faithfully,


For ADMINISTRATIVE OFFICER

AN BORD PLEANÁLA

2 0 DEC 2022

LTR DATED _____ FROM _____

LDG- _____

ABP- _____