

CUNNANE STRATTON REYNOLDS

CSR Ref: EMP/16362

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 2

18th May 2016

Dear Sir/Madam,

**Third Party Appeal Against Grant of Permission by Dublin City Council for Development of Children's Science Centre at the National Concert Hall, Earlsfort Terrace, Dublin.
The National Concert Hall, Earlsfort Terrace, Dublin 2.
Dublin City Council Reg. Ref. 2362/16.**

This appeal is submitted by Cunnane Stratton Reynolds Ltd of 3 Molesworth Place, Dublin 2 on behalf of the Irish Real Tennis Association, Kilcoagh, Donard, Co Wicklow, against the decision by Dublin City Council to grant permission for a proposed development at the National Concert Hall, Earlsfort Terrace, Dublin 2.

We enclose a cheque for the fee of €270, which includes the requisite fee for requesting an Oral Hearing. We also enclose a copy of our client's observation on the planning application, lodged by the Association themselves, and a copy of Dublin City Council's acknowledgement of that observation.

This appeal is presented under the following headings:

1. The Appellant;
2. The Proposed Development;
3. The Appellant's Interest in the Existing Real Tennis Court;
4. The Appellant's Position on the Proposed Development;
5. The Grounds of Appeal; and
6. Conclusions

1.0 The Appellant

The Irish Real Tennis Association (*Cumann Leadóige na h-Éireann*) is an all-island body established to promote, encourage, facilitate, and provide for the playing of the game of real tennis, in Ireland and/or by Irish people. The Irish Real Tennis Association (IRTA) was formed in 1998 after a plan was announced to permanently convert the subject court, a publicly owned building, into a 320-seat music recital hall.

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The IRTA is largely funded by subscriptions and donations by its members, and members of the public. Among the aims of the IRTA is to assist in restoring the Earlsfort Terrace court to playing use. The international real tennis community is very supportive of this aim. In the event of a return of the court to its intended use, the IRTA would be in a position to manage the tennis court, and function as the national governing body for real tennis.

Tennis is first recorded in Ireland as early as the fourteenth century, with reference to the sporting activities of Lionel of Antwerp in Dublin Castle. Real tennis as we know it today was played throughout Ireland with courts recorded in Dublin, Kilkenny, Cork and Limerick from the seventeenth century onwards.

In order to understand the significance of this court it is necessary to understand both the significance of real tennis and the facility requirements for the sport.

The Game of Real Tennis

Appendix 1 contains a copy of the IRTA's observation on the proposed development. It states that real tennis is the original racket sport from which lawn tennis, squash, badminton and other games developed. It emerged in continental Europe in medieval times. It had a resurgence in the later 19th century, when the Earlsfort Terrace court was built. Recent decades have also seen growth.

The Requirements of a Real Tennis Court

The following are the requirements of a real tennis court:

Real tennis involves hitting a ball across a net on an asymmetrical indoor court with walls (off which the ball may be played), galleries with sloping roofs known as penthouses around three sides, a number of openings (including the 'dedans', which is at the west end of the Earlsfort Terrace court), into which the ball may be struck, and other distinctive features including the 'tambour', a vertical buttress off which the ball may be deflected across the court. Early courts typically include clerestory level windows or glazed roofs, though more recent courts may have artificial lighting instead.

These physical features (the uninterrupted walls, the galleries and penthouses, the tambour, and the lofty roof) are essential to the playing of real tennis.

It is important to identify and understand these features in order to identify how the proposed development will frustrate the playing of real tennis at the appeal site. It is noted that the court was put beyond use some years ago due to inappropriate interventions, and has not been made available for play, as intended by its donor, since 1939.

2.0 The Proposed Development

The key elements of the permitted development can be summarised as follows:

- Refurbishment and restoration of the existing north and part of the east wing of the existing National Concert Hall;
- Refurbishment and restoration of the Real Tennis Building;
- Construction of a new four storey over basement extension with a planetarium dome to the west of the north wing at the boundary of Iveagh Gardens; and change of use of the former UCD School of Civil Engineering to National Children's Science Centre.

Of particular concern to our client are the proposed works to the existing Real Tennis Court on site. While these are presented as reversible works of benefit to the future playing of real tennis, in fact, they would put the building further beyond use. This is particularly disappointing as the IRTA has been in communication with the OPW in the past, and provided a detailed proposal in April 2012 indicating what works would be required to return the court to its intended use. As the membership body for the sport in Ireland, IRTA sees itself as a significant stakeholder. The application indicates, erroneously

in our opinion, that the Real Tennis building will be refurbished to include works to the tennis court, stairwell and ancillary spaces. The stated intention for the court building is to provide 'a temporary interactive display space' ancillary to the Science Centre in the Butler Building and the new building to the rear of the National Concert Hall next to the Iveagh Gardens. The works proposed cannot be considered as conservation or restoration of the existing facility, as the works proposed include conjectural interventions that are not in keeping with the building's original structure, and more importantly, its special character.

It is hugely significant in this case that the building is in public ownership, and that the Office of Public Works (OPW) is not only responsible for the maintenance and management of the building but are also the applicant in this case. Additionally, it is a stated objective of the OPW to "achieve world class outcomes in conservation and uphold excellent heritage site management standards" (Office of Public Works Statement of Strategy 2015-2017). As such, they have a special responsibility and duty of care to the preservation of our cultural heritage, and it is only right that they should be held to a high standard.

There are a number of issues with the nature of the proposed development.

The necessity of the development:

No rationale has been put forward by the applicant why this valuable piece of sporting infrastructure and cultural heritage needs to form part of the development. Since UCD left the Earlsfort Terrace campus in 2007, there would appear to be ample room for development of a children's science museum in the R. M. Butler building and associated buildings on the site without the need to encroach on this unique structure. Furthermore, the OPW is not limited to the re-use of existing buildings on the site; considering the significant quantum of new-build development overlooking the Iveagh Gardens, it seems an unfortunate oversight to design it without sufficient accommodation for temporary exhibitions. It is noted that the Real Tennis Court area contributes only 8% of the total floor area of the project. While the demolition of the stone workshop building is put forward as inherently strategic to the project (to re-establish the connection with the Iveagh Gardens), there is no indication of the need to incorporate the Real Tennis Court.

Inappropriate interventions that would put the building beyond use:

While certain aspects of the proposal are welcomed, such as the removal of the inserted upper storey and the removal of the partition to the court, other aspects of the proposal are needlessly destructive. The blocking of the existing double doors in the playing wall is welcome; however, it is frustrating to note that the proposal suggests a new access doorway to be cut into the playing wall. Any new doorways could be positioned within the footprint of the penthouse galleries, so as not to interfere with the playing surface. It is difficult to see how the cutting into the limestone of the walls could be viewed as 'reversible works'.

Speculative and conjectural works:

In addition to the above works, there are works proposed that are not just prejudicial to the future playing of the game of real tennis, but contrary to good conservation practice. The submitted drawing (Real Tennis Proposed Plans, Drawing no. H.14.003.PLA.210) indicates "Existing Limestone Floor Slabs to be polished and sealed". An early newspaper article entitled *Tennis Courts of the British Isles* in *The Field*, Volume 124, 28th November 1914 (attached as appendix 4). states that the floor and walls of the court were sanded, as a polished finish was not satisfactory for play. Furthermore, and more egregiously, the same drawing indicates an intention to create an opening in the north end of the west wall (the dedans end) with the text "original ope to deans (sic) of real tennis to be reinstated. Modern brick infill to be removed". It is questionable how the developers arrived at the conclusion that

this niche on the stairwell ever consisted of an opening into the playing area of the court. No opening would have been allowed in this playing wall. While certain modern courts include viewing areas behind toughened glass at a height, this would not have been a feature of the nineteenth-century design. The proposal shows a lack of understanding of the nature of the building and its special character.

The walls of the original Real tennis court are substantially intact: minor works comprising closing of openings will achieve the reinstatement of the playing surface. The limestone floor and wall finish should not be dismantled: the paint should be carefully removed from the wall slabs, and the floor and walls sanded. Reference to other existing courts, as well as the recorded dimensions of Earlsfort Terrace itself, will allow the penthouses to be designed and constructed accurately and correctly.

3.0 The Appellant's Interest in the Existing Real Tennis Court

The IRTA was formed with the express purpose of bringing the subject court into use. Since 2003 the IRTA has held both an Irish National Championship and an Irish Open Championship. By necessity, these are hosted by real tennis clubs in England. The IRTA recognised at an early stage that the playing and promotion of their sport is intrinsically linked to the availability of facilities in Ireland and for this reason the focus has been in the court at the National Concert Hall at Earlsfort Terrace.

Apart from the subject court, there is only one other court in Ireland, north and south. This is an eccentrically designed court with non-standard features, open to the sky, now ruinous and no longer playable. Apart from its condition and non-standard design, this court is essentially inaccessible. It is on Lambay Island, a privately owned island in the Irish Sea. The existing court in Earlsfort Terrace is highly significant as:

- the only extant court on the island capable of being returned to play;
- the only court in Ireland in public ownership;
- the site of a world championship match in 1890; and finally,
- as a building of unique architectural heritage.

These reasons are expanded further below.

The Earlsfort Terrace court, the subject of this planning appeal, was built by Edward Guinness, 1st Earl of Iveagh in 1885 accessed from the rear of his house at no. 80 St. Stephen's Green, Dublin. Constructed of a brick exterior with a limestone clad interior (colloquially referred to as black marble), the court saw Tom Pettitt successfully defend his world title against challenger Charles Saunders in 1890. In 1939, Rupert Edward Cecil Lee Guinness, 2nd Earl of Iveagh presented his famed court to the nation as a gift as part of a larger property including what is now Iveagh House, and the Iveagh Gardens. Despite his written wishes (not legally part of the bequest) that the court remain in use, it was immediately shut down, and playing features dismantled. The court has since been used by University College Dublin, first as a gymnasium and more recently as a laboratory and offices.

As stated in Appendix 1 the Earlsfort Terrace court is distinctive among real tennis courts in that Galway limestone slabs were used to line its walls and to pave its floor, which form the playing surface of the court along with the penthouses and their roofs.

The playability of the court under the current OPW proposal would also be drastically compromised by the opening of a door in the main wall, between the net and the tambour.

4.0 The Appellant's Position on the Proposed Development

The Irish Real Tennis Association does not object in principle to the development of the new Children's Science Centre at Earlsfort Terrace and acknowledges the benefits of such an educational facility. However, it objects to the co-option of the real tennis court as part of the site, and has a particular concern about the proposal for alterations to the Real Tennis Court, a unique building with specific features, for an inappropriate use which would jeopardise its future use as originally intended.

We would ask An Bord Pleanála, if they are minded to approve the Children's Science Centre, to issue a split decision *approving* the main body of the proposal which are its most significant elements and *refusing* by planning condition what is essentially a relatively minor element of the site for use as a temporary interactive exhibition area. It is the appellant's view that the development can proceed without the incorporation of the tennis court; that the relatively significant physical interventions that would effectively bar the use of the court for real tennis are in no way justified for the development of exhibition space that could be accommodated elsewhere. In this regard there is an inherent contradiction in the proposed development that ultimately would irrevocably deprive the people of Ireland of the intended use of the court. As elucidated in Paul Rouse's appended report, facilities are crucial to support the culture and heritage of sport in Ireland.

The former Royal University/UCD building, with its myriad classrooms, lecture halls and labs, lends itself to use as a science museum in a way that the special nature of the real tennis court does not. The suggestion that the development safeguards the future of this protected structure by returning it to a useful purpose ignores the fact that the purpose for which it was built, and for which it was donated to the state, still exists. The building did not fall into disuse due to lack of interest, but due to lack of availability and inappropriate interventions which put it beyond use. The IRTA is fully prepared to undertake the day to day management of a 'Dublin Real Tennis Club' including fundraising, membership, marketing, the employment of a real tennis professional, and all associated concerns.

The architectural value of the court and the building are identified in the accompanying report by Paul Arnold Associates, Grade 1 Conservation Architects and which is contained in Appendix 2.

The heritage and social value of the existing facility is outlined in a report provided by Dr Paul Rouse, of UCD. Dr Rouse is Ireland's foremost sports historian and is the author of 'Sport and Ireland – A History', the very first history of sport in Ireland and is Ireland's foremost sports historian. Dr Rouse's assessment of the significance of the existing court is set out in his report contained in Appendix 3.

5.0 Dublin City Council's Consideration of the Subject Planning Application

The appellant has a number of comments on how the application was assessed by the local planning authority.

Firstly, it is disappointing that the large number of observations regarding the Real Tennis Court were not given more weight or consideration in the planner's report. Submissions and observations are a crucial part of the public consultation process, particularly when the applicant is a state body. Other than to quote the conservation office's satisfaction with the proposal, the planner's report does not give any discussion of the merits of the arguments raised by the observations, the overwhelming majority of which pertained to the Real Tennis Court element of the development.

At an early stage of the planning officer's report it is acknowledged that under the 2011-2017 Dublin City Development Plan the site is zoned Z8. It is also acknowledged that the zoning objective of Z8 is

'to protect the architectural and civic design character, to allow only for limited expansion consistent with the conservation objective.' The Officer's report also acknowledges that the application site is located within a Conservation Area. Finally, the report confirms that the site complex is contained within the statutory Record of Protected Structures (ref. no. 2426).

The planning history contained in the Planning Officer's Report indicates that there is nothing in the planning history for this particular complex of protected structures that relates directly to the building that houses the real tennis court.

We believe that it is significant that the report acknowledges that An Taisce made an observation that 'queries the appropriateness of the proposed use of the Real Tennis Club (sic) and favours its return to its original use'. An Taisce's position is fully endorsed by our client.

Under the Section *'Interdepartmental Reports'* identified that the Conservation Office in this case recommended the granting of planning permission subject to the imposition of planning conditions.

The appellant takes issue with the comments made by the planning officer, under the sub title 'Principle of Development and Proposed Use'. In the first two paragraphs of this section the planning officer states the following:

'The proposal to develop a new Children's Science Centre at this central location is welcomed and supported by the Dublin City Development Plan which contains policies which seek to foster Dublin's Character and culture and in particular to facilitate the provision of sustainable cultural infrastructure.'

'The proposal to rehabilitate and reuse Protected Structures and to enhance their potential to contribute to cultural heritage and to identity is also supported by the Development Plan but is counterbalanced by policies which seek to protect the special interest and character of the Protected Structure.'

The first paragraph above indicates that the local planning authority have considered the proposed development as a cultural activity but have failed to acknowledge that the original and previous use of the real tennis court is a significant cultural activity in its own right according to the heritage report provided by Dr Paul Rouse which is contained in Appendix 3 of this appeal. The assessment contained in the second paragraph above is similarly unbalanced insofar as the proposed cultural activities (science and technology) are considered consistent with Dublin City Development Plan but the loss of a distinctive cultural activity, namely a unique real tennis facility, is not even mentioned in the policy assessment.

The counterbalance considered by the planning officer is plainly that of a proposed cultural use against the requirement to protect the special interest and character of the Protected Structure. However, we firmly believe that a more significant balancing exercise from a planning perspective is the need to reconcile a proposed cultural use, against the need to protect an existing, unique cultural activity, namely real tennis, and the purpose-built structure designed to house it. This absence of an assessment of the counterbalancing cultural merits between past and currently proposed cultural uses is a serious omission in our view when considering the policy merits of this case. This is especially the case where as the second part of the second paragraph states that there is a need 'to protect the special interest and character of the Protected Structure'. The unique or special interest in this case is provided by the activity of real tennis which cannot be accommodated by that element of the proposed development relating to exhibitions and displays and where an opportunity for the reinstatement of the existing tennis court has been missed.

The Planning Officer then refers to the report from the Conservation Office which states that:

'The Conservation Office, in a report dated 19th April, supports in general the proposed use, the areas of structural intervention in the Butler building and the siting of the proposed new build element. The Conservation Office has indicated that the applicant has provided a high quality architectural assessment of the former significance of the site and its unique relationship to the Iveagh Gardens and further states the opinion that the applicant has demonstrated an appropriate understanding of the site and its buildings, its relationship to the Iveagh Gardens and the wider City based on a thorough investigation of the site and detailed opening up works and that these findings have fed back into the design approach.'

It is our view that the Conservation Office has not sufficiently or rigorously questioned the architectural assessment provided in the planning application as a clear understanding has not been provided of the building in question, the purpose to which it was built, and how the proposed works, which however seemingly insignificant prevent the building put to the cultural activity for which it was originally intended.

The Conservation Office Report makes little reference to the Real Tennis Court, save the following:

'The retention and re-use of the Real Tennis building as an integral exhibition space within the overall scheme is regarded by the CO as positive, subject to the detail of its conservation being approved on foot of the proposed structural alteration internally. The full recording of the architectural significance of the Real Tennis building to be complied during the course of the works and a presentation of the buildings significance to form part of the overall interpretation of the site.'

A "presentation of the building's significance" following decades of inappropriate use and damage to its fabric culminating in a missed opportunity to restore or conserve its fabric, is, simply, not good enough. Its significance as a cultural artefact is best presented by restoring its intended use.

The last paragraph of page 5 and the first two paragraphs of page 6 of the Planning Officer's Report state in regard to the concerns expressed about the real tennis court that:

'The main body of Third Party submissions including a detailed submission from the Irish Real Tennis Association relate to the Real Tennis Building, and express concern in relation to the loss of its significance and the impact of the proposed alterations in terms of its former original use. The Architectural Heritage Impact Assessment provides both photographic and written detail in relation to the current status of the Real Tennis building which supports the need for intervention not only to reverse previous unsympathetic interventions but also to conserve the building. The Conservation Office supports the retention and re-use of the building as an integral exhibition space within the overall scheme, subject to the detail of its conservation being approved on foot of the proposed structural alteration internally. The Conservation office recommends the full recording of the architectural significance of the Real Tennis building to be complied during the course of the works and a presentation of the buildings significance to form part of the overall interpretation of the site.'

On balance it is considered that the proposed works to the Real Tennis Building which are conservation led, will improve the profile and understanding of the original use of

the building and the limited number of alterations can be reconfigured at a later date to support the use of the building for real tennis. Furthermore, the proposed use as temporary exhibition space is viewed as wholly compatible with its restoration and represents a more appropriate use than any of its interim uses over the last 60 years. This view is also supported by the Conservation Office. The CO acknowledges that the change of use of the Real Tennis Court to exhibition space as part of the overall complex is a significant change from the original design but points out that retaining use and life within a structure (even if it's not the original use) is a recognised conservation approach that will allow the long-term survival of the structure and potential restoration in the future where desired. The CO recommends that the significance and authenticity of the original and unique structure should be safeguarded by the conservation to best practice of original features and fabric and the works to include where possible the removal of detrimental accretions and alterations and the design of new interventions to allow reversibility and restoration in the future where the original use is envisaged. The memory of the building to be preserved by record to be updated during the course of the works and the findings/discoveries disseminated in agreement with the Local Authority as part of the overall buildings interpretation and access.'

In regard to the first paragraph, our client disputes the unfounded suggestion that the intervention currently proposed in any way *is supported by the need for intervention not only to reverse previous unsympathetic interventions but also to conserve the building*. There is no evidence that the proposed development/ intervention is in any way justified by the proposed development. The proposed development will have only a very minor role in reversing previous unsympathetic interventions. The proposed development is certainly not needed to conserve the building as suggested in the first paragraph above taken from the planning officer's report

The nature of the proposed interventions does not suggest that a conservation approach has been adopted in the design of the works: there is no detailed historical analysis of the building (which should include an image of how the building used to be laid out and used, or was intended to be used) and the justification for each intervention should be made clear. As the roof to the court appears to be in good condition, and as dampness does not seem to be a major issue, the survival of the fabric in the short term is not at issue. If the building (a protected structure) is in need of repair and/or maintenance, the OPW is legally obliged to take appropriate measures; however, the proposed forceful interventions cannot be justified as necessary to safeguard the physical fabric of the building.

In regard to the second paragraph above, it is our view that the proposed works to the Real Tennis Building are not in fact conservation led and can see no justification for this statement from the City Council nor indeed from the applicant. The profile and understanding of the original use of the building can best be achieved by accommodating the original use by reinstating the missing features that would enable real tennis to be played at this facility. The proposal does not reinstate these missing features of a real tennis court and therefore the proposal cannot be said to restore the original use. It would be our view that the reinstatement of missing features would be the best means of improving the profile of the facility and the understanding of the original use of this building for real tennis. For example, the reinstatement of the penthouses would significantly enhance the understanding and profile of the building, as well as the understanding of the game of real tennis for which the penthouses are one of the distinguishing features.

Our client takes grave issue with the response by the City Council Planner that the proposed use as a temporary exhibition space is viewed as wholly compatible with its restoration and represents a more appropriate use than any of its interim uses over the last 60 years. The first point to make on

this is, as indicated above, is that the proposed use and works to the building do not assist in either the restoration of the original features that enabled the building to be used for real tennis nor do the physical works proposed enable the game to be played on this court. In regard to the statement that the proposed use is more compatible than the uses over the previous 60 years does not in itself justify the current proposal before the Board. In simple parlance 'two wrongs do not make a right' in this regard.

We fully support the Conservation Office's comment that the change of use of the Real tennis Court to Exhibition Space is a significant change from the original design. We believe however that the restoration of the tennis court and the accommodation of real tennis can both be achieved but not by the current proposal before An Bord Pleanála.

The Conservation Office's comment that the significance and authenticity of the original and unique structure should be safeguarded by the conservation to best practice of original features and fabric and the removal of detrimental accretions and alterations is welcomed by the appellant but ignores the intrinsically obtrusive features proposed and the continued absence of required features such as the penthouses that would enable the building to be used for the purpose to which it was designed and built. Reversibility is intended to refer to non-masonry interventions of light construction, which abut lightly against historic fabric, in the manner of an installation. The forming of opes in historic walls cannot be seen to be reversible, involving loss of historic fabric. It is noted that the walls and floor are lined with black limestone, sourced from 'two quarries opened for the purpose at Mern Park, co. Galway' according to *The Field* in 1914 (see Appendix 4). This would refer to the now closed quarry at Doughiska in the former Merlin Park estate. The heritage value of this material, and its use in such a way, must be acknowledged.

Additionally, we would draw the Board's attention to condition 3 of the City Council's intention to grant which states that:

'The record of the Real Tennis Court to be updated during the course of the works and the conservation of all original features in-situ in agreement with the Local Authority to allow for future reversibility to the original purpose. The significance and conservation of the structure to be disseminated to the public in general as part of the overall presentation of the building.'

6.0 Grounds of Appeal

Our client's principal grounds of appeal are as follows:

(A) The Proposed Development is Incompatible with the Function and Character of the Real Tennis Facility which is located within a Protected Structure.

The proposed development is incompatible with the function and character of the existing Protected Structure as follows:

- The building that houses the existing Real Tennis Court is a distinctive building in its own right, as a protected structure, in terms of activity and function associated with it, and in terms of its architectural features. It should be recognised and celebrated in its own right, not as a 'temporary interactive display space' ancillary to the proposed Science Centre in the Butler building and the new complex to the rear;
- An exhibition hall does not require the features of a Real Tennis Court. Smooth bare stone floors and walls, suitable for the playing of sport, without electrical sockets or other fixtures or fittings may not be ideal for the hosting of interactive science exhibitions in the 21st Century. It is respectfully suggested that should the mounting of temporary exhibitions be found to be

incompatible with the restoration of the Real Tennis Court, another part of the campus should be requisitioned.

- There is reference in the planning application and supporting documentation to ‘refurbishment and restoration of the Real Tennis Building’ but it is our client’s view that this will not be the case. The selective and vague use of the words ‘refurbishment’ and ‘restoration’ imply that this will be conducted with a view to the facility being reused at some point in the future for the purpose for which it was originally intended. There is clearly no stated intention to restore the building to its original form or originally intended use anywhere within the planning documentation submitted.
- Reference is made in Section 6.2 of the Planning Report submitted by the applicant to the fact that ‘All polished limestone to the walls and floor [of the real tennis court] will be fully cleaned, restored and re-laid.’ It is not clear if the existing floor where limestone slabs are missing or have been broken beyond repair will be sympathetically replaced. Appropriate conservation/restoration of the floor in the eyes of this well informed third party would include the replacement of slabs, where necessary, to ensure a uniform surface, to a standard suitable for the playing of real tennis. None of these remediation works are proposed. It is further noted that the polishing of the floor surface is conjectural work, of no conservation merit.
- Section 6.2 offers the possibility that the renovated Real Tennis Building could accommodate the playing of Real Tennis, implying that the court would be returned to a condition that would enable it to be used for the purpose for which it was originally intended. This is not the case as (1) there is no provision for the construction of galleries/penthouse walls/penthouses, and none are now present; (2) the proposals include a new doorway in the main wall, between the tambour and the net; (3) it is proposed to “reopen” a purported ope on the landing of the staircase at the west end of the building which would breach the playing surface above the dedans penthouse; and (4) it is unclear whether the floor and walls would be finished to a playable tennis surface.
- The lift that is proposed serves no useful purpose for the playing of Real Tennis and is purely a means of providing access between the proposed new basement and level of the floor of the real tennis court.
- The proposed entrances to, and circulation around the real tennis court, disregard the character, design, and function of the real tennis building.

(B) The Proposed Development Does Not Promote Best Conservation Architecture Practice

The observations of Paul Arnold Grade 1 Conservation Architect are contained in Appendix 2 and conclude, following a site inspection by Paul Arnold himself that:

- As a surviving Real tennis Court, this building is of great significance as it is largely intact, and can be relatively easily restored to its original configuration;
- The proposed works are designed to facilitate the use of the space as an exhibition area. Such a use is not incompatible with occasional use of the space for exhibition games of Real Tennis, provided the walls are made complete;
- The reinstatement of the penthouse to three walls, the blocking up of the existing openings in the south wall and the retention and making of the doors to the penthouse at the east and west end of the south wall would make Real tennis possible, and would also permit the use of the space as an exhibition space. This is not proposed however and the application is deficient in this regard therefore.
- The treatment of the space as currently proposed seems unnecessarily intrusive and fails to recognise the potential of this historic building.

- There is a finite opportunity, according to Paul Arnold Associates, to facilitate the retention and occasional use of the Real Tennis Court for the purpose for which it was designed, with no impact on the proposed exhibition use of the building.

(C) The Proposed Works to the Protected Real Tennis Facility are Contrary to the Architectural Heritage Protection Guidelines for Planning Authorities

The purpose of the Architectural Heritage Protection Guidelines for Planning Authorities is to provide advice on the protection of structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. We believe that the proposed development is contrary to these Guidelines for the following reasons:

- Section 6.4.1 states that ' Even apparently minor alterations to the fabric of these structures can impact in their character.
- Section 7.2.1 dealing with Conservation principles states that conservation is the process of caring for buildings and places and of managing change to them in such a way as to retain their character and special interest. Historic structures are a unique resource. Once lost they cannot be replaced. If their special qualities are degraded these can rarely be recaptured...It is intended these detailed guidance notes will draw attention to the importance of the seemingly minor details of an historic building that nonetheless play an important part in establishing its character.
- Section 7.3.1 states that '*Where a structure is of great rarity or quality, every effort should be made to find a solution which will allow it to be adapted to a new use without unacceptable damage to its character and special interest. Usually the original use for which a structure was built will be the most appropriate, and to maintain that use will involve the least disruption to its character.*' We believe the proposed use and the proposed works will cause unacceptable damage to this protected structure's character and special interest in contravention to Section 7.3.1. As indicated above occasional temporary exhibitions could be accommodated with regular use for real tennis matches or exhibition matches, with modification to the proposed development. In its current format however this part of the proposal should be refused planning permission.
- The proposed works and lack of restoration of key elements such as the penthouses is contrary to section 7.6.1 which states that '*The character and special interest of a protected structure can be damaged by inappropriate works. Most obviously, a structure can be demolished or partly demolished. It can also be stripped of its value and distinctiveness by neglect and decay, unsuitable alteration, uninformed repair or over-restoration.*' We believe that the value and distinctiveness of this particular protected structure is greatly diminished by unsuitable alteration and over-restoration.
- Section 7.7.2 states that '*In granting planning permission, a planning authority should be satisfied that works are necessary, whether these be repair works to the fabric of the building or adaptations to the structure to allow it to perform a new or enhanced function.*'

(D) The Proposed Works are Contrary to the Provisions of the Dublin City Development Plan 2011-2017.

The Dublin City development Plan 2011-2017 contains a number of policies that are relevant to this appeal. These include the following policies relating to protected structures.

Policy FC30:

'To include those structures considered to be of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest in the Record of

Protected Structures. To protect these structures, their curtilage and the setting from any works that would cause loss or damage to their special character.'

Policy FC31:

'To maintain and enhance the potential of protected structures and other buildings of architectural/historic merit to contribute to the cultural character and identity of the place, including identifying appropriate viable contemporary uses.'

Policy FC32:

'To encourage the protection of the existing or last use of premises listed on the Record of Protected Structures where that use is considered to be an intrinsic aspect of the special, social, cultural and/or artistic interest of those premises. In considering applications for planning permission in respect of a change of use of any such premises to take into account as material consideration the contribution of the existing or last use of that structure to special, social, cultural and/or artistic interest of those premises and/or whether the new use would be inimical to the special interest identified.'

This proposal is contrary to Policy FC30 as the proposed works cause damage to the special character of this real tennis facility by rendering the facility unsuitable for that purpose. The facility derives its special architectural, historical, cultural and social interest from the real tennis activities associated with the facility. The proposed works will no longer enable real tennis to be played at this facility if planning permission is granted for the proposed development and implemented as presented. As indicated above by Paul Arnold Associates the facility could still accommodate even occasional real tennis matches or exhibitions if (1) the penthouses were reinstated to the three walls, (2) the existing opening in the south wall was made good (3) any new openings to the south wall were made within the footprint of the reinstated galleries. This would enable the building to accommodate both what is termed temporary exhibition space and the regular hosting of real tennis matches and exhibitions. However, these works do not form part of the proposed development presented to An Bord Pleanála. As indicated by Paul Arnold Associates the treatment of the space as currently proposed is unnecessarily intrusive and fails to recognise the potential of this historic building. The proposed development is therefore contrary to the special, social, cultural and artistic interest of these premises. The cultural interest of the building as a real tennis court is in no way supplanted by the proposed cultural use of this building as a temporary exhibition area.

We believe that the proposal is contrary to Policy FC31 which seeks to maintain and enhance the potential of protected structures and other buildings of architectural/historic merit to contribute to the cultural character and identity of the place, including identifying appropriate viable contemporary uses. The proposed development frustrates the future use of this facility as a real tennis court without the restoration of the three items identified above. This was its original and intended use, and it was on the basis of this use that it was presented to the state in 1939. The IRTA, an all-island membership body, is fully committed and prepared to play a lead role in managing this use. It is our view that the council has failed to correctly identify the appropriate viable contemporary use in this case.

The proposed development is clearly inimical or obstructive to the reuse of the former real tennis facility for that purpose which our client believes is particularly disappointing given that we understand that the proposed use is not strategic and could be accommodated elsewhere, and is therefore contrary to Policy FC32.

The proposal could, with modification, but not as currently presented, be considered consistent with Policy FC 37 which states that new uses which are compatible with the character of protected structures will be considered by the local planning authority.

Section 17.10.1 (Works to Protected Structures) states the following:

'In determining applications which relate to protected structures or their setting the authority will take into account:

- The importance of the building, its intrinsic special architectural and/or historic interest and rarity.
- Particular physical features of the building, external and internal.
- The extent and impact of interventions and alterations proposed and that which have already taken place, excluding any unauthorised development.
- Setting and contribution to streetscape.
- Extent to which the proposed works would bring substantial benefits to the community.
- In the case of change of usage regard will be had to the compatibility of such use in terms of its impact on the protected structure.

We believe in this case that in regard to the first bullet point the importance of the this particular building within the complex of the application site has not had sufficient consideration given to its historic interest and rarity as the only such facility in Dublin city and one of only two in Ireland – the other facility being in a ruinous state on Lambay Island. We believe that internal features of the existing facility have not been properly interpreted and that due regard has not been had to the requirements of the original use in accordance with the second bullet point. In regard to the third point the interventions proposed will render the facility unsuitable for its originally intended use. In regard to the fifth bullet point the restoration of the facility would benefit not only the current real tennis community in Ireland, but also would-be players who do not have the opportunity to travel abroad, as well as the cultural and tourist potential of the city. The failure to take such an opportunity would be of great regret especially since the proposed temporary exhibition use could likely be accommodated more satisfactorily elsewhere on site. In regard to the final bullet point it should be emphasised that the most appropriate use for this building is the original use. Therefore, the proposed development as it relates to the real tennis building is clearly contrary to Section 17.10.1 of the adopted City Development Plan.

A detailed conservation method statement shall accompany planning applications for works to protected structures. This report shall:

- Outline the significance of the building
 - Include a detailed survey of the building, including a photographic survey
 - Detail the proposed works it is intended to carry out
 - Contain a full assessment on the materials and method proposed to carry out these works, their impact on the character of the building / feature and the reversibility of the proposed works
- The detail required to be submitted will be dependent on the significance of the building and the nature and extent of works proposed.

All works to protected structures shall be carried out in accordance with best conservation practice.'

In the absence of the information identified above, the project cannot be seen as conservation driven.

In regard to the proposed use Section 17.10.4 of the city Development Plan is particularly relevant. It states that:

'Uses should be compatible with the overall objective to protect the special interest and character of protected structures and should cause minimum interference with the floor plan and minimum intervention to comply with Fire and Building Regulations. Where proposals relate to redundant buildings, including former financial buildings, industrial buildings and places of worship, uses which are compatible with the original use and which facilitate public access to the primary spaces of these buildings will be encouraged.'

In our view the proposal as it relates to the real tennis building is contrary to Section 17.10.4 insofar as the proposed use and works are incompatible as currently presented with the protection of the

special interest and character of this protected structure and interfere with the required layout of this real tennis facility. The proposed development is also contrary to Section 17.10.4 as the proposed development is inherently incompatible or inimical to the original use as a real tennis court.

The use of the facility as a real tennis court, is a unique and one of a kind activity that would greatly add to the character and distinguishing activities for Dublin being the only viable such facility on the island. The reinstatement of the original use, which could not be reinstated if the proposed development at the real tennis court were to be granted planning permission is entirely consistent with Section 3.3.1.4 of the City Plan. This section of the Plan states that:

‘...the development plan fully recognises that Dublin’s built and natural heritage is both a major contributor to the city’s character and is a unique resource that attracts tourism and the creative economies. In developing the city’s cultural resources, this priority positions Dublin City Council as the driver behind the new cultural strategy for the city, to promote the cultural alliances between the Arts Council and other cultural groups. This priority also provides for a concerted effort to upgrade the public domain in the city to facilitate festivals, events and enjoyable movement between the city’s cultural attractions.’

We believe that championship matches and real tennis exhibitions would generate tourism activity and would greatly add to the range and diversity of cultural activities and festivals in the city as required in Section 3.3.1.4.

The proposal as it relates to the real tennis court is also contrary to Section 6.4.7 which relates to sport, recreation and play. We believe that this element of the proposal is contrary to the whole ethos of the City Plan which promotes Dublin as a ‘City of Character and Culture’. The character and cultural quality of the city would be greatly diminished if the real tennis facilities were not restored to this building in a manner that their very specific requirements that are set out above demand. Use of the facility for its intended and original use would greatly enhance Dublin as a City of Character and Culture and it would be difficult we believe to argue otherwise.

The reinstatement of the real tennis facility is also consistent with Section 7.1.3 which seeks to ‘Promote the enhancement of existing cultural assets....’ The existing facility is a significant element of the State’s and the city’s sporting culture and we believe that its protected status confirms this. The proposed reuse as a real tennis facility could host international events like it once did, also consistent with Section 7.1.3.

We believe that in terms of cultural activities and their benefits to the economy of the city that the proposal for the real tennis facility is contrary to FC20 which seeks to protect and improve the city’s cultural tourism amenities and the natural and built environment which forms the basis of Dublin city’s attractiveness for tourists; Policy FC21 which seeks to endorse the role, and encourage the growth and clustering, of the creative and cultural industries in the city; and finally to Policy FC22 which seeks to support the growth of cultural tourism in the city, including the potential for niche tourism products by facilitating the development of cultural events, infrastructure and activities. Whilst the proposed temporary exhibitions can attract tourists this can be done, we believe, elsewhere within the site with the satisfactory and complementary provision of the real tennis court or alternatively the subject building could be restored as suggested above with amendments to the proposal and accommodate temporary exhibitions with a reinstated court. Such consideration should have but has not been given in this instance to the satisfactory accommodation of both activities.

The above relevant policies and objectives of the adopted City Development Plan 2011-2017 are taken forward in the emerging City Development Plan 2016-2022.

7.0 Conclusion

The IRTA does not object in principle to the development of a new Children's Science Centre at Earlsfort Terrace. It has a particular concern about the co-option of the Real Tennis Court as part of the campus, and the proposals for the real tennis court, which is a unique building with specific features, for an inappropriate use which would jeopardise its future use as originally intended.

We would ask the Bord to condition out the element that relates to the real tennis court if it is minded to approve the scheme. This element of the proposed scheme is a relatively minor and ancillary element of the proposal for use as a temporary interactive exhibition area.

Of particular concern to our client are the proposed works which are presented as reversible and of benefit to the playing of real tennis but in fact would put the building further beyond use for that original purpose. The applicant indicates, erroneously in our opinion, that the Real Tennis Building will be refurbished to include works to the tennis court, stairwell and ancillary spaces. The works cannot be considered as conservation or restoration of the existing facility as the works proposed include conjectural interventions that are not in keeping with the buildings original structure and more importantly its special character.

It is the appellant's view that the development can proceed without the use of the tennis court but that the relatively significant physical interventions that would effectively deprive the use of the court for real tennis are in no way justified for such an occasional or temporary use for exhibition purposes. In this regard there is an inherent contradiction in the proposed development that ultimately would irrevocably deprive the IRTA of the use of the court. The court is so important to the playing of the sport in Ireland.

The existing court in Earlsfort Terrace is highly significant as:

- the only extant court on the island capable of being returned to play;
- the only court in public ownership;
- the site of a world championship match in 1890; and finally,
- as a building of unique architectural heritage.

Our client has the following particular concerns:

- No rationale has been put forward by the applicant why this valuable piece of sporting infrastructure and cultural heritage needs to form part of the development.
- While certain aspects of the proposal are welcomed, such as the removal of the inserted upper storey and the removal of the partition to the court, other aspects of the proposal are needlessly destructive. The blocking of the existing double doors in the playing wall is welcome. The proposal suggests a new access doorway to be cut into the playing wall rendering the facility redundant for the playing of real tennis. Any new doorways could be positioned within the footprint of the penthouse galleries, so as not to interfere with the playing surface. It is difficult to see how the cutting into the limestone of the walls could be viewed as 'reversible works'.
- In addition to the above works, there are works proposed that are not just prejudicial to the future use for real tennis but are contrary to good conservation practice. For example, the stated intention to create an opening in the west wall (the dedans end), with the original ope

to be reinstated, and brick infill to be removed, creates an opening in the court that renders it useless for real tennis.

The profile and understanding of the original use of the building can best be achieved by accommodating the original use by reinstating the missing features that would enable real tennis to be played at this facility. The proposal does not reinstate these missing features of a real tennis court and therefore the proposal cannot be said to restore the original use.

It is our view that:

- a) The proposed development is incompatible with the function and character of the real tennis facility which is located within a protected structure.
- b) The proposed development does not promote best conservation architecture practice;
- c) The proposed works to the protected real tennis facility are contrary to the Architectural Heritage Protection Guidelines for Planning Authorities; and
- d) The propose works are contrary to the provisions of the Dublin City Development Plan 2011-2017.

We urge An Bord Pleanála to overturn Dublin City Council's decision and refuse planning permission for that part of the proposed development relating to the Real Tennis Court. We would like to take this opportunity to request an Oral Hearing, and have enclosed the requisite fee.

Yours sincerely,



Eamonn Prenter MIPI MRTPI

Appendix 1: Copy of the Appellant’s Observation on the Planning Application

**Appendix 2: Observations on the Proposed Development by Paul Arnold Associates
Grade One Conservation Architects**

Appendix 3 Assessment of the Heritage Value of the Real Tennis Court Provided by Dr Paul Rouse, Historian at University College Dublin.

Appendix 4 **Text from *The Field*, Volume 124, 28th November 1914.**