APPENDIX

The onset of the recession was recognised by some in OPW and by the Dept. of Finance/ DPER as an opportunity to improve efficiency in OPW's property remit. Although OPW's annual rent roll fell from ca. €130 million a year to under €100 million a year, this was as much a natural occurrence attributable to the closing of offices in Dublin vacated on delivery of decentralisation properties and falling civil service numbers than as a result of the application of commercial reform. The following property related initiatives were initiated and outcomes are presented:

Initiative	Findings/Proposals/Recommendations	Outcomes/Implementation
An Bord Snip Nua Report, 13 July 2009	Finance group of Votes: Re OPW b- as set out in Detailed Paper No. 9 and summarised in table 3.9.2 as follows Streamlining and programme efficiencies *" All real estate assets held by the State should be managed by one organisation rather than having ownership of assets vested in a range of different Departments and agencies (commercial and non-commercial). The OPW should assume this role and ensure that its clients use accommodation to the maximum extent possible."* **Programme G - OPW** G.1 Spare capacity should be reduced €20.0m	**My comments** Sharing protocols were established. However, the amount of co-operation between departments the use/sharing of property would appear to be about the same as prior to the recession and substantially less than applied in the 1990's decentralisation of civil service Departments.

	G.2 Benchmark rents & occupancy levels with private sector rates €20.0m	Rents were always naturally benchmarked at review/ renewal events, the supply of decentralised offices and reduction in civil service numbers meant that surrenders of leases would always have happened. Some pro-activity occurred on lease restructuring but a major proportion of opportunities were missed. Progress on benchmarking occupancy levels has been slow and OPW has not led the way in terms of its own occupancy.
	G.3 Introduce a moratorium on the State providing car parking spaces in urban areas	Car parking in Dublin is tightening although mainly through planning reasons and leasehold disposals.
	G.4 Identify the State's real estate portfolio	Ultimately a database was established of state properties but this has had virtually no application in the sharing of office assets.
	G.5 Outsource engineering and architectural activities €1.0 m	Beyond the scope of this report.
	Programme G savings €41.0m	

Lease Reform Programme 2009 (OPW action following Property Industry Initiatives)	As the recession hit commercial offices rents collapsed by ca. 50%. Upward only review clauses in OPW leases (a number of which were inserted at lease acquisition contrary to agreed heads of terms) applied to most leases and reduced the capacity of tenants to benefit from the collapse in rents. Opportunities arose to adjust rents as lease expiries and break options approached and in the few cases where there were reviews to market value.	Some savings were achieved through lease surrenders and restructuring. However, from a professional perspective only a small percentage of potentially achievable savings was actually secured. Hampered by overall public sector occupational densities which remain well below their private sector equivalents, the lease surrender programme only delivered a modest fraction of its potential. In addition, only a percentage of lease re-structuring opportunities were secured, reviews to market through negotiations from a position of strength were missed; indeed in some instances, successfully negotiated deals with landlords were never processed. For example, in 2010 an offer to OPW by the landlords to reduce the then annual (legacy) rents being paid on Harcourt Sq. by €1m pa in exchange for extending the 4 leases was not accepted, an omission which has given rise to continuing problems and uncertainty.
Public Service Reform Plan – Nov. 2011 **(Property initiatives)**	**This is part of an ongoing process. There was** a focus on five major commitments to change: i. Placing customer service at the core of everything we do; ii. Maximising new and innovative service delivery channels; iii. Radically reducing our costs to drive better value for money; iv. Leading, organising and working in new ways; v. Strong focus on implementation and delivery.	

	Part 6 of PSRB - Property Asset Management Recommendations and Action Plan This part visualised *inter alia* staff reductions, organisational rationalisation triggering reduced accommodation requirements. Central to this was building government support, office circulars and the appointment of a Senior Responsible owner (SRO) tasked with leading the drive to the efficient use of property through leading the development and implementation of a Property Management Delivery Plan with focus on office accommodation. There was to be a shift of focus property managers in the Public Service from management solely of their own property portfolio, towards a strategic view of their property as a part of the wider State property portfolio.	The OPW Chairman was appointed SRO and proceeded to develop a Property Asset Management Delivery Plan in line with the guidance from the Reform Plan. In contrast to other SRO roles created under this initiative, OPW's remit should continue. However, it was not mentioned in the succeeding reform plan and is being regarded by OPW as defunct. While some of the 12 PAMDP initiatives are being continued most of the significant proposals capable of driving efficiencies and eliminating waste have been effectively abandoned.
Government Directive - 18th Dec 2012 ***'Reform of Asset Management in the Public Service '***	(1) noted that reform of the management of the State's property assets is a key element of the Government's Public Service Reform Plan and that the active support of all Ministers is required to deliver on the recommendations and actions for property asset reform contained in the Reform Plan; (2) agreed that the Office of Public Works (OPW) has the key central role in driving the property asset management reform process in respect of both its own property portfolio and the property portfolios of the wider Public Service, with a focus on office accommodation, and in this respect noted	The Directive was not bought into by Government Departments and by way of a particular (test case) example, a plan announced by the Minister of State around this date that HSE and OPW/ the Dept. of Finance would share a building in Tullamore with the HSE, thus allowing the surrender of an office block by HSE never proceeded. (see observation below) OPW's central directive role agreed both for central and wider public portfolios. This decision was undermined by the Dept. of Finance refusal to co-operate with building sharing in Tullamore. In short, for OPW to fulfil this oversight role needs a clear directive by DPER to line Depts. to cooperate with OPW, with consequences for non-cooperation. From the perspective of front line staff OPW has abandoned its oversight role across the wider

		public service. Interestingly the rationale now advanced for doing so is by reason of lack of resources and capacity. The central contradiction to this assertion is that this was the essential purpose of the subsequent capacity and capability (Concerto) review – see below.
	(i) that the OPW will prepare a Property Management Delivery Plan, as set out in the Public Service Reform Plan, for submission to the Minister by end Q1 2013, and that this Plan will identify issues that must be addressed to ensure that the property asset management reform programme is successfully and strategically coordinated, managed and implemented,	This directs OPW to produce its PAMDP. This was issued in July 2013
	(ii) that the OPW has convened and is chairing a Steering Group on Property Asset Management, drawn from the main Public Service bodies that have significant property experience and interests, with the intention, inter alia, of promoting greater efficiency and coordination of property asset management in the wider Public Service and the adoption throughout the public service of energy conservation measures on the lines of the successful OPW model, and	This directs OPW to set up a Steering group on Property Asset Management. This was done but failed to include the attendance at same by trained front line staff with careers in property.
	(iii) that, building on work done to date, including in the Department of the Environment, Community and Local Government and the Property Registration Authority, the OPW will oversee the definition and implementation of a map-based Public Service property inventory and web portal, as provided in the Public Service Reform Plan, by end Q2 2013;	This is in train

	(3) agreed with the proposals of the Minister for Public Expenditure and Reform for dealing with issues related to the transfer of property within the Public Service, ...;	Transfer protocols were established but in my opinion are far too legally framed to reflect a sharing vision. Legal processes could be implemented when required. Front line property staff were not adequately involved in formulating the protocols.
	(4) in respect of the provision of office accommodation for the Civil Service	
	(i) agreed	
	(a) to confirm the OPW's role as the exclusive procurer of office accommodation for the Civil Service and the sole authority for allocating space to the Civil Service,	This is progressively being undermined by the establishment of agencies, many of which were set up with statutory powers to hold property under their own name, including the power to sign their own leases.
	(b) with the proposal of the Minister for Public Expenditure and Reform to issue a circular, a copy of which is attached at Annex C to the memorandum, concerning arrangements and responsibilities relating to the maintenance of State property assets held by OPW, and to arrange for the transfer from departmental Votes to the OPW Vote in time for the publication of the 2013 Revised Estimates Volume of an amount of the order of €20m, being the aggregate of the portion of Departments/Offices' office premises allocations currently being paid by Departments/Offices to OPW under client maintenance accounts,	This circular issued. It addressed a temporary issue in the matter of budgeting. It showed no recognition of the need for more fundamental reform on the budgeting problem, where the OPW focus is to ensure that the allocated budgets are spent to the last cent to the detriment of ensuring Value for Money.
	(c) to enhance the powers of the OPW in respect of office accommodation for the Civil Service, as set	This has largely been undermined. There is gross uncertainty on space norms. OPW has effectively surrendered decision making back to Departments.

	out in Section 5 of the memorandum, including empowering it to: ~ set and enforce norms for the allocation of space and standards for office fit-out, ~ direct Departments/Offices to vacate and/or occupy accommodation in a timely manner and on foot of its property strategy, and in conjunction with the Department of Public Expenditure and Reform, develop and implement formal reporting and accounting arrangements on the utilisation of OPW property,	
	(d) that Strategy Statements and Business Plans of Departments/Offices must, in consultation with the OPW as overall managers of the Civil Service property portfolio, take into account any consequent future property implications, and	Demands for accommodation remain unplanned and major requests come in at short notice to provide accommodation from Depts.
	(ii) noted the view of the Minister for Public Expenditure and Reform that the cost of providing car parking to the Civil Service should be reviewed and that he has asked the OPW and his Department to report to him on this matter by end Q1 2013; and	As Dublin transitions from being car dependent to public transport led, as planning guidelines reduce parking provision and as staff with parking places retire progress is being made on this matter organically.
	(5) noted the view of the Minister for Public Expenditure and Reform that there needs to be a clear long-term policy as to which Government Departmental functions and staff need to be located in central Dublin locations and that he has asked OPW to review this matter in consultation with Departments.	I am unaware of a clear policy on this matter.

The Property Asset Management Delivery Plan - July 30 2013 (PAMDP) - "Accommodating Change – Measuring Success"	Recommended Actions (12) i. **Governance** The aim is to establish a process that involves the main public property stakeholders committed to applying standards that minimise costs to the State. RECOMMENDED ACTIONS: • Public property holders will nominate representatives to a Property Managers Network led by the OPW (including Departmental property professionals) (Target date Q3 2013)	**CONCLUSIONS** This has become a tick-box exercise with occasional centrally organised meetings with training elements. The vision of the network was to enable front line staff take the initiative in co-ordinating on property matters. This was never enabled and is undermined by the centralised structures in OPW.
	• The OPW will provide regular reports on progressing the implementation of the reform recommendations	No comment
	ii. **Business Planning and Common Strategies** RECOMMENDED ACTIONS:	
	• The OPW in consultation with the Department of Public Expenditure and Reform will prepare a template for Departments/Offices to use in preparing the property-related section of their future Strategy Statements/Business Plans to facilitate strategic planning	This has not happened and in the resulting vacuum, in their absence OPW cannot develop the requisite high level strategies.
	• The OPW will assess office accommodation requirements for the Civil Service, as set out in Strategy Statements, and make recommendations on future property requirements, in conjunction with sectoral stakeholders	ditto
	iii. **Communications Strategy** RECOMMENDED ACTIONS: • The OPW in consultation with other public property holders will develop a communications strategy around	This is largely a tick-box exercise.

	the phased implementation of the property asset management reform actions **iv. Adopting ISEN 15221 Standard for Facility Management** RECOMMENDED ACTIONS: • Public property holders will implement the ISEN 15221 standard on a phased basis. Relevant Departments are to ensure that the standard is adopted across their areas of responsibility. The Standard will define financial, spatial and environmental KPIs to assess asset performance (Target date Q4 2013) subject to stakeholder engagement • The OPW will produce a baseline report on the current position in relation to the State's Civil Service office accommodation portfolio, to enable trend analysis (Target date Q4 2013) • The OPW will engage with the OGP on their facilities management contracts and the relevant service level agreement sections of the ISEN Standard (Target date Q4 2013)	Less than a handful of OPW buildings were measured to this standard. The ISEN standard was an overambitious aim driven through by a committee with no frontline experience or training in property. It is a standard not adopted in the industry either in Ireland or in Europe. PuRE-Net, the long-established European Public Sector government property umbrella organisation, of which OPW has been a member since 2013, is now moving to adopt both a common measurement standard, the International Property Measurement Standard (IPMS), and a common approach to performance Key Performance Indicators. These two measurement protocols (i.e. ISEN and IPMS) are not fully aligned, the former being related to FM performance, the latter related primarily to cost-related performance.
	v. Implementing the web-based mapping register • The OPW will complete the development of a prototype of the web-mapping register populated initially with OPW property data (Target date Q2 2013) • The OPW in consultation with other property holders will prepare a phased implementation plan to capture the required data from other public bodies (Target date Q3 2013) • The OPW will facilitate public property holders in: their assessment of the information and processes involved in the mapping application (Target date Q3 2013), and to identifying contacts and/or technical	Basic information has been captured and a majority of public bodies have supplied data. Regrettably the database has become a task in itself and data is not being assembled with a view to enabling office sharing. Thus, it is not a useful tool for driving efficiencies in the cost effective use of public office property.

	representatives responsible for populating the map (Target date Q4 2013) • Public property holders will undertake a process of data validation (prioritising office accommodation) in accordance with the data attributes required for the mapping application (Target date Q2 2014)* *subject to stakeholder engagement and estimated volume of work	
	vi. Standardising (i) property asset transfer and (ii) property asset sharing arrangements RECOMMENDED ACTIONS: • The Chief State Solicitor's Office in consultation with public property holders will draft and circulate agreed set of standard protocols (and/or statutory declaration, where appropriate) for intra public service property asset transfer and sharing (Ongoing) • The Department of Public Expenditure and Reform will communicate the standard protocols across the public service by way of Departmental circulars (Target date subject to above) • Agreed valuation methodology will be developed as part of the asset transfer policy. This may include the use of a single independent valuer (instead of each party hiring their own valuer) (Target date Q1 2014)	This recommendation in my view reflected the almost complete absence of front line staff from the process. The objective on sharing as voiced by front line staff prior to PAMDP was to get cultural buy-in whereby public bodies were not suspicious of each other and where nobody would care if the people sitting across the office were HSE/ civil service/ local authority employees. The disproportionate emphasis on legal protocols relative to the establishment of local groups of front line property staff has in my opinion rendered property sharing less likely than ever. The Valuation Office has been appointed to this role. The protocol needs to be reviewed to enable professionals in the public service bodies make submissions on proposed transfers.
	vii. Streamlining legal administration RECOMMENDED ACTIONS: • The Chief State Solicitor's Office (CSSO), in consultation with public property holders, will draft pro forma terms acceptable to the State when leasing commercial office accommodation. (This will include an approval process	The composition of leases (i.e. the lease terms) has always been problematic in the public service and landlord's legal advisers regularly insert hidden clauses to the advantage of the landlord if not detected. At one

	where there is a derogation sought from the above) (Target date Q4 2013)* • The CSSO, in consultation with public property holders, will draft pro forma terms for inclusion in leases and licences granted to third parties (office accommodation) (Target date Q4 2013)* * subject to resource prioritisation	stage OPW produced a standard lease but this was rejected later under the *'contra preferentum'* rule. The principle here was to enable lease negotiations to be truncated by identifying proforma terms acceptable to the state. There has been no meaningful progress on this, although the CSSO advises OPW on a case by case basis, (in 'tenant' situations), on desirable "OPW-friendly" lease terms.
	viii. Setting targets for registration/perfecting title on State-owned properties RECOMMENDED ACTIONS: • Public property holders will identify the State's portfolio of properties that require PRAI registration and set annual targets to register these properties. Prioritise each year – linked to the State's disposal programme (Target date Q1 2014) • Public property holders will identify a programme of work to acquire the freehold interest on properties held under long leaseholds, having regard to statutory provisions (Ongoing)	While everyone would want to see all properties registered in Land Registry it was a strange objective in the middle of the recession as it would undoubtedly trigger staff requirements but for no financial return. Historically, there had been a problem in some cases with non-compliance with its statutory obligations for first registration but this was relatively minor. The process is ongoing but has taken to skipping the hard questions where property disputes may be triggered by such registration.
	ix. Revise office space allocation per person RECOMMENDED ACTIONS: • The OPW will set targets for Civil Service space norms (Target date Q4 2013)	These remain unclear, although some initiative in this area is apparently being undertaken by OPW Architectural Services.
	• The OPW will define modern, flexible workplace design and more innovative working environment as the norm for Civil Service accommodation (subject to building type) (Target date Q1 2014)	This remains unclear.

	• Government Departments/Offices will examine the potential to move to electronic storage in order to reduce record management space requirements (Ongoing)	I am not aware of any programme on "record management" in general, and the impact such an initiative would have on the warehousing of physical records. From the property perspective, many existing warehouses used by departments contain a mix of archival, active and waste documentation with no defined universal 'destruction' policy yet in place. OPW Portfolio Planners are commencing a review of the warehouse properties but in the absence of a strategic long-term policy on 'records management' in place this may be difficult to advance.
	x. Building property management expertise and capacity • The OPW and public property holders will identify the professional and administrative skills and competencies required in the property management area (Target date Q4 2013) • The OPW will engage external expertise to undertake a capacity and capability review of its activities in relation to the property asset management reform commitments across the public service (Target date Q4 2013)	OPW employed external consultants to deal with this matter. The consultants were heavily controlled by the high level OPW team managing them (all of whom had no front-line professional property experience). There was extremely restricted capacity for front-line staff to communicate with the consultants. A submission by the author and his colleague was highly commended by the consultants but was excised and unmentioned when the final report was produced. The submission to the Accountability Body was born out of the realisation that meaningful debate and change would not be countenanced.
	• The OPW and public property holders will identify an accredited qualification for staff in property management and implement a programme to achieve the required standard (Target date Q1 2014)	No 'accredited' qualification has been identified for property management staff. A training course was put in place but there was no examination of participants at its conclusion and many staff who completed the training have been moved out of property and into other work areas.

	• Each public service sector will ensure the sustainability of professional expertise in the property management area, including professional collaboration across the public service (Ongoing)	The above initiative is further compromised by the current reform programme emphasis on a policy of "mobility" through which on the job training by administrative property staff can be wasted through internal transfers or between departments.
	xi. **Energy efficiency** RECOMMENDED ACTIONS: • The OPW will seek tenders for a) Specialist Engineering and Technical Resources; b) Data Logger deployment; and c) an Energy Efficiency Campaign (Target date Q3 2013) • The OPW and public property holders will identify suitable buildings across the public service to participate in the new campaign (Ongoing)	This important area is outside the scope of this report.
	xii. **Acquisitions and disposals strategy** RECOMMENDED ACTIONS: • Public property holders will develop a coordinated acquisitions appraisal process for leasehold and freehold premises following the principles of the Capital Appraisal Guidelines - to be applied to the public service, including local authorities (Target date Q2 2014) • Public property holders will formalise an agreed intra public service policy in relation to the disposal of surplus State property (Target date Q2 2014)	A Structured Multi-disciplinary Option Appraisal process was pioneered by OPW. It has been effectively consigned to history and replaced by an internal committee dominated by senior managers, but notably devoid of full multi-disciplinary requirements.

The Concerto Report - 7 April 2014	This was embarked upon on a very poor footing. All staff communications were filtered through the Director of Corporate Services and PO in property management. Ultimately, due to an electronic glitch it was possible to issue a paper communication to the consultant bypassing filters. We know that this communication was well received by the consultants but it then became clear that they were	The report was heavily controlled so that the civil service model was the only option considered.
	Boost Customer Engagement, Portfolio Planning and Programme & Project Management resources.	Customer engagement remains dysfunctional. As one recent example, there have been ongoing media reports of serious difficulties for OPW in relocating a client Department from a State-owned premises, (Hawkins House), to a new high-cost leased premises (Miesan Plaza). These are illustrative of the problems at the coalface.
	Define PAMDP's property cost reduction and value release benefits, using them to prioritise work.	Nothing meaningful has arisen. Presenting the reduction in rent roll as attributable to PAMDP requires a detailed exercise in asking what would have happened naturally. Currently as PAMDP measurement data has not been progressed benchmarking and in consequence, measurement of improved/ dis-improved performance is effectively impossible to progress.
	Building on existing processes, develop an integrated solution for the OPW as a whole (not just in teams), ensuring differentiation between landlord processes and OPW's new wider PAMDP remit.	The civil service 'assembly line' approach to property continues leaving situations where 3 or 4 case officers may handle different floors in a multi-tenanted OPW building, often with no 'lead' case officer.
	Work with DPER to design and implement a simple property and projects charging regime that better incentivises occupiers' behaviours.	This recommendation shows a fundamental mis-understanding of the cultural implications of centralised budgeting where spending the budget to the penny is more important than value for money. 'Profit' is deemed a bad thing as it is treated as 'underspend' and will have negative budgeting consequences for OPW in future years. OPW is currently having difficulty in their rental

		vote as rents that were adjusted downwards in the recession recover (it would have been much better from a budgeting perspective if the rents had remained at their historic highs.
	Establish a set of Service Level Agreements with customers (core and wider government), with the aim of improving performance management in both directions.	Effectively rejected - No meaningful progress has arisen. Without service level agreements and clear projections on property requirements, attempts at strategic Portfolio Planning are pointless.
	Adopt an organisation model driven by process, not professional groupings.	Whether recent occurrences are attributable to this objective the end result has been a de-professionalisation of a function populated by professionals in the private sector.
	Based on an explicit "Make v Buy" policy (i.e. the balance of in-house v external resources), and by the consequent estimation of numbers of staff required, go through a structured process to post-map suitable staff and recruit others into the new roles without compromising "Business as Usual".	No policy has been defined – this has been confirmed by Management in writing. The consequences of this are that identification/allocation of resource issues cannot be matched to a non-policy, seemingly based only on expediency and overall internal capacity within OPW. This appears to be particularly true for the largest professional cohort of professional staff – Architectural Services.
	Build up the Project Administration role into a fully-fledged Programme and Project Management function not just in the delivery phase but in the early planning stages too.	This has not happened. Major projects has been absorbed by the Architectural Division. The management stream have consistently demonstrated an aversion to multi-disciplinary teams and option appraisals which require the input of property specialists other than architects.
	Continue designing the PAMDP Key Performance Indicators (KPI) and develop a detailed understanding of the associated levers of change, data flows and performance metrics in this wider remit.	These never advanced and remain vaguely aspirational. ISEN is supposed to be adopted although there now seems acceptance that it was too ambitious and was a path not being shared by the wider property industry. Uncoordinated, vague and patchy – it needs a decision on which standard/s to adopt – ISEN or IPMS or both + standards for Quantity Surveying + M and E – I am not

		aware as to whether the last-mentioned are being taken into account in these metrics to a common standard.
	Reduce the number of suppliers, broaden their scope working under a Help Desk and establish a firmer, more explicit, supplier performance management regime.	Beyond the scope of the author. OGP role is broadening its involvement in this area progressively.
	Develop a stronger culture of staff performance management.	The Civil Service methods of working make performance management very subjective and perceived as largely self-serving. A private sector model would ultimately identify a Cost per Person accommodated, (the pinnacle of KPI's) through which metric property managers could demonstrate and benchmark performance. This has not advanced at all in contrast to the UK where, since 2008 the UK government publishes an Annual property report entitled "The State of the Estate in 'year'" and which highlights actions and consequential outcomes, both by department and globally.
	Form a Business Transformation Team to re-design processes, restructure the organisation, integrate the technology project and manage the associated resource changes. This mainly internal	The title 'Team' morphed into 'Unit'. It was believed that the Team would be multi-disciplinary however, it became another administrative unit and excluded property professionals from its ranks.
Annual Progress Report on the Public Service Reform Plan 2014-2016. April 2016	The key areas in the Framework Plan are: • A Focus on Service Users • A Focus on Efficiency • A Focus on Openness, Transparency and Accountability • A Focus on Leadership, • Renewal and Organisational Reform	Significant achievements recorded by DPER in 2015 include: • the establishment of the Accountability Board within DPER; (as one of the outcomes of DPER's deliberations on 'Strengthening Civil Service Accountability and Performance'.) • undertaking the Civil Service Staff Engagement Survey; Now complete • the development of a Corporate Governance Standard for the Civil Service; Now issued • designing and implementing a new performance review process for Secretaries General and

		enhancing the process for Assistant Secretaries; (see box below) None of these are having a positive effect on property performance.
	2015 saw the publication by OPW of the first progress report on the PAMDPlan, which sets out the main areas of progress during its first two years. These include: • The formation of the high level Property Asset Management Steering Group • Population of data on the State Property Register • Improved processes for intrastate property transactions • The adoption of ISEN 15221 Standard for Facilities Management • Improved management of the Civil Service estate.	Put in place. In Train Problems with the text of the Sharing Protocol document, as issued. This has not happened and without massive resources cannot happen. Without a measurement standard, Service Level Agreements (SLAs etc.) it will be very difficult to improve management of the civil estate.
	In 2015, the OPW hosted a two-day pilot course on property-related Option Appraisal and a further course is planned to take place in May 2016.	This had a promising start but now appears to have been set aside with a single professional discipline (at best) being made responsible for determining options.
	In 2015, a pilot training course on property-related VAT was held for OPW staff.	Done. Highly complex – a VAT expert is required to advise on VAT on property issue.
Business Transformation Unit	The Business Transformation Unit was established and with a staffing approaching 10 worked assiduously for almost 2 years producing vast amounts of documentation. It was closed down by the new Chairman in early 2017.	BTU was tasked with developing processes and procedures and reorganisation in line with the Civil Service model. At key milestones, its deliberations were put before MAC and the senior managers network neither of which had multi-disciplinary teams. There was no real

		opportunity for surveyors to input officially (other than 1 QS) even though a private sector equivalent organisation would be dominated by surveyors, at all levels from the top down.
Portfolio Planners	One of the most meaningful products of the BTU was the appointment of 4 portfolio planners with a property backgrounds and a role to steer the portfolio development.	The recently launched Portfolio Planning section is hamstrung by lack of business planning by client departments on their property needs, a lack of both data and SLAs. The PPs like valuers are far too junior within the management structure to be effective. They have no seat at MAC or the senior managers network.
Reform - Mobility Policy	Property Management is viewed as a civil service role and that it is appropriate to switch between social welfare, personnel, agriculture etc. The property industry views it differently and mobility should be within the sphere of property companies.	As mentioned previously, this reform is predicted to be catastrophic in terms of loss of "corporate memory" to an already dysfunctional OPW.
Robert Watt letter to TLAC re Asst Sec role. (5th April 2017)	The Civil Service Management Board adopting the view that diversity of experience was critical at | Management Board level and were altering the TLAC booklet favouring candidates who moved every 4 to 5 years. Where the post is specialist it will be handled on a case by case basis. Diversity of experience was to be welcomed.	While the letter and changes had safeguards for specialist posts, the recognition of what a 'specialist' post actually is being left to general service civil servants who appear to take the view that if a job isn't medical or from a controlled profession that it can be performed by any civil servant. The private sector does not take that view. The OPW has now successfully de-professionalised the posts of Directors of Engineering Services (MAC level) and the Director of Maintenance and filled these important positions with general service personnel who meet the general TLAC criteria but who are severely hampered by a lack of knowledge in the highly technical specialised roles which they have taken on. The effects of the manner in how the letter is seemingly being implemented means that a property professional will never sit on the MAC of OPW with its multi-billion euro property portfolio. The cross departmental PO promotional system requires professionals to effectively

		abandon their profession if their careers are to advance. In short they would be obliged to take on another career area such as in agricultural policy/ social welfare reform etc. In the private property world this would be viewed as a major negative to the point that a candidate would be viewed as being out of touch with the profession.
Chairman's reforms 2017	Establishment of Asst. Secretary Property in OPW	This post was the initiative of the current chairman. It was probably well intended but the job description was not written by anyone with a knowledge of the property industry. The post was advertised externally and I am aware of a number of highly qualified professional applicants from the private property sector who were not even granted an interview. In addition, the PAS interview panels had no property professionals. The job was awarded to a civil servant who met the stipulated criteria for the post (as promulgated in the Robert Watt letter) but who had no training and virtually no experience or background in the complex business of property.
Chairman's reforms	**Matrix Management?**	The overall corporate vision is unclear to most staff in the organisation but it appears to subscribe to the view that staff can have multiple bosses. This clashes with Civil Service culture and practices such as PMDS. It is too early to judge but all the signs are that this programme (which should be debated fully as it is not viewed widely as sustainable). Almost inevitably I believe it will be overwhelmed by the prevailing civil service culture.
Senior Managers Network	This is being used as a consultative body.	The SMN has a very restricted membership being comprised of administrative POs, architects, engineers focussed on the flood relief programme and one QS. This is not how the Property Regulator views how the management board of a Property Service Provider should be.

AN EXAMINATION

OF FIVE COMPLETED OPW PROPERTY ACQUISITIONS

TO IDENTIFY

ACCOUNTABILITY VULNERABILITIES

IN THE CONTEXT OF NON-OPTIMAL OUTCOMES

John Dowds, Allen Morgan
Valuation Service, OPW
November 2017

Contents

Abstract

In May 2015 the authors were instructed to produce a report by the Commissioners of Public Works in Ireland. The request arose consequent to a submission of March 2014 by the authors to a consultation process on accountability established by the Minister for Public Expenditure and Reform in January 2014 (Appendix 1). The 2014 submission raised concerns on the recurrence of multiple property transactions which invariably seemed to be balanced against the State. The submission expressed concerns that the Office appeared to have an inability to learn from mistakes and from drawing on such lessons to implement 'best practice' procedures and processes in handling future property and property transactions.

In May 2014 the authors were instructed to identify sample cases of concern that specifically might relate to corrupt actions. (The authors advised in vain, that a focus on corruption was likely to be futile as such action by its very nature would almost certainly be designed to be concealed and if it did exist, in order to provide proof beyond reasonable doubt would require levels of access to records that would not be available in OPW).

In July 2015, in response to a follow-on request (Appendix 2) by the Comptroller and Auditor General's Office to the Commissioners, the authors were instructed to broaden their detailed review of 5 such transactions to establish both whether their concerns were justified and if issues/shortcomings in procedures were identified to make recommendations on remedial actions to be taken by the Commissioners to prevent recurrence.

The report examines key proceedings around the transactions, identifies areas of concern and makes recommendations to avoid recurrence of matters of concern. The report highlights vulnerabilities in adopted procedures and areas which would be open to a corrupt staff member to re-direct money for personal advantage. The authors remain of the view that the numbers of civil service staff likely to sacrifice secure careers for corrupt financial gain is societally small at any time, but that actions focussed only on delivery under evolving civil service delivery models leave vulnerabilities to corrupt personal gain. The authors did not expect to find nor were they equipped to identify such personal gain and must state conclusively that no wrongdoings were identified even though the opportunities for such to arise were present and therefore cannot definitively be discounted at this remove.

The report recommends that the only sustainable way to develop robust value for money processes and procedures will be through the establishment of a professionally managed state owned commercial property agency.

CHAPTER 1. INTRODUCTION.

In January 2014, the Minister for Public Expenditure and Reform placed advertisements in the national media inviting the public to make submissions on the matter of Civil Service Accountability. On 31st March 2014, in response to the aforementioned invitation, the authors of this report made a submission which addressed aspects of corporate governance and accountability, apropos a perceived imbalance against the State in property transactions www.per.gov.ie/wp-content/uploads/John-Dowds-Allen-Morgan.pdf. This submission, by front line staff with almost 60 years combined experience in OPW Valuers section, identified perceptions of consistent unexplained poor outcomes for OPW in property transactions.

In June 2014, the authors were requested by the Commissioners to identify any cases which they considered may have given rise to concerns of the potential for corruption. In response, the authors forwarded a representative sample including five cases which merited further investigation.

In March 2015, this matter was given fresh impetus when the original submission to the Minister for Public Expenditure and Reform dated 31st March 2014 was brought by an external third party to the attention of members of the Public Accounts Committee. Shortly thereafter, and as a consequence of the aforementioned action, the matter of the authors' submission to DPER on 'Accountability' was duly referred to the Comptroller and Auditor General for further investigation.

In May 2015 the Comptroller and Auditor General contacted the Office of Public Works querying whether the OPW has "... carried out a review into the areas of concern raised in the submission by the two members ... or introduced control systems *'to implement best practice in handling property transactions'* which the submission suggests the OPW have shown an inability to do in the past." In short had lessons been learned?

In July 2015 the Commissioners requested the authors to investigate the aforementioned five sample cases which had been identified to the Commissioners in June 2014. On foot of this the authors carried out further investigations and prepared a draft comprehensive report addressing the issues of corporate governance, accountability and the achievement of "Best Practice". This draft report was submitted to OPW's Director of Corporate Services in December 2015 covering the 5 cases.

The Director requested that this report be referred to Mr. A.B. Barrister/ Planner to ensure that the report was legally robust. Mr A.B. had previously advised the Commissioners on planning issues specifically in relation to the acquisition of 91-93 Merrion Square. He freely gave his time, augmenting and approving this portion of the report (since further amended). This was important given that the internal valuers section was not involved in this particular acquisition. On concluding his review of this single case, Mr. A.B. sought clarification that the Commissioners would remunerate him for his time in reviewing the remainder of the report. It was made clear by the Commissioners to the authors that this request would not be acceded to.

Matters remained in limbo until July 2017 when representatives of the Comptroller and Auditor general met the authors and in the course of a wider discussion advised on further mechanisms to minimise risks of legal action arising. The pending retirement of one of the authors has imposed a deadline of December 2017.

This report is crafted, drawing from extensive time line documents assembled from the multiple sources in draft form. These were excluded from this report on request, with a view to making the report a more manageable size but as a consequence lacking the underpinning detail supporting the content. The time lines of the cases (not all of which were fully completed) can be made available.

Property can be purchased "on market" or "off market". In normal markets if a property is "on market" the purchaser and vendor have an equal relationship in terms of their negotiating strengths/ weaknesses; accordingly, properties sell at "market value". However, as 4 of the 5 case studies will show the properties were purchased off market. In an "off market" situation the balance of advantage rests with the vendor and the purchaser will have to pay a premium on the property. A "special purchaser" invariably has to buy "off market" to meet a specific property requirement they may have. The special need generally relates to a specific property need whether arising from its proximity to other properties or having characteristics/ attributes particular to a special requirement. Two of the 5 case properties had special purchaser attributes but in each case could have been bought "on market" without having to pay a premium.

Fiduciary context

The authors are conscious that their motivation in raising unsolicited issues is open to question. Over the years assertions have been made that it is not part of our role to speak out on these issues, that we should progress matters in a more diplomatic way, that the submissions are simply about career advancement or that the submissions are borne out of resentment.

Valuers in OPW have traditionally been the only staff trained and dedicated to 'commercial' property roles in OPW. Property tends to have long cycles (e.g. 20 year leases) and knowledge is lost every time a case officer is moved on and replaced and the valuers remain the only permanent and the most complete observers of the portfolio evolution. In this context prior to embarking on the path of highlighting concerns in the 1990s we made it clear that our motivation derived from our interpretation of the 'fiduciary' role attaching to the posts and roles we held. (In short, we believe that we have the same obligation as an engineer has to intervene if the integrity of a structure is visibly compromised, although the consequences of being silent may be less severe than if the engineer turned his head the other way.) In the late 1990s, we sought clarification from management streams on our obligation but to date have not received same.

CHAPTER 2. METHODOLOGY ADOPTED.

2.1 Review of official records

The starting assumption in this examination of the five sample cases was that a central official file should be available in each case. The preliminary examination involved a review of paper based records, electronic equivalents, emails etc.

Results of search for documents/files.

2.1.1 *Case 1: Thornton Hall*: (No official file could be supplied but substantial secondary files were identified which when combined with contemporaneous reports by the C&AG present a reasonably full picture of matters.)

2.1.2 *Case 2: Fairgreen*: (OPW official Files were available)

2.1.3 *Case 3: Mullingar*: (OPW official File was supplied but clearly lacks paperwork pertaining to the area of concern)

2.1.4 *Case 4: 91-93 Merrion Square*: Partial official OPW file records exist. These were supplemented by additional research, old Valuer file records and Mr. A.B.'s written statement (Appendix 3) of his involvement in the case in 2007.

2.1.5 *Case 5: Batty Langley Lodge*: (Temporary OPW official file was supplied but clearly lacks paperwork pertaining to the area of concern)

Impact of limited / non/availability of official records on delivery of this report

The piecemeal and incomplete nature of much of OPW's official records renders the making of definitive findings difficult. Obviously, more extensive research (e.g. access to Justice and Prison Service files) may serve to alter the picture somewhat. However, from our research to date we are satisfied that our findings, based on our conclusions drawn inter alia from what was unearthed, are robust.

2.2 Review of OPW Valuation Section Records

Other than in the case of Thornton Hall some records pertaining to the cases existed.

2.3 Review of Public External Sources

Where appropriate, normal valuation due diligence was applied in researching title, planning records, market information, contemporaneous newspaper reports and in the case of Thornton records of proceedings of the Public Accounts Committee.

2.4 Inspections

Where necessary inspections were made.

2.5 Gaps in Research

The authors were not empowered/authorised - nor would they be appropriately trained to interview any of the parties directly involved in the transactions either internal or external. Due process would demand that such interviews occur if further enquiries were to focus on whether vulnerabilities to corruption were exploited. The authors are of the view that such a course would serve as a distraction to addressing poor Value for Money (VFM) outcomes.

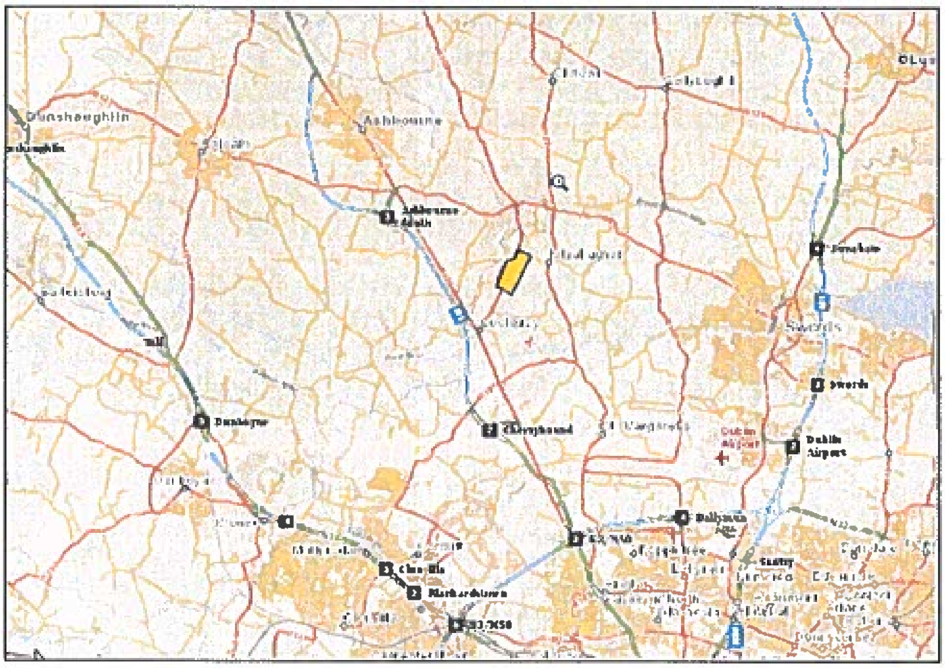
CHAPTER 3. FIVE COMPLETED CASES

CASE 1: Thornton Hall, Co. Dublin – acquisition of lands in two phases as follows:

A. **The acquisition of the Subject Site in 2005**
B. **The acquisition of Ancillary Sites in 2006/7**

Background.

This case was included in our review by reason of the fact that concern at the price paid is already a matter of public record. The Comptroller and Auditor General's report of 2005 (Vote 25 – Dept. of Justice), published in September 2006, refers. The site comprises a 150-acre farm at Thornton Hall, Co. Dublin.



Location of Thornton Hall property in yellow

The OPW valuation section was not involved in the subject case, either directly or indirectly. However, we were keen to review the Thornton Hall case as we were aware that the OPW was involved and had acted in the role of 'Intelligent Client' to the Irish Prison Service (IPS) and the Department of Justice from a property perspective. Whilst the official OPW file could not be located, we were provided with loose papers abstracted from a number of internal OPW sources. We did not have access to records held by the Irish Prison Service/Dept. of Justice, although such records were presumably previously available to the Comptroller and Auditor General.

In terms of OPW's involvement, one of its Commissioner E.F was instrumental in procuring and overseeing the services provided by a firm of commercial property professionals appointed by the OPW/Justice Site Selection Committee (on which EF sat) to conduct the search. The Site Selection Committee was the working group which evaluated the property options, and which ultimately made the decision on the final site selection.

A Acquisition of the Subject Site (Thornton Hall farm)

The subject site is located approximately 12kms. north-west of Dublin city centre and 1km. east of the old Dublin Ashbourne Road R135.

Prior to its purchase the subject site was an arable working farm of approximately 150 acres with house and yards attached in a rural setting.

The main house on the subject site comprises a detached Record of Protected Structures (RPS) listed two-storey over basement period residence dating from the 19th century. It is of traditional construction under a hipped and slated roof and extends to approximately 3,000 sq.ft. Although a listed building in the Fingal County Council Register of Protected Structures, there appear to be few internal original features of any significance and it was not included in the National Inventory of Architectural Heritage (NIAH) for Fingal.

Planning

The subject site is situated in Fingal County Council's administrative area, adjacent to the border with County Meath. The Fingal County Council Development Plan 2011-2017 currently applies. In this Plan, the land was zoned "RU" (rural use) in its entirety. As already stated, the house is a Protected Structure (no. 784 on the RPS schedule included in the Development Plan written statement).

Acquisition

In January 2005 the acquisition of the subject site of 150 acres was concluded. The purchase price paid was €29.9m, equivalent to a price of €200,000 per acre.

C&AG review

The C and AG's 2005 review of this land acquisition http://www.audgen.gov.ie/documents/annualreports/2005/2005_Report_Eng.pdf was conducted under the following headings:

> Site requirements, Type and Location of Land, Amount of Land Required, Site Acquisition Budget, Disclosing the State's Interest, Hiring of Advisors, Evaluation of Site Options, Initial Evaluation, Evaluation Criteria, Consistency of Evaluation, Evaluation of Cost, Valuation of sites, Analysis of Land Values, Negotiation of Purchase, Level of Competition, Disclosure of connection, Completion of Purchase.

The Comptroller's main findings are outlined as follows:

1. The initial brief proved to be inadequate and the land requirements of the IPS increased in size and complexity over time.
2. The attempted non-disclosure of the State's identity initially proved unworkable.
3. Consultants were not selected/appointed under a competitive tendering procedure. The Comptroller noted the fees paid to the appointed consultants [redacted] (€256,506 + VAT of €53,866) but made no comment as to whether he considered these were excessive or not.
4. The official records were poor.
5. The search/evaluation criteria used and the strategy followed in negotiations did not lead to the optimum property being acquired at a reasonable price.
6. The price paid for the subject site was grossly excessive.
7. There was a need for greater transparency in the acquisition process.
8. If Compulsory Purchase powers had been available to the State to make this acquisition, compensation would have been based on 'market value'. However, no recommendations were made by the C and AG as to the need for the State to confer such powers upon itself.

The Comptroller's report confirms that the OPW was fully involved with this case. As chartered surveyors, our interest in reading the C and AG's report centred on two related property aspects - the 'Valuation of Sites' and the 'Analysis of Land Values'. In that context, the following quotes from the C and AG's report in his conclusions are germane:

"Subsequent to the agreement to purchase the land at Thornton, [redacted] wrote to the Prison Service on 3 February 2005 stating that "As (we) mentioned to you from the outset, the land being purchased in the Fingal county area by developers speculating on land with the hope of getting those lands rezoned in future development plans, trade at anything from €75,000 to €100,000 per acre."

"[redacted] attributed the balance of the cost to the fact that, because the public advertisement of the Prison Service requirements meant that potential vendors knew the identity of the purchaser, there was always going to be a premium price placed on properties being offered for sale by the vendors. This premium, in their opinion was '"purely down to the 'fall-out' factor being identified by vendors for the stigma attached of being the vendor of the property for the prison in their locality."

"Ultimately, the price paid by the Prison Service for the Thornton land — around €200,000 per acre — was at least twice the market price at the time for well-positioned agricultural land with development potential in the target area in north County Dublin. *While it is acknowledged that the hope value attached to any particular holding may vary according to the subjective assessments of the parties on the prospect and nature of future development, it is likely that the main factor giving rise to the differential between the price paid for the Thornton land and the going rate for similar land in the area was public knowledge of the State as the purchaser and the premium associated with that status."*

Main Case Findings (in respect of the acquisition of the Subject Site)

Having read the entire report carefully in the context of the available material still held by the

OPW, we have concluded that the Comptroller and Auditor General was entirely correct in his findings, i.e.

- That the price paid was in excess of market value levels.
- The manner in which the acquisition was pursued was poorly planned
- There was a lack of transparency in procurement.
- There was poor governance throughout.

Our own research of OPW files and documents which were made available to us identified some finer detail beyond that summarised in the Comptroller's report but which in essence only serves to confirm his findings.

Overall conclusions on Main Site

The Comptroller's report sets out clear conclusions which provide vital guidance to the State in engaging on future major projects of this nature. We agree with the Comptroller's conclusions and believe that his 2005 report should be carefully evaluated and used to formulate a guide for Best Practice procedure for future acquisitions and for the purpose of Good Governance and Accountability. As matters turned out, the question of whether or not lessons had been learned from the 2005 Comptroller's report was to be put to the test a year later in the ancillary site acquisitions that followed.

We would add the observation that IPS came to OPW to avail of OPW's experience in such acquisitions. In these, it would have been expected that a team of trained and experienced staff in OPW would have been assembled for the delivery; however, the entire OPW "Intelligent Client" role was assumed by a single individual with limited experience in the task of land acquisition. In short it is difficult to see what added value was provided by OPW.

B. Acquisition of the Ancillary Sites.

The circumstances and sequence of events which gave rise to these additional acquisitions were not examined by the Comptroller and Auditor General as they post-dated his 2005 report.

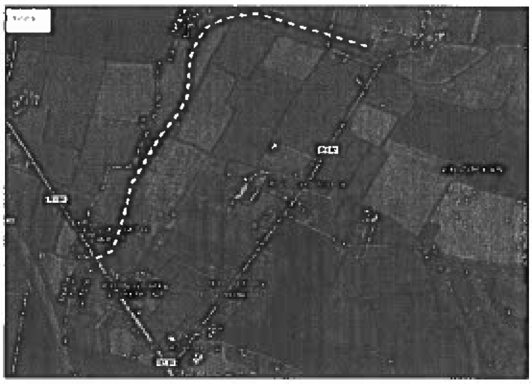
In the subsequent PAC hearing on the C and AG report which followed in 2006,….-

http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/ACC2006102600004?opendocument

"……..the issue of additional land being needed to provide a new road access into the main site does not appear to have been queried/adequately answered; indeed answers given to the PAC by various witnesses were to the effect that beyond the original site acquisition no further land acquisition was required or mooted".

Background.

In or about April 2006; i.e. just over a year after the acquisition of the Subject Site which was completed in January 2005, two additional adjacent plots of land were deemed necessary for purchase by the IPS, to construct a new access road and services into the Subject Site. At the outset, these additional Lots were contained within two agricultural holdings, both owned by local farmers.



Line of new access road in yellow

The documented reasons supporting the business case for this additional land acquisition are scant. The justification appears to relate to local objections being raised to the use by the IPS of the existing road access (the R130) to the subject site, both for construction traffic and when operational, by Prison-related traffic passing through the small rural settlement of Coolquay. This was clearly an issue that should have been anticipated in selecting the subject site, given the fact that this did not have direct frontage onto, or access from, the main arterial route, the N2 Dublin to Ashbourne Road, which lies over a kilometre distant from the main site.

<u>Negotiations for purchases of Ancillary Sites.</u>
By the time this additional land requirement became an issue, the IPS, were effectively in the position of a "Special Purchaser" with all the attendant disadvantages.

Details of the Ancillary Sites purchased by property consultants appointed by OPW on behalf of the IPS from two landowners are as follows:

	Area acres	**Description**	**Price paid**	**Price per acre**
Lot 1	3.3	Road take (pt.of)	€495,000	€150,000
Lot 2	5.4	Road take (pt.of)	€810,000	€150,000
Lot 3	6.1	Site	€741,150	€121,500
No ref.	0.78	Residue area	€50,000	€64,100
Total	**15.58**		**€2,096,150**	**€134,500**

It would seem that the vendors were also granted access onto the new road being constructed.

<u>Vendors' Ownership details of above Lots</u>
Further detail on the papers pertaining to the acquisition process have been loosely assembled and a time line of events can be made available if required.

It was noticed in researching this matter that the larger holding containing Lot 1, had changed ownership from a private owner in 2005 (when the main site was acquired), to a seemingly unrelated new company in 2006. The company acquiring the interest shared an address with one of the 3 companies that were part of the consortium which were selected in May 2007 to deliver the prison project. (Some common directorships appear in a broad group of associated companies). The acquisition of these ancillary lands by OPW concluded in or around August 2007.

There was an obvious commercial logic in purchase of the farm by the company since it would have an element of 'hope value' stemming from its proximity to the Prison development, (on the assumption that the latter had gone ahead as planned). However, the co-incidental purchase of lands which had become essential to the project at the time a PPP process was in train leave a number of avenues of enquiry beyond the brief of the authors.

Dept. of Justice/ OPW employed a main-stream Dublin agency to negotiate these two ancillary land acquisitions from the company and the adjacent privately-owned lands. In May 2007, OPW found it necessary to employ a second mainstream agency to certify that the acquisitions were value for money although these do not appear to have been required when modifications were later made to the putative purchase price after the valuation date. It is noted that the company owning Lot 1 used a local agent to negotiate sale on its behalf.

According to the CRO records, the company was dissolved in January 2012.

Use of CPO powers by Fingal County Council (FCC) to acquire minor ancillary lands for the IPS.

The Property Registration Authority (PRA) records for the area, show that, in addition to the above acquisitions carried out with OPW acting on behalf of IPS as 'intelligent client' that a small section of land at the road junction of the new IPS road with the N2 was also acquired by CPO by FCC in 2010 for the IPS. The lands in question were acquired from the balance of the company lands. Estimates of compensation payable (as presumably prepared by the acquiring authority, FCC) are not known. It is understood that the compensation monies were not paid by FCC to the company, because by the time the payment stage had been reached the company had been dissolved.

Findings and Recommendations

1. **Effectively the total price of the Thornton Land Acquisition was closer to €50 million when costs of providing additional access are included.**

The requirement to purchase additional lands, build a serviced road and an underpass to a county road seemingly added ca.€20m over and above that which would have applied to the shortlisted option which had access to the main road. In hindsight, it is hard to see why Thornton was purchased with such alacrity.

Recommendation 1

Statutory reform It is recommended that legislation be drafted to grant broad compulsory purchase and planning powers to an appropriate arm of government for the provision of critical infrastructure. Central government need to have an ability to provide critical infrastructure such as Prisons/ emergency infrastructure without having to enter the 5-year cycle of local development plans. The project was restricted to large holdings and a process which relied on offers from individuals holding vaguely suitable properties. Statutory powers are essential for the provision of critical infrastructure so that locations can be identified by attributes and assembled with the backing of compulsory purchase powers. (Note: This may not be a cheaper process but the site selected / assembled should be the most appropriate site from an infrastructural perspective.

Recommendation 2
Multi-disciplinary Structured Option Appraisal It is recommended that that this become central to the delivery of all larger projects offering in the process a means to inject competitive tension in negotiations.

2. **The overall price paid for the Ancillary Sites were greatly in excess of market value.**

The acquisition of Thornton at €200k per acre facilitated any valuer in justifying payments up to that figure. The inadequate road access to the Thornton site guaranteed that OPW/ IPS would be special purchasers for these additional lands or in need of compulsory purchase powers. In this unfortunate context whilst the prices ultimately negotiated appear favourable the prices paid would never have been recoverable if they were to be sold back to the general market in identical market conditions.

Recommendation
Full multi-disciplinary approach A multi-disciplinary team would have been aware of the vulnerability of a Thornton style purchase

3. **Poor record keeping.**

The limited OPW documentation made available to us does not provide a clear record of the sequence of events and decisions which were made over the period 2006-07.

Recommendation
Provide and enforce guidelines on record keeping Electronic communications (particularly emails) have increasingly become the norm and as a consequence traditional formal file management has struggled to provide full records of events. There is a requirement for central guidance on file management as records are becoming increasingly fragmented and incomplete.

4. **'Intelligent Client' Role**

Despite the fact that IPS approached OPW to perform an "intelligent client" role there was no internal oversight of this project by OPW's own property professionals. The practice of appointing consultants to act for the State needs professionals with sufficient understanding of projects to frame briefs and instructions in the context of the overall project. The practice of issuing instructions without supplying the full context to a consultant is potentially dangerous e.g a valuer providing a valuation report will ultimately affirm instructions and whilst they are obliged to seek further information once they become aware of an issue impinging on values, the partial release of information greatly increases the risk that a valuation report will provide a meaningless figure. Doubtlessly outsourcing of other professions is equally problematic. The internal professional will also have a greater sense of where conflicts of interest may exist in the context of a project.

Recommendation 1

Use appropriate trained professional to frame instructions Always use a trained professional to frame instructions and oversee the delivery of such professional services when outsourcing.

Recommendation 2

OPW to become a licenced Property Service Provider The OPW took on a role of adviser and agent to the Prison Service and the Department of Justice yet deployed no expert staff from the office. Since the passing of the Property Services (Regulation) Act 2011 such advice should be provided only by licenced companies. OPW needs such a licence.

5. **Appointment of consultants:**

Property consultants appointed to act on behalf of OPW/ the IPS do not appear to have been selected/appointed under a competitive tendering process although the fees were not wildly out of line. Procedures for outsourcing valuers and property advisers pertaining at the time were bypassed. At the time of writing there are still no formal procedures in place within OPW.

Recommendation

Re-establish rules for outsourcing property professionals. It is understood that the Office of Government Procurement are proposing implementing procurement frameworks although it is not expected that these will facilitate the type of outsourcing required here. Clear rules are required.

6. **Culture:**

The delivery of the Prison Project followed classical civil and public service delivery practices. The prevailing culture is shaped by the uneasy relationship between the funding Department of Finance / Public Expenditure and Reform, the delivering Department (OPW/ Justice etc.) who care about delivery but largely only care about money from the perspective of whether there is a budget available whilst keeping an uneasy eye on what the C & AG might say or find in the project delivery. Other aspects to the culture relate to how individuals react to it – some as in this case try to control everything, whereas others refuse to accept responsibilities.

Recommendation

Commercial State owned agency Establish a commercial State property agency (with commercial focus, professionally qualified staffing with access to financial markets) to handle property matters. Progressively, many European countries are now actively choosing to pursue this route.

7. **Potential for corruption:**

There was potential for corruption to have played a part in the ancillary site acquisitions. In retrospect from the outset there was a requirement for additional lands for access. The acquisition of some of the lands by what may be a company interlinked with a company involved in the main prison tender is in all probability simply foresight by a cash rich company close to the action. However, without total hindsight it is impossible to know the exact sequencing of decisions and the involvement of parties in formulating decisions.

Recommendation

It is recommended that the C & AG look more closely at the ownership move of Lot 1. It is not expected that anything meaningful can be concluded at this stage; however, the occurrence is worrying and any actions/ guidelines that can prevent re-occurrence would be welcomed.

8. Take control of the company lands:

It would appear at least a possibility that Fo. DN 7475F from which Lot 1 was acquired may now effectively be held by the Dept. of Finance under the waiver programme for dissolved companies. Responsibility for lands in the waiver programme is assigned to the OPW for the management of such assets. If it is so vested, it raises the possibility that such lands might be forfeited to the State (unless the company is reconstituted within a 20-year period.)

CASE 2: The acquisition of an office lease at Fairgreen, Galway City

General.

Over the period 2001 to 2006 the OPW undertook to acquire new leasehold accommodation for the Revenue Commissioners in Galway City. The search began in 2001. Over the next two years there was continuing engagement between OPW and Revenue, to clarify and validate the business need and to clarify/refine the brief.

In July 2003 a detailed brief was received from Revenue for 224 to 238 staff. In November 2003 OPW advertised in the media seeking candidate properties to lease which could meet the Revenue brief. OPW then proceeded to examine the candidate property proposals which were submitted by interested parties in response to the Commissioners' advertisement.

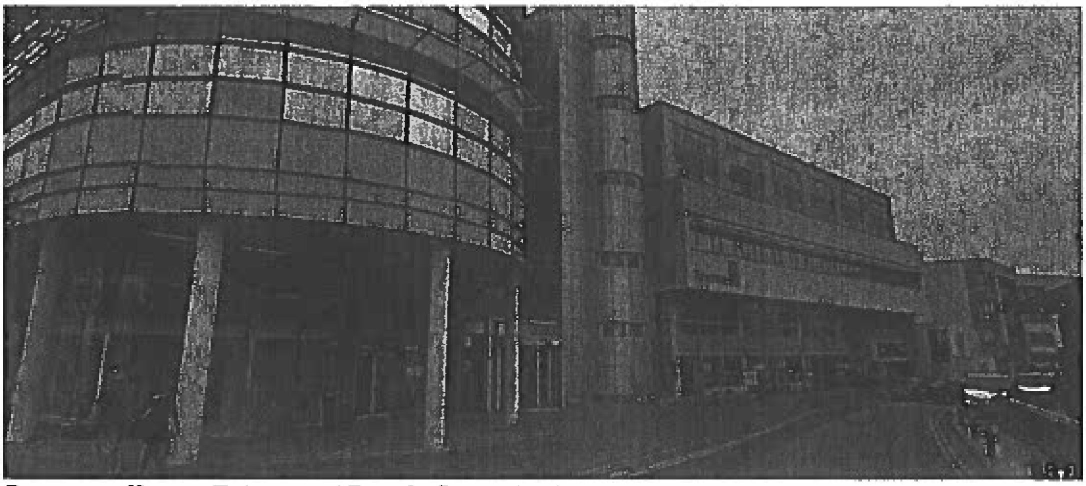
The advertised brief (Appendix 4a) was stated to be for a building of between ca 2,500 to 4,000sqm (Net Internal Area basis) of high quality offices, with some ground floor space, in or near Galway City. In response to the advertisement, a significant number of proposals were received from developers.

One of the first proposals, the subject site at Fairgreen, see location map, was initially rejected as a site by Revenue in late 2003, when it was first identified during an initial market trawl by OPW. In terms of accessibility Fairgreen is well located relative to the centre of Galway city, situated beside the main railway station, and very close to Eyre Square. In other aspects the site profile would not be regarded as "landmark." Other property options also continued to be pursued.

Revenue Offices Image Bing Maps

In March 2004 following offers/proposals received by the OPW from a number of commercial developers, (which for one reason or another were deemed unsuitable), Revenue identified a proposed new building on the same Fairgreen site (Bothar Pairc an Aonaigh) as an option, despite this having been deemed unsuitable previously.

In July 2004, the OPW issued follow-up letters to agents representing the owners of two shortlisted options, one of which was the Fairgreen site. These letters sought clarity on the specification that would be included as part of a landlord fitout, and also stipulated the required basis of measurement. The letters specified that proposals should be submitted on a Net Internal/Lettable Area (NIA/NLA) basis.



Revenue office at Fairgreen (Google Streetview)

From the outset, the selection process generally appears to have been haphazard, and to some extent client-led, and without the benefit of a detailed Option Appraisal to inform a final decision.

The OPW valuation section was first consulted in July 2004, when professional advice was sought by the Commissioners from the section as to our opinion of prevailing market rents in Galway City (on a Nett Internal/Lettable Area basis). Thereafter between then and April 2006 the section was consulted intermittently and then, only in a limited capacity as regards advice on prevailing headline rents in Galway City.

The detailed negotiations between the OPW and putative landlords (the [redacted] Partnership) and/or their agents that followed were conducted directly between OPW administrators in Property Management Services and the local estate agents involved. The Valuation Service who would normally conduct such negotiations were consulted thereafter on two occasions, firstly in August 2004, and later in October 2005. During this period the Galway property market was experiencing strong rental growth.

The OPW official file indicates that by August 2004 the Fairgreen option had effectively become the preferred option, at least in the minds of the Revenue Commissioners, who rejected two other candidate options, both cheaper, at Centrepoint and Liosban. At that juncture the size of the space on offer in the Fairgreen building was stated to be 4,196 sqms, (45,165 sqft) Gross Internal Area basis, with an equivalent Nett Internal/Lettable Area of 3,663.6 sqms (39,434 sqft). It is critical for the purpose of this report to emphasise the size differential of the building, as expressed in Gross Internal and Nett Internal measurement terms - the Gross being approximately 13% larger than the Nett equivalent figure. The implication of this in rental terms will become evident later on in this review.

The OPW file records that construction of the Fairgreen building, (in accordance with the original planning permission), commenced in or around August 2004, and had reached the 'Practical Completion' stage by 29th September 2005. Over this period there appear to have been ongoing discussions with the OPW on an enlarged brief for the Revenue Commissioners, which resulted in an additional space requirement. This was met by the insertion of a mezzanine level floor between ground and first floor (the ground floor had been double height). This resulted in a supplementary planning application. A section of the ground floor space was also deemed to be required to fulfil the revised brief. It is pertinent to note that the increased space on offer was still being quoted on a Nett Internal Area basis.

By the time of a further revised proposal by the landlord in late October 2005, the total floor area then on offer in the Fairgreen building had increased to 5,554 sqms (59,782sqft) - a large increase on earlier figures, but without stating if this figure was being calculated on a Gross Internal or a Nett Internal Area basis. Furthermore, in this revised offer there was no mention of a rent-free period or a tenant-break option, a significant deterioration in the terms as initially put on offer to the OPW.

In or around Oct 2005, a note on the OPW file records agreement having been reached with the landlord after *"long and difficult negotiations"*. [Note] The OPW file records that 'practical completion' was reached in January 2006 but that this 'milestone' was not signed off until later in the year.

In terms of input by the OPW Valuers, the section provided an opinion on rental rates by memo dated 25th August 2004. This advice related specifically to the Fairgreen proposal and stated that a leasing arrangement at €16 to €17 p.s.f. on a Nett Lettable/Internal Area basis would be reasonable, with 5-year rent reviews to market value, break options at years 10 and 15, a rent-free period and/or a capital contribution from the landlord towards the OPW's tenant fitout costs. A car-parking rate of €700 per cps per annum was also recommended.

On 23rd March 2006 when the OPW Valuation Service was next consulted, on this occasion a request to carry out a joint measurement of the space, a note from the OPW to the Chief State Solicitors Office stated, inter alia, that *"Our valuer has agreed to gross internal area for calculation of rent. Our valuer advises that car spaces should not be taken into account at rent review..."*

From the Valuation section's perspective it is important to stress that this alleged conversation with the subject valuer never occurred and when detected this erroneous and unfounded assertion was rejected. While the words are ambiguous, the impact in the measurement protocol from Nett to Gross Internal Area, (i.e. without adjusting the rental rate) was to increase the rent by ca.13%. The practice of recording purported conversations on a file without reference back to the party being quoted, has been a recurring problem in OPW. In this instance the alleged conversation between the appointed valuer and the case officer never took place. The caveat from OPW's valuers has always tended to be *"we do not give verbal advice"*; however, issues are frequently discussed in a general sense.

In late March 2006, an internal memo (Appendix 4b) from Valuation Services, given by hand to Commissioner E.F. (p.523 of Volume 3), highlighted the valuer's concern, *inter alia* that the change to a Gross Internal Area method of measurement would result in an additional rental cost per annum of €141,056.20 (no verifying measures of the building had occurred at the time so the final figure was unknown). In this memo, concerns were also expressed on the terms finally agreed i.e. the rental rate agreed, the lack of a rent-free period and the loss of any break option. The file also records a hand-written note on the margin of the valuer's memo, dated 5th April 2006, noting that the Commissioner (referring back to an agreement with landlord of 27th Oct 2005 - see previous paragraph), had directed the case officer to proceed despite the caution by the valuer.

The OPW file records that on 19th Sept 2006, a formal submission was made by the case officer to the Principal Officer for approval to sign the lease. The submission notes, in relation to Technical aspects, that *"all issues have been satisfactorily addressed."* In relation to Valuation matters there is also a brief comment that *"any issues have been addressed"*. There is also a comment that concerns were raised by OPW architects and valuers. The use of language in the submission is very selective and there was no sign-off by the requisite OPW professionals.

In Sept 2006, the OPW signed a 20-year lease of the new office building at Fairgreen to lease the building and associated car spaces (but with no 'break' option included). The lease is backdated to February 2006 so, ergo, there was no rent-free period; in fact, the reverse was the case with rent being paid in advance of the building being occupied.

Findings and Recommendations.

That a number of factors combined to create a situation where 'Value for Money' was not obtained because:

1. **The Brief:** The original brief from the client department grew in size and complexity which meant that early options had to be either discounted or revisited as the brief expanded and priorities changed. Delays in a rising market exacerbated matters. The problem of tying down client requirements is virtually always difficult. It is exacerbated by the fact that the Client Department is isolated from cost factors.

   Recommendation
   Service Level Agreements These have been identified as necessary frequently in the past but have come to nothing. However, Service Level Agreements to be signed off by the client Department, OPW and the Dept of Finance/ PER would assist in minimising the drift in brief.

2. **Intervention of client**: The client department appears to have had a strong influence in the selection process and choice of option. While there was an attempt in this case to pin down the Client Department at the start, ultimately the selection remained fluid until Fairgreen was chosen. Once chosen it was made work regardless of the supervising architect's misgivings on the insertion of a mezzanine floor.

   Recommendation
   Service level agreement The problems would have been ameliorated had these been in place.

3. **Effectively no 'competitive tension' was maintained between candidate options (i.e. all other options were progressively dismissed, leaving only a single option):** Nos.1 and 2 above had the effect of narrowing the field of options to a point where it became obvious to the owners of the sole remaining option (Fairgreen) that they held an exclusive negotiating position, and that the OPW were effectively in a 'captive audience' situation. In addition, the original requirement for Revenue had increased; consequently, the required volume of space meant that the original building size became inadequate, particularly when the top floor was rented to another tenant in late 2005. In consequence, the only way that the expanded Revenue space requirement could be met in the remainder of the building was by the insertion of an additional mezzanine floor with a very basic 'shell and core' finish relative to the main portion of the building. Virtually every element of the lease finally entered into by the OPW favoured the landlord to the detriment of the State.

   Recommendation
   Multi-disciplinary structured option appraisal   The problem would not have arisen had the project being run by a multi-disciplinary team following a structured option appraisal technique.

4. **Changes in the property market**: The property market in Galway hardened in the boom years of the Celtic Tiger, peaking in late 2006. This created a situation where the demand for break options were abandoned, as did the initial stipulation of a rent-free period. Adding to this, the overall rent payable by the OPW was increased by over 13% simply by changing the Code of Measurement from Nett to Gross Internal Area, (albeit that the headline rent of €19.80 p.s.f. appeared to remain unchanged). This happened for reasons which the OPW valuers felt were neither satisfactorily explained nor financially justifiable. Once this larger (GIA) area basis of measurement was accepted for leasing purposes, the consequences on the overall rent paid by the OPW for the duration of the lease were irreversible, especially given the rent review provision was "upwards only" which meant that at subsequent rent reviews over the entire term of the lease (20 years) it could not fall below the commencing rent. This unfortunate outcome took place, despite the measurement disparity issue having been brought to the attention of the Commissioners by the OPW Valuation section at a time when negotiations were still in progress and when it could have been rectified.

   Recommendation
   A formal "Agreement to Lease" should have been signed at an early stage. This would have protected against market rises. The constantly shifting brief would have militated against such a course, but they have been used frequently by OPW in other cases,

5. **Potential for corruption:** We did not find any direct evidence of this, but there was obviously scope for this to occur as the rent was effectively hiked by 13% under the cover of an alleged verbal conversation where Net Measurements of area were changed to Gross measurements. The action was covered by a conversation which never took place with the case valuer and remains unexplained. However, it is our view that the hike in rent occurred because of our weakened negotiation position and

focus should be on procedures to see that such flips in measurement never occur again. We are aware of 2 other such cases.

Recommendation

Professional negotiators It is recommended that negotiations are carried out directly by the Valuer acquainted with the market or an outsourced valuer instructed by an OPW Valuer working as part of a multidisciplinary team. All large deals should be countersigned by the Managing/ Chief Valuer.

CASE 3: THE ACQUISITION OF A DECENTRALISED SITE IN MULLINGAR, Co. WESTMEATH

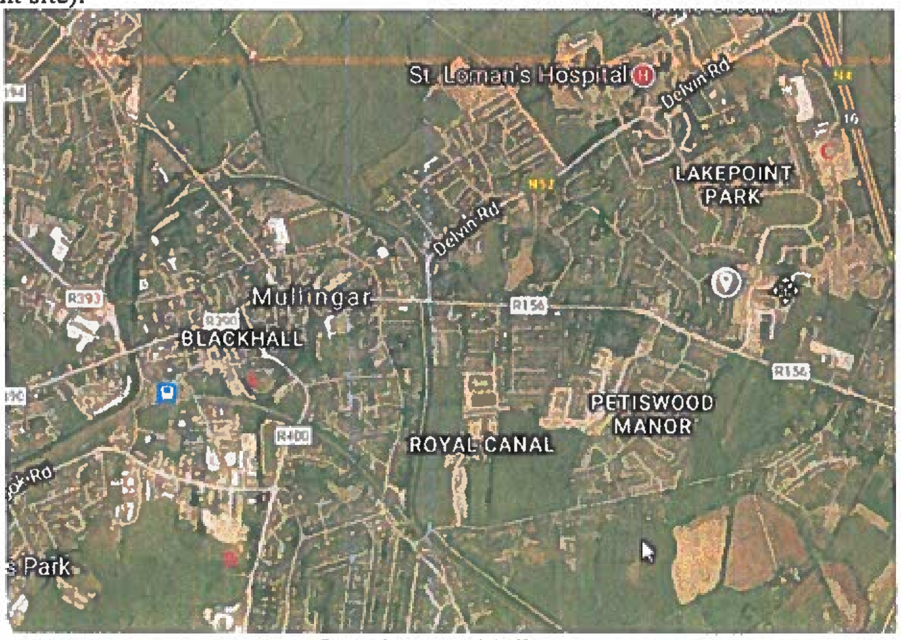
In December 2003, the government announced a major programme of decentralisation of government departments to 53 regional locations. One of these locations was Mullingar, Co Westmeath, which was identified as a Head Quarters location for the Department of Education.

In January 2004 OPW began the task of engaging with the Dept. of Education to define a brief for the accommodation requirement to enable a market trawl to be initiated. The market trawl progressed over the following months and a total of 18 possible sites were put forward for consideration. Most were discounted as being unsuitable for various reasons including size and/or location leaving only a much reduced shortlist which in principle met the criteria. No suitable local authority-owned site was available.

In June 2005 a town-centre site of approx. 2.47 acres owned by [redacted] Construction, a commercial developer, was identified as being the most suitable. In October 2005 an offer of €4.5m. was made by OPW, subject to planning; this offer was provisionally accepted in principle promptly and substantively accepted in Dec 2005. However, OPW's interest in that site ended in January 2006 apparently because of planning difficulties.

During this search, a number of site sales were identified as a benchmark of prevailing values. This schedule of contemporaneous comparables assembled by the OPW valuer at the time is attached – (Appendix 5).

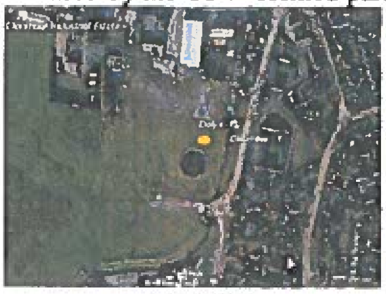
OPW's attention then turned to two alternative sites, see location map both located on the periphery of the town, one to the south, (the Penn site), the other to the north-east (the Lakepoint site).



Google maps Mullingar

A Town Centre Site B Penn Site C Lakepoint Site

The Penn site was the first of these alternative sites to be examined. It comprised a 'brownfield' site (a former factory site) of approximately 5.3 acres, (measured on a gross basis). This site is located approx. 1.2 kms south of Mullingar's town centre, on the west side of the R400/N52 Mullingar-Tyrrellspass Road. However, enquiries adduced that the vendors held inflated expectations on price (€22m, progressively reduced thereafter to €12m. i.e. €4.3m per usable acre), at which point the Penn site was ruled out. This list of valuer comparisons assembled at the time records that the entire 'Penn' site of 9.25acres had been purchased in Oct. 2004 for a price of €5.6m (i.e. €605,000 per acre). In August 2006, planning permission was obtained for a mixed commercial/office development (following an appeal to An Bord Pleanala) on a site of 12.45 acres, of which the 5.3 acre site subsequently purchased by the OPW formed part).



Penn Site location

Land Registry Screen Shot Penn Site

The balance of the 12.45 acre site was seemingly intended to be sold off; however, to date, this adjacent former Penn land has remained vacant, due no doubt to the general economic collapse that occurred post 2008. There are reports the rest of the Penn site is now in the hands of a receiver but that it is likely to remain dormant for some time until the development land market recovers sufficiently to trigger the demand for such land.

A second site then became the preferred choice, a site in the Lakepoint Commercial Park, located 2.7kms north-west of the town centre. In January 2007, an offer of €5.31m (€885k per acre) was made for this 6-acre site. The site lies in close proximity to the main Dublin Galway road (the N4) adjacent to Junction 16, i.e. the interchange with the Mullingar- Delvin Road. Thus it could be argued that whilst further from the centre of Mullingar, it is more accessible to the Dublin – Galway motorway. Furthermore, as a flat greenfield site, albeit some way into the Lakefield development, and beyond a number of commercial warehouse outlets, it offered savings in the form of already constructed internal service roads and availability of utilities, and with no obvious difficulties of the type that often beset 'brownfield' sites.

In February 2007, whilst the 6-acre Lakepoint site was under offer by the OPW at €5.31m. (subject to contract), a contemporaneous offer of €8.25m was made for the former Penn factory site, equivalent to €1.56m per acre on a gross area basis. It transpired that of the gross area of 5.3 acres, about 1.8 acres of this was effectively sterilised or taken up by a proposed linear park, road reservations and a new roundabout, reducing the nett development area to approx. 3.5 acres. Of this nett area, a further 0.13 acre was occupied by an artificial lake or holding pond, previously used as a water source for the former Penn factory, and which would require to be removed in advance of any development works. Thus, the rate agreed equated to approximately €2.36m per acre on a 'nett' basis (and excluding a nominal amenity value ascribed to the aforementioned 1.8 acres). On a per acre basis, this price was 266% more expensive than the alternative Lakepoint property on which a contemporaneous offer had been just been made by the OPW. The OPW valuer who was intermittently involved in the Mullingar site acquisition project, (but not in relation to the aforementioned Penn site offer), made his concerns known to the Commissioners on the price level agreed for the Penn site.

Notwithstanding the above, in March 2007, a purchase was concluded by the OPW of the Penn site at an effective price of €2.66m per acre, as compared with €1.82m per acre for the original Bennett town centre site, and €885k per acre for the Lakepoint site.

Findings and Recommendations

1. **File records are inadequate** It is unclear why it was not possible to proceed with the first town centre site option which was superior to all subsequent options in our opinion. There is no clarity on the selection of the chosen Site which saw the discarding of an agreed alternative (subject to contract). The civil service delivery of all projects of this nature varies dramatically according to personalities involved and while delivery by multidisciplinary teams following structured option appraisals to a conclusion as recommended below is in our view essential, it should be accompanied by clear records. The requirement for good records only increases where strong personalities in positions of power vary delivery without notice.

   Recommendation
   File records Proper guidelines on file recording required.

2. **Lack of clarity in delivery team.** The secondary options were not pursued in a structured way and ultimately involved two entirely separate negotiators with one oblivious to the actions of the other. This led to assertions of malpractice being laid upon the junior negotiator when the final decision was made.

   Recommendation
   Structured option appraisal and delivery by a multi-disciplinary team.

3. **That an excessive price was paid** by the OPW for the ultimately chosen Penn site option. Although the price paid for this was substantially below the original asking price, the price paid was out of line with market levels. There is always a challenge for OPW to obtain Value for Money when visited by a major property demand out of the blue as was the case with decentralisation. The decision to take a more expensive site at a price in excess of market value over a cheaper site needs a clear business case on file as to why it was superior.

   Recommendation
   Sign off of acquisitions by professional staff Acquisitions be signed off by the case valuer countersigned by the managing/ chief valuer accompanied by reports from Valuer, Architect etc. as appropriate justifying the choice of the option.

4. **Potential for Corruption:** The process followed which saw a senior staff member make a decision to purchase a more expensive site behind the back of a team who had in parallel been instructed to proceed with a cheaper purchase. This type of decision would - if institutionalised - provide a mechanism for persons disposed to take a corrupt payment.

   Recommendation
   <u>Sign off of acquisitions by professional staff</u> Acquisitions be signed off by the case valuer countersigned by the managing/ chief valuer accompanied by reports from Valuer, Architect etc as appropriate justifying the choice of the option.

CASE 4: 91-93 MERRION SQUARE and CONTIGUOUS PROPERTIES.

General:

This relates to an off-market acquisition (over the period 2007-2010) of three properties located immediately to the north of the National Gallery, fronting onto Merrion Square and whose rear gardens extend back in the direction of Clare Lane. The acquisition was viewed by the Commissioners in 2007 as critical to the long-term future of the National Gallery. At an early stage, the acquisition brief was extended to encompass four apartments in a separate block of 8 apartments which front onto Clare Lane, hereafter referred to as the contiguous site. These apartments, once purchased were identified by the Commissioners for immediate demolition to enable a major redevelopment by OPW of the rear site to the rear of 91/93 for Gallery expansion.

The subject site comprises:

Three 4-storey over basement Record of Protected Structure (RPS) listed Georgian houses (Nos. 91-93), facing onto Merrion Square together with the attached combined back gardens, (which site measures 1,480 sqms or 0.366 acre), and with its own vehicular access under the contiguous site out onto Clare Lane. It is located immediately adjacent to the National Gallery and in close proximity to a cluster of government buildings that includes Leinster House. The property is thus strategically important to the future of the National Gallery and State property interests in the area.

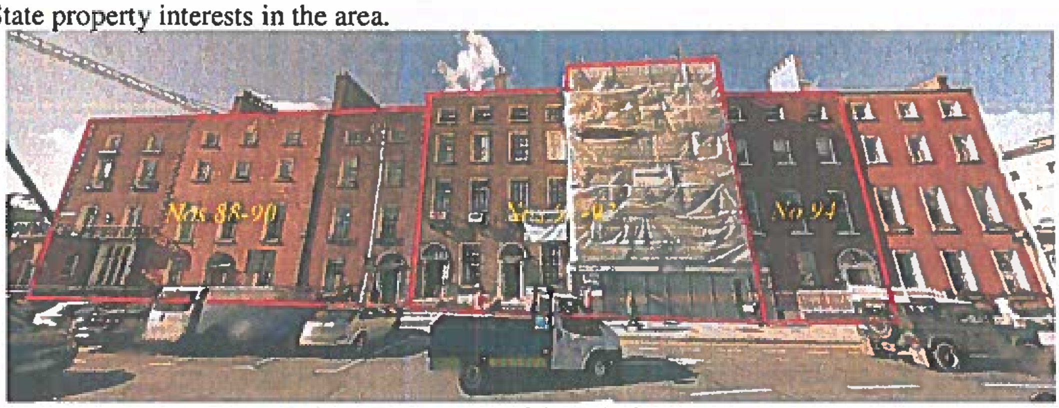
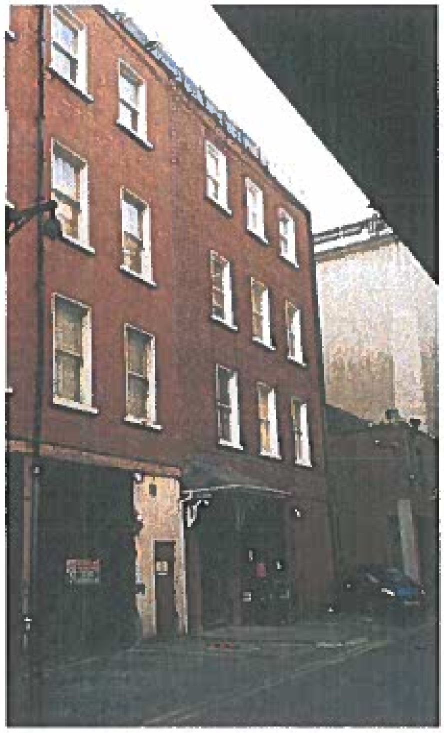


Image courtesy of Google Streetview

The contiguous site comprises:

A 4-storey modern apartment block over ground floor undercroft parking, (comprising five 1-bed and three 2-bed units), is located on the contiguous site. This site measures 230 sqms or 0.057 acre. It fronts onto Clare Lane and backs onto the back gardens that comprise part of the subject site (see map above). It also has direct vehicular access onto Clare Lane. This apartment block was constructed in or about 1974 and was in very poor condition when it was acquired by the OPW.



Contiguous apartment block

Background to the transaction(s)

Development Intentions of Owner In November 2005 a property development company, (the Consortium), agreed to purchase the subject site including the attached back gardens. In mid-2007, this consortium applied to Dublin City Council for planning permission (DCC Ref. 3908/07) for the development of a modern office block located in the rear gardens of the subject site. The Director of the National Gallery, alerted the OPW to the proposed development when there was only one week left within which to lodge an objection. He was extremely concerned that if the proposed development were granted planning permission, the building would be constructed on the last available site that was deemed suitable for the long-term expansion of the National Gallery. He therefore apprised Commissioner E.F. of the urgency of the situation and sought his assistance in the formulation of an objection to the proposed development.

OPW response to threat Commissioner E.F., recognising the urgency of

the situation, retained a specialist barrister/town planner/chartered surveyor at short notice to prepare an objection to the aforementioned planning application in order to secure the site for a distant future extension to the National Gallery.

Following a briefing from the barrister/ planner, Commissioner E.F. was particularly concerned that the grant of a planning permission for an office block, as proposed in the planning application, would significantly detract from the architectural setting of the National Gallery, enhance the value of the subject site and make it much more expensive and difficult to purchase. He was convinced of the need to ensure that this planning application was refused, his objective being to induce the owners to sell the property to the OPW at a market value that did not include any enhancement derived from such a planning permission.

In parallel, the Commissioner instructed the Barrister/ Planner to liaise with G.H. of a leading Estate Agency, the OPW's consultant valuation surveyors who had already been instructed by the Commissioners to negotiate the purchase of the subject site. In contemporaneous documents this initiative was entitled 'Project Gallery'. The submission to An Bord Pleanala was to be used to encourage the owners of the subject site to withdraw the planning appeal to An Bord Pleanala and to enter into negotiations with the Commissioners for the purchase of the subject site at a price that did not include any putative 'hope value' associated with the significantly diminished development potential of the subject site.

Our research into the retained consultant showed that the same agency had previously brought the subject property to market in 2004 and from what can be gleaned was successful in selling it, possibly to the same owners with whom he was now negotiating a purchase on behalf of the Commissioners. (see July 2004 sales brochure - Appendix 6).

A comprehensive submission to Dublin City Council was prepared by the barrister/ planner and submitted to Dublin City Council. From OPW's perspective this intervention was successful and the planning application was refused on 15th August 2007. The consortium appealed this decision on 11th September 2007 to An Bord Pleanala - (Ref: PL. 29S.225445). On the instructions of Commissioner E.F., a further submission was prepared by Mr A.B. BL for lodgement with An Bord Pleanala on behalf of the Commissioners.

The consortium withdrew the appeal to An Bord Pleanala on 24th September 2007, (as seemingly did the Commissioners in terms of the State's own appeal to ABP) and a purchase agreement for the subject site, together with four of the above-mentioned apartments, (i.e. nos. 1, 6, 7 and 8 Clare Lane, that are located on the contiguous site), was reached between the consortium and the OPW in November 2007.

The Contiguous Site In September 2007 the OPW was informed by email by its retained agents that the Consortium fronted by Ms JK already had Contracts for Sale in place in relation to 4 out of 8 apartments on the contiguous site at a price of €2.22m and that they were prepared to convey these four properties to the OPW for €2.4m along with the Subject Site. (see email Appendix 7). OPW agreed to purchase these apartments at the contracted price and it is understood that the ownership effectively transferred directly to OPW. The €200k incentive referred to in the advisory letter appears to have been waived. However, JK from the consortium was retained as an agent by OPW to purchase the remaining 4 apartments. The logic of the absolute necessity to acquire the remaining four apartments related to the fact that unless/until the entire block of apartments was acquired and was in

OPW ownership, the site could not be cleared for development. Like the consortium, OPW's objective was to demolish this apartment block and link the two sites to create an expanded site that could accommodate a Gallery extension. (Subsequently in 2010, OPW purchased 22-25 Clare Street, an ageing but still functional office block until that point leased by the Commissioners. This later acquisition opened up the potential to comprehensively redevelop that building as an office in conjunction with whatever development was required by the gallery. This was important given that the gallery developmental vision is long term and offices are always required in proximity to the Oireachtas.

Initial Transaction

The prices that were agreed by the OPW are set out as follows:

A The Subject site

The subject site (ca.1,480 sqms): €17,550,840 + VAT @ 13.5% = €19,902,202.

B Part of the contiguous site

The contiguous site: 4 apartments (nos. 1, 6, 7 and 8 Clare Lane, that are located on the contiguous site of ca.230 sqms - €2.22m.* (no VAT applicable).

> * *Note – Whilst the authors could find no definitive proof from OPW's own records, relying on the consultant's email to OPW dated 11th. September 2007-* (Appendix 7) *- it seems that the consortium had previously agreed this figure with the owners of these four apartments, following the successful outcome of earlier negotiations conducted over the period Feb 2006 – July 2007. From the limited documentation available, it appears that the first four apartments (for which the consortium apparently already had contracts/ options in place) were sold on to OPW. What the limited information available does not clarify is what prices were originally agreed by the Consortium with the 4 individual apartment owners.*

The Subject Site - Valuation Analysis.

The subject site, was first brought to the attention of the OPW in mid-2003 when the quoted guide price was "in excess of €6m". In this context at the request of the property Commissioner, OPW valuers produced a report on the property and had preliminary discussions with both the sales agents but for reasons unknown did not proceed beyond this initial interest. The property ultimately failed to sell at that time. The fact that the property was going to be viewed as a strategic purchase several years later, which would have justified a special purchaser premium even then, is not apparent from a retrospective reading of instructions to valuers.

The subject site again came on the market for sale in July 2004, this time through joint selling agents, [redacted] and [redacted]. It was sold by public tender for €12.065m in November 2005. [Whilst not possible to confirm from file records it would be assumed that VAT, if applicable, would have been on top of this price].

According to the 2004 sales brochure, the subject site was sold on the basis of freehold tenure. It comprised three Record of Protected Structure (RPS) Georgian buildings (that had been vacant for 2 years and had deteriorated but not significantly), together with the attendant back gardens. A significant element of the purchase price related to the "hope value"/development potential, primarily of the attendant gardens to the rear of the Georgian houses. The overall site, 91-93 Merrion Square, measures approx. 1,480 sqms (0.365 acre) of which the back-garden portion (behind the Georgian buildings) measures approx. 226sqms (0.056 acre). The subject site has direct vehicular access onto Clare Lane.

Assessment of market value (trends and sales) for Georgian property in 2007

Market commentary of typical open market values of Georgian properties during 2007 (abstracted from daily newspaper references) are attached at Appendix 8. Discounting one particular anomaly (80 Merrion Square), the reported tone of values for individual Georgian properties (depending obviously on size, condition and location within the Georgian squares) was in the order of €3m.

As a professional valuer with experience in evaluating this type of property, and having regard to contemporary sales and valuations of similar properties I (A.M) had undertaken myself at that time, I (A.M.) would analyse the overall price paid €12.065m as follows:

3 Georgian buildings (excluding rear site)	- ca. €8.5m - €9.0m.
Rear site (with development potential)	- ca.€3.0m - €3.5m

Planning interaction with 'Value'

The consortium clearly intended to undertake major redevelopment of the property they had just acquired, clearly to maximise the capital value of the overall property. In this context the purchasers lodged a planning application in June 2007 with Dublin City Council (Ref 3908/07) as follows:

> *PROTECTED STRUCTURE: Planning permission for works to existing protected Structure at 91-93 Merrion Square. Works to existing protected structure to include re-separation of Nos. 92/93 to include the closing up of non-original openings and remove non-original stairs between the two buildings. Removal of non-original partitions and false ceilings. Removal of sanitary fittings at third floor level. Removal of safe/strong-rooms at basement level. Demolition of existing two-storey extension to the rear of Nos. 91/92, providing 552sqms of office accommodation. The construction of a 5-storey over basement car park unit, providing 1,654sqms of office/ancillary.......*

However, (presumably as a result of both the OPW's and associated planning objections), it is understood that this planning application was refused for reasons so fundamental that the prospects of overturning this refusal on appeal were negligible. In market terms the effect of this refusal was to virtually eliminate the hope value/development potential of the subject site and significantly reduce its open market value.

The consortium appealed this decision and OPW's barrister/ planner Mr A.B. BL was commissioned to prepare a response to this appeal submission. Before this response was lodged with An Bord Pleanala, the barrister/ planner, following instructions from Commissioner E.F., met with G.H. of [redacted], gave him a copy of the submission and briefed him on its contents. It was agreed with Mr. G.H. that he would use this submission and the refusal by Dublin City Council to convince the consortium to withdraw the appeal on the grounds that the prospects of success were almost non-existent. These arguments were also to be used to achieve a negotiated price for the Commissioners for the subject site which would reflect the newly established lack of development potential in the attendant back gardens of the subject site.

Final Consideration commentary

In Nov 2007, the OPW, advised by G.H, agreed to pay €17.55m + VAT @ 13.5% for the subject site in an "off-market" deal.

The open market value (OMV) of the site in Nov 2005, including "hope value", was €12.065m i.e. it was purchased "on market".

In November 2007, allowing for an estimated inflationary factor of 20% above the 2005 value, the OMV of the site, including "hope value", might be computed as having been €14.5m.

However, the negative effect of the planning refusal in August 2007 was to strip out the "hope value" of the subject site. I (A.M.) am of the opinion that the consequential reduction in value was in the order of €2.5m reducing the overall market value (as of that date) to an estimated €12m.

In valuation terms, notwithstanding the OPW's status as a 'Special Purchaser', it is very difficult to understand how a premium of approximately €7m was paid at the time, particularly since the market had noticeably stalled. This full extent of stalling and thereafter reversal of the property market became apparent in the following years.

Value for Money Requirement

At this juncture it is pertinent to make reference to a letter addressed to Commissioner E.F. OPW, from the Sectoral Policy Division, Dept. of Finance dated 26th. October 2007 which states that *"sanction for the purchase of the subject site is on the understanding that the OPW is satisfied that the acquisition of the houses represents **value for money** ...."*

It is difficult to see how the purchase of the subject site represented Value for Money and how this requirement of the Dept. of Finance was satisfied.

In view of the emphasis placed on the "Value for Money" criterion by the Dept. of Finance the authors sought out the valuation report on which the OPW's decision to purchase the subject site for €17.55m + VAT was based. No such document is available on file. However, the advisory email from GH to the OPW, dated 11th September 2007, tagged as "commercially sensitive", states:

*"**Re: Project Gallery***

Dear E.F.,

I had another meeting with J.K. as agreed and am trying to keep matters alive while the approvals are sought.
The update is:

1. *Purchase price of the IIB buildings (3) and the rear car park is likely to be between **€17 and €18m.***
2. *The 4 apartments she currently has contracts on for €2.2m will cost **€2.4m** (i.e. a €200k incentive to her.)*
3. *The 4 remaining will have a **budget figure of €3.2m.** Any figure below that we will pay 50% of the difference to her by way of incentive fee.*

e.g. Budget figure	*€3.2m*
Actual price	*€2.6m*
Difference	*€0.6m*
50% paid to CM	*€0.3m*
Actual cost to us	*€2.9m*
So my estimate of the cost is:	
Houses and car park	*€17.5m*
Apartments say	*€5.5m*
Total say	***€23.0m"***

[A scan of this email dated 11th. Sept. 2007 from GH to OPW is attached in (Appendix 7).

It is noted that at point 1 in the email above a reference is made to a figure of *"between €17m and €18m"* as the likely price of the subject site. This appears to be an asking price and no advice is tendered as to whether such a price represents Value for Money. In our opinion this would appear to have been an extremely high asking price and it would not have been unreasonable to expect that this represented anything beyond an opening negotiating gambit which should have been significantly reduced through the negotiation that would follow. At that time the consortium was faced with the prospect of the substantial cost of restoring three RPS structures with all the attendant planning problems that relate to RPS buildings yet with no prospect of new development in the attendant rear gardens. The market had peaked by this time, and any earlier prospects of further property price inflation had been replaced by prospects of significant property price deflation. As already set out in the earlier paragraph 'Valuation Analysis', the negative impact on value stemming from the planning refusal, and the poor condition of the three Georgian buildings reduced the open market value of the subject site by several millions.

In this regard it is pertinent to refer to a letter from [redacted] Chartered Surveyors for the then owners (i.e. the Consortium), dated 11th September 2007, (Appendix 9) which was submitted to An Bord Pleanala in support of the appeal by the Consortium against the refusal by Dublin City Council. In essence, this letter strongly supports the view that there is little or no market demand for the uses permitted in the zoning, namely *"residential and compatible office and institutional uses."*

In addition, reference is also made to a letter from OPW's valuation consultant, Mr G.H., dated 4th October 2007, (Appendix 10), written as an attachment in support of the

'Observations' submission to the above appeal. This submission was prepared by OPW's same planning consultant under instruction from the Commissioners. This submission, deployed in tandem with further successful discussions between OPW's valuation consultant and the Consortium, was clearly sufficient to result in the consortium's appeal being withdrawn from An Bord Pleanala shortly afterwards. This letter from OPW's consultant valuer highlights the lack of demand for office accommodation in such Georgian houses and indicates that the trend is away from such Georgian office accommodation.

Taking all of the above into consideration and given the scale of the acquisition, it is of concern that no valuation report was prepared and no analysis was carried out as to whether the purchase price for the subject site represented Value for Money or not.

Payment of fees to first consultant.

It is also noted from the official OPW file that in March 2008 [redacted] were paid a fee of €235,012.50 incl. VAT @ 21%, yet the only evidence of work completed consists of the above-mentioned email which in essence sets out the opening price requested by the consortium (i.e. almost the same figure that was ultimately paid by OPW – the apartments were reduced by €200k.) The normal OPW procurement process for the appointment of consultants appears to have been by-passed.

THE CONTIGUOUS SITE – SECONDARY ACQUISITIONS

Following the above-mentioned agreement to purchase the subject site in November 2007, Mr G.H., continuing to act for the OPW, arranged the commissioning of a member of the above-mentioned consortium, Ms J.K, to act on behalf of the OPW in acquiring the 4 remaining apartments on the contiguous site (i.e. Nos. Nos. 2, 3, 4 and 5 Clare Lane). This would complete the acquisition of the entire block of apartments at which point the stated objective of the Commissioners at the time was to demolish the entire block of apartments to clear that portion of the site and thus optimise the redevelopment potential of the combined rear site. To facilitate this purchase, Ms. J.K. was given a budget of €3.2m. Ultimately, presumably assisted by the general economic collapse which took place post-2007, a total price of €2.29m (no VAT applicable) was paid for these four apartments under four separate transactions between April 2008 and October 2010.

Breakdown of apartment areas, prices paid, and estimates of Open Market Values at dates of sale. (at dates between 2007 and 2010)

Apt no	Type	Flr.	Floor area		Price paid	Date of sale	Opinion of OMV as of purchase date
1	1-bed	4th	43sqm	463sqft	Part €2.22m	11/07	€300k
2	1-bed	4th	48sqm	517sqft	€600k	4/10	€175k
3	1-bed	3rd	43sqm	463sqft	€530k	4/08	€275k
4	2-bed	3rd	60sqm	646sqft	€580k	3/10	€200k
5	1-bed	2nd	43sqm	463sqft	€580k	10/08	€240k
6	2-bed	2nd	60sqm	646sqft	Part €2.22m	11/07	€340k
7	1-bed	1st	43sqm	463sqft	Part €2.22m	11/07	€300k
8	2-bed	1st	60sqm	646sqft	Part €2.22m	11/07	€340k
Total					**€4,510,000**		**€2,170,000**

Definitions:

OMV = Open Market Value.
GIA = Gross Internal Area

Note: Estimated OMV includes 1 car parking space per apartment

Valuation commentary referring to values cited in the above graph.
Comparisons of open market sales of similar apartments, over the period Jan 2008 and April 2010 and general contemporaneous market commentary (abstracted from daily newspaper references) are attached at Appendix 11.

Assessment of market for apartments over the period 2008- 2010:
Apartment prices in Dublin are estimated by reference to the published **Central Statistics Office indices** (Appendix 11) to have fallen from a high point at peak of market in February 2007, (firstly by April 2008 by a small reduction as the market went into decline), and ultimately by over 40% by November 2010. It should be noted that in value terms these particular apartments in 2007 were over 30 years old. This means that in terms of quality they were both basic and outdated, were small in relative terms compared to their modern equivalents, and all were in very poor condition.

In my opinion, the overall 'special purchaser' premium above market value, as initially paid by the consortium in 2007 for 4 apartments, (and thereafter by OPW for the remaining 4 apartments between 2008 and 2010), amounted to approx. 210% above MV.

Of this 'Special Purchaser' premium, (i.e. the premium paid above normal market value), the greatest proportion was in respect of the second group of four apartments which OPW went on to purchase particularly the last two which were purchased in 2010. During that period normal market values had deteriorated in line with the worsening economic climate yet the overall price for the second four apartments (€2.29m) actually rose against these declining market conditions. By that time of course OPW had committed itself to a total purchase of the 8 apartments, without which the site could not be cleared for redevelopment. This clearance never happened despite Commissioner E.F.'s expressed intentions of doing so, and in fact the existing apartments are now occupied by the Fr Peter McVerry Trust under a medium-term licencing arrangement with OPW.

Payment of fees to second consultant - Ms. J.K.

It is noted that budget figure for Ms J.K. of €3.2m was set for the acquisition of the remaining four apartments. In the event that the remaining four apartments were acquired for a figure less than €3.2m, then 50% of the balance was to be paid to Ms. J.K. by way of an 'incentive based' fee (see previously referenced email of 11th. Sept 2007 - Appendix 7). Again, there is no indication or analytical/market analysis to demonstrate how this figure of €3.2m was arrived at. Ultimately a 'fee' of €550,550 incl. VAT was paid to Ms. J.K. for her services.

The market rate of fees for such services would typically lie in a range between 1% - 2% of the purchase price. In cases such as this, the fee level would obviously reflect and depend upon various factors such as the number of the interests being acquired, performance-based criteria (e.g. the price paid) and the level of complexity and time involved. From the limited information on file, it appears that in this case the "fee" agreed between GH and Ms. J.K. was in reality largely a performance-based bonus. However, there is no clarity as to how this 'fee/performance bonus' was established at the outset. In any event, the arrangement greatly exceeds the industry norm for such fees.

It is accepted that in a situation of site assembly it is often necessary to pay over the odds for individual properties (Special Purchaser consideration). However, the discrepancy in this case is surprising and there is no contemporaneous valuation report to justify same in terms of Value for Money.

Whilst the retention of a vendor to act as purchasing agent is highly unusual one has to assume that she was commencing from a position where owners had already been approached in an earlier exercise.

Nonetheless, it is difficult to get a handle on acquisition prices and fees in these secondary acquisitions. There is no explanation as to where the budgeted figure of €3.2m arose (why not €2.5 m or €4.5 million?). Where did the fee of 50% of the underspend come from? How were procurement rules set aside that exposed OPW to a ca.€550,550 fee incl. VAT by a person not known to have acted in the capacity of an agent before.

Findings and Recommendations

1. **Early opportunities to purchase the property at an optimum price (i.e. close to Market Value) were missed**

The fundamental thesis of our original submission to the Accountability Body was that OPW tend to find themselves on the wrong side of transactions. A transaction of this nature where special purchaser considerations arise will invariably see any purchaser paying above market values for properties. The best way to minimise Special Purchaser considerations is to acquire a property when it is on the market and the worst way to purchase is when the acquisition of a property becomes an imperative. In the case of these properties OPW did not/ or possibly could not avail of the opportunity to purchase the property when it was on the market and were forced to acquire under duress.

The scope for corruption to arise in such missed opportunities is probably small but the consequences to the taxpayer can nonetheless be significant.

Recommendation 1
Funding. It is unclear from the file whether the original decision to walk away from purchase at or near market levels related to a refusal by the Dept. of Finance/ DPER to fund a purchase. Whether it was or wasn't the reason in this instance it is constantly a significant problem for OPW as the lack of access to funding prevents numerous commercial decisions being made which would drive down the costs of accommodating the public service. Some European countries (Austria is one notable example) now manage and develop their property assets through a wholly owned professionalised commercial agency. Others, for example Finland, Germany and Norway - follow a similar management system, or at least with semi-autonomous assigned functions. Such agencies are understood to allow bodies to operate with greater financial independence, and to provide their services with the benefit of dedicated property professionals, many of whom have careers which alternate between public sector and commercial private agencies. These should be explored with a view to creating a State-owned property agency (similar to Coillte Teoranta who manage the State's Forest Property assets) to manage the State's property assets and deliver accommodation solutions by commercial models.

Recommendation 2
Acquisition strategy should be known. If the properties were of strategic importance in 2007, it would have been so when the opportunity arose to purchase it on the market in 2004. Strategic properties come to the market periodically and can be bought substantially cheaper than when bought under duress, as occurred here. A confidential list of targeted properties should be assembled and pre-approval to acquire these should be agreed in advance with DPER/ Finance in the event that Recommendation 1 is over-ambitious.

2. The negotiated price of the subject site is unexplained:

Based on the planning history and the fact that the development potential to a third party had been effectively eliminated by OPW's intervention in the planning process, it is our opinion that the OMV should have been in the order of €12m at most and that the vendors were in a much weakened, negotiating position after the planning refusal. Thus, the €17.55 million paid is difficult to understand as:

1. OPW's intervention meant that the negotiating advantage had shifted to the Commissioners with the vendors now holding a property with little or no development potential.
2. By late 2007 the property market had turned and the demand for Georgian houses was particularly adversely affected.

It is acknowledged that not having acted when the property was on the open market, the OPW had become special purchasers and a special purchaser premium liability was to be expected. At this remove it appears high and the absence of extant advisory reports and valuations on foot of a fee of €235k incl. VAT, only serve to fuel concern.

Recommendation
Sign Off of Acquisitions Acquisitions be signed off by a case valuer countersigned by the managing/ chief valuer accompanied by reports from Valuer, Architect etc as appropriate justifying the decision.

3. Price considerably in excess of OMV was paid for the contiguous site:

The total price of €4.51m paid in a series of transactions for the contiguous site (comprising five 1-bed and three 2-bed apartments) is also significantly in excess of open market value. The open market values of the contiguous site is estimated at approximately €2.56m (based on values pertaining at the various acquisition dates). It is acknowledged that the OPW was a "special purchaser", and therefore a premium was warranted. However, the magnitude of the premium in some cases is difficult to understand when the recession was apparent and there was no pressure on the OPW to complete the site assembly quickly.

The compulsory purchase code was established to protect the state and statutory undertakers from having to pay excessive premiums on essential lands. Whilst the local authority have relatively broad compulsory purchase powers, those available to the Commissioners are very limited. Access to such powers would have ameliorated the State's exposure to special premium.

Recommendation 1
<u>Compulsory Purchase</u> The Commissioners (or a commercial agency in its stead) should be granted greater Compulsory Purchase powers under its own legislation.

Recommendation 2
<u>OPW to become a Licensed Property Service Provider</u> That as a property focused organisation, the OPW should appoint <u>licenced</u> property professionals at the highest (i.e. MAC) level to ensure that all matters relating to property are professionally supervised/oversighted. The provisions flowing from the Property Services (Regulation) Act, 2011 and their applicability to OPW have not been addressed either inside or outside the organisation and it is noteworthy that one of the key properties to form part of gallery development was not vested in OPW.

4. Professional fees paid by OPW:

<u>The subject site</u> – the OPW paid their consultant a total of €194,000 + VAT for professional services in advising and negotiating the purchase price for the subject site. This represented a negotiated fee of 0.85%. In general terms, if such services had led to a negotiated price closer to the open market value as set out above, this would have been considered reasonable/value for money. However, no reduction below the original price of between €17m and €18m appears to have been achieved, leaving open the question as to what service was actually provided other than securing the property at an over-inflated price.

<u>The contiguous site</u> - A second service was procured by the OPW for the acquisition of four of the apartments (i.e. apartment nos. 2 3 4 and 5). A substantial premium was paid on the properties yet the agent was paid a negotiation fee of €555k incl. VAT. This fee, on the basis it related to these four apartments, represented a negotiation fee of 20% relative to the purchase price paid. Such a service could have been secured in the market for a fee of approximately €40,000 + VAT (i.e. 2% of what was actually paid for the properties).

At the time of these acquisitions a process existed for the appointment of property consultants in OPW. This process appears to have been entirely bypassed in the appointment of both consultants in this case. While the consultants in the subject site were prominent experienced property consultants at the date, this was not the case for the consultant on the contiguous site who had no apparent of appropriate qualifications and experience within the property industry. Procedures extant in OPW at the time should have seen internal professional oversight of such external consultants, ensuring that instructions were appropriate and offering a reassurance that matters were proceeding in accordance with commissions. None were involved.

Recommendation 1
Sign off Valuation consultancies to be signed off by a case valuer countersigned by the managing/ chief valuer.

Recommendation 2
Outsourcing procedures should be regularised in OPW.

5. There are major omissions in OPW's file and record keeping

It is difficult to know precisely what occurred on certain matters and the absence of valuations and progress reports may be attributable to failure to record documentation.

Recommendation
Provide and enforce guidelines on record keeping Electronic communications (particularly emails) have increasingly become the norm and as a consequence traditional formal file management has struggled to provide full records of events. There is a requirement for central guidance on file management. In this managerial vacuum, records are becoming increasingly fragmented and incomplete. The VFM criterion set by the Dept. of Finance need to be clearly set out and answered by an accountable person in relation to each element of the transaction.

6. Potential for Corruption

At the outset, the Chairman asked the authors to specifically address the matter of corruption. Where special purchaser considerations and overly generous fee structures arise there is potential for corruption. The absence of supporting documentation clarifying the premium on acquisition price and fees is of no assistance to anyone.

Recommendation 1
Sign Off Acquisitions be signed off by the case valuer countersigned by the managing/ chief valuer accompanied by reports from Valuer, Architect etc. as appropriate justifying the choice of the option.

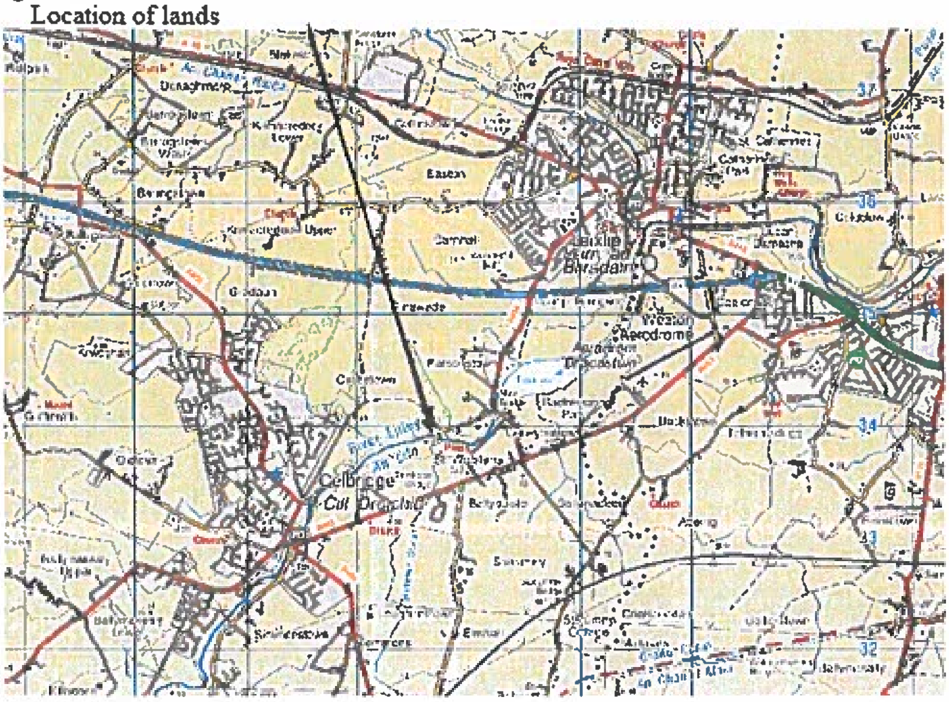
Recommendation 2
OPW to become a Licensed Property Service Provider That as a property focused organisation, the OPW should appoint licenced property professionals at the highest (i.e. MAC) level to ensure that all matters relating to property are professionally supervised/oversighted. The provisions flowing from the Property Services (Regulation) Act, 2011 and their applicability to OPW have not been addressed.

CASE 5: The acquisition of Batty Langley Lodge at Castletown, Co. Kildare

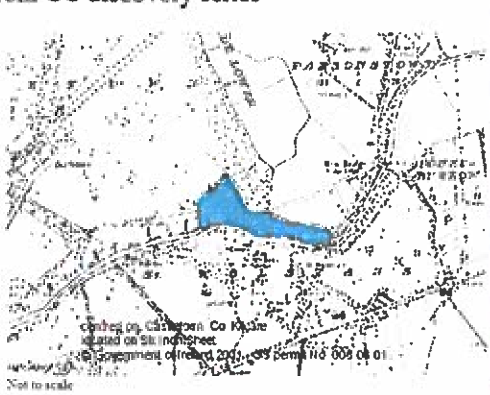
Background

In February 2005, the OPW Valuation Service was asked to prepare a report and valuation of this property. This report on Bally Langley Lodge - see map attached related to the putative acquisition of a former gate lodge and 14 acres of riparian lands that would originally have formed part of the Castletown Estate, the latter being already in State ownership since the early 1990's. In this context, as an integral part of the original Castletown Estate, the purchase of Batty Langley Lodge (in the context of this report called "the Subject Property") could be easily incorporated back into the main Castletown estate. Thus, the OPW could potentially be described as a "special purchaser" of the subject property, depending on the importance placed on both its location and value to the State in being incorporated back into the original Estate.

Location of lands



Extract from OS discovery series



The subject property is located at the Estate end of one of the original entrance roads which provides vehicular access into Castletown House. In his February 2005 report to the Commissioners on the subject property, the OPW valuer who dealt with the case stated that his opinion of market value of the subject property, which at that time was on the market for sale through a local estate agent, was in the order of €1m.

The OPW valuer's report in 2005 commented that Batty Langley Lodge is a listed structure with some original features both internally and externally. The total accommodation amounted to approx. 700sqft. The original structure has a featured stone exterior and slate roof. At the time of purchase, internally there was some basic plasterwork, possibly original fireplaces, and modified stairs. The flooring at floor level was concrete, heating appeared to be supplied by a back boiler and radiators but there were numerous signs of dampness. The general condition was poor and the house was only marginally habitable with some vermin infestation. *The valuer reported that "the lodge requires complete renovation, and a proper extension to make it habitable to modern standards. This would be difficult to do economically."* Batty Langley Lodge required a major refurbishment which, according to OPW's file on the project, ultimately cost €223,436.57 + VAT at 21%. Works started in 2009 and were finally completed in 2011.

The valuer's 2005 report also noted, inter alia, that the estate agent appointed by the then owners of the subject property, was seeking a 'premium price' of €1.8m. The OPW valuer also mentioned in his report that he had been given to believe from his enquiries that it might be possible to purchase the property 'off-market' from the owner at around €1.25m. Negotiations did not proceed any further at that time.

In June 2005, there is mention on the OPW's file that the property was not considered by the Commissioners to be of strategic value and that it should not be pursued.

In February 2006, reports were circulating in the Irish Independent that the subject property had been purchased by a private individual at €2m+. There is no confirmation available, through any of the sources available, that such a sale actually took place and it carries all the hallmarks of an agreement to purchase subject to planning permission.

Political websites record that fencing was erected around this time preventing local access to the lands. These sources further report that access was restored in August following protests and an enforcement notice by Kildare County Council.

In November 2006, the OPW file records that the subject property was purchased by the OPW at a price of €2m. This figure had escalated from the expected negotiable price less than two years earlier of somewhere between €1m - €1.25m.

Findings and Recommendations

1. **Lack of oversight:** There was a lack of adequate professional oversight within the OPW in terms of the final acquisition price. It is not known who certified the €2 million. Whilst the hard evidence is not immediately available it would have appeared that the property had been blighted by the political campaign and the council actions.

Recommendation
Sign off Acquisitions be signed off by the case valuer countersigned by the managing/ chief valuer accompanied by reports from Valuer, Architect etc. as appropriate justifying the choice of the option.

2. **Strategic Purchase not identified at time of best advantage:** An opportunity for an early purchase at a significant saving to the State was missed. This was seemingly due to a lack of awareness on the OPW's part of the property's strategic value and the need for early action. The fluidity of the organisations strategic vision is a constant source of concern and opportunities to purchase are periodically cast aside only to be reversed when public and political views are made known. The acquisitions of 91 -93 Merrion Square and Farmleigh House followed a similar course with similarly poor outcomes for the Commissioners and taxpayers.

   There have always been staff in OPW who have proffered strategic advice but all such advice on thousands of properties is channelled through a limited number of senior staff who have other crises to address. This has always resulted in the message not been carried through as large normally Dublin crises dominate affairs. A transformation process in OPW looked briefly at regionalising property delivery but this has not progressed. Four trained staff have now been appointed as portfolio planners. While it is hoped that they will be enabled to shape property strategy the necessity for OPW to go cap in hand to DPER would make strategic purchases moot at best as there is no standing budget available.

   Recommendation
   Regionalise OPW property delivery It is recommended that property delivery in OPW be regionalised as centralised decision making is incapable of dealing with low level decisions such as this.

3. **Poor Records:** There are major omissions in OPW file and record keeping and the U turn in strategy is not explained.

   Recommendation
   Provide and enforce guidelines on record keeping There is a requirement for central guidance on file management. In this managerial vacuum, records are becoming increasingly fragmented and incomplete.

4. **Potential for Corruption:** It appears credible that an exceedingly generous offer had been made on the property by a very high net worth individual. The immediate triggering of public unrest by closing access to the riparian lands could be viewed as provocative or simply a testing of the waters. The end result whereby OPW paid considerably more for the property to the original vendor than it could have been secured at less than 2 years before, could in theory (but not credibly) have been orchestrated. The absence of sign off and countersigning by trained professionals will always leave scope for corruption.

Recommendation 1
Sign off   Acquisitions be signed off by the case valuer countersigned by the managing/ chief valuer accompanied by reports from Valuer, Architect etc as appropriate justifying the choice of the option.

Recommendation 2
OPW to become a Licensed Property Service Provider That as a property focused organisation, the OPW should appoint licenced property professionals at the highest (i.e. MAC) level to ensure that all matters relating to property are professionally supervised/oversighted. The provisions flowing from the Property Services (Regulation) Act, 2011 and their applicability to OPW have not been addressed.

CHAPTER 4. FINDINGS and RECOMMENDATIONS

4.1 Value for Money Outcomes were not achieved:

There is evidence to support our opinion that in each case acquisitions could have been made at substantially less cost if strategies and tactics were known and correctly deployed.

4.2 Could such overpayments have been mitigated?

Case 1 Prison Site (Thornton) Partly. The major cost of a serviced road meant that the gross cost of the serviced site was much greater than options with higher prices per acre. Compulsory purchase powers would have opened up endless possibilities for assembling an optimum site.

Case 2 Fairgreen Totally. An 'agreement to lease' would have eliminated the significant hike in rent.

Case 3 Mullingar Totally. The choice of a dearer site in excess of market value was never justified. Access to compulsory purchase powers would have mitigated costs to a limited extent, but would have secured an optimum site.

Case 4 91-93 Merrion Sq Partly. Had the strategic importance of the site been known, the main property could have been purchased substantially cheaper. Costs on apartment purchase and on professional fees could have been mitigated.

Case 5 Batty Langley Mostly. Had the strategic importance of the site been known, the main property could have been purchased substantially cheaper.

4.3 Corruption – opportunity and motive

The main point in our submission to the Accountability Body was poor value for money to the taxpayer in property transactions. Anytime acquisitions occur above market values the question of why should be asked and answered. This wasn't done in any case and thus the possibility for corruption, however remote, cannot be ruled out. Although instances of proven corruption in OPW are on record, we are of the opinion that pursuit of such matters is likely to be a waste of time. The taxpayer would get a better return from addressing the concerns identified in the 5 cases which from our experience are only the tip of an iceberg of poor VFM outcomes for the taxpayer.

4.4 Cause and Solutions

4.4.1 Civil Service Culture: The Civil Service is not a commercial organisation yet OPW is obliged to operate as civil servants in the commercial world of property. It is funded as a civil service organisation through central annualised budgets and is subject to centralised civil service staffing mobility and promotional arrangements which are progressively de-professionalising senior management streams. The Civil Service culture makes OPW exceptionally resilient and capable of absorbing major staff turnover (decentralisation) as essential tasks are broken into constituent elements. This 'assembly line' approach means that capable untrained staff can rapidly slot into routine non-specialist roles and perform them perfectly. Thus, routine operations are always performed e.g. rents are always paid. Problems routinely go unnoticed when the 'assembly line' is imperfect or not in place e.g. where one function should interact with another or when multiple skills are required for delivery. The instant case of property acquisitions requiring delivery by multi-disciplinary groups is only one area where the civil service model struggles; others are beyond the scope of this report.

While this report identifies the non sign-off process by professionally trained surveyors this is simply a facet of a deeper problem of a system which disproportionately recognises seniority and authority at the cost of virtually no recognition to knowledge and experience. As civil service reforms embed, it is ironic that an operational office such as OPW is progressively losing knowledge and experience at senior management levels and selection processes now favour civil service experience over knowledge and experience of the property industry. Whilst communications pay lip service to specialism (Appendix 12), it seems clear that qualifications in property are not recognised as being specialist in the Civil Service context. Some of the instant cases involved an individual who had been propelled rapidly up the ladder who was in a hurry to deliver solutions and who seemingly equated rank with knowledge. In a money conscious organisation such delivery at all costs is identified quickly but in the civil service money only matters within the context of a budget. It is easy to acquire property when one is not accountable on money issues.

Other European countries have recognised the deficiency of the civil service model and are establishing commercial state agencies to operate their property assets and provide accommodation to the broader civil service (*Ref The Public Wealth of Nations Detter D, Folster S, 2015*). Indeed, in the 1990s the State's forestry portfolio was addressed in a similar manner by the establishment of Coillte Teoranta to operate the States forest assets.

Such a change will allow a commercial culture operating on behalf of the state supplant a civil service culture which is not fit for purpose in acting as guardian of the State's property assets and in delivering accommodation solutions for the broader civil service. Matters such as centralised budgeting promotes a culture where money does not matter in delivery of accommodation solutions (spending the budget exactly does). The non-commercial approach permeates everything and it is easy to point to problems and lose sight of the fact that their origin stems from the over-riding "lasssez faire" culture. In such circumstances it would be inappropriate to pursue individual staff members who may have been party to poor VFM outcomes. Like an endocrine imbalance causing a rash to break out the visible issue is not the problem merely a product of a controlling imbalance. The instinct to date is always to address the rash and then to be disappointed that similar issues recur immediately afterwards.

A commercial agency approach will need its own governance and Service Level Agreements with the client departments who rely on OPW to provide accommodation. As the prospects of this report causing a paradigm cultural shift are probably nil, we address reluctantly changes which should be made in the context of a civil service culture.

4.4.2 Augmenting VFM in a Civil Service Structure

i. <u>Budgetary</u> The timing of strategic opportunities (where critically important property is placed on the market by third parties) cannot be predicted in advance. Commercial opportunities have been - and continue to be - lost to the State because Finance/ DPER will not and possibly cannot release funds. The acquisitions of 91-93 Merrion Sq, Farmleigh and Batty Langley Lodge might have been much cheaper had OPW been able to acquire when the opportunity first arose.

ii. Property Acquisition strategy In the cases cited 2 resulted in acquisitions at a premium when more advantageous terms had been on offer. Because file records are incomplete it is not possible to know if the acquisitions didn't proceed in the first instance because of absence of budget or ignorance of strategic objectives. Since our submission on accountability 4 'portfolio planners' have been appointed and it is hoped that they will be empowered to identify such strategic purchases in advance so that market opportunities are known when a 'for sale' sign appears on strategic properties.

iii. Service Level Agreements Expanding client accommodation requirements prove very costly when they occur in the middle of the delivery of a property solution. Service Level Agreements would enable clear strategies to be pursued.

iv. Apply the Property Regulator's requirements for licencing Given that OPW manage properties owned in some cases by third parties, it is a moot point that it should be licensed. The licensing requirement would require OPW to have a licenced professional at a senior level in the organisation. At present Surveyors have no presence on MAC and only one surveyor (Quantity Surveyor) sits on the senior managers network.

v. Statutory (Compulsory purchase powers) There is no legislation available to enable the planning and land acquisition for the purposes of critical infrastructure, decentralisation, critical purchases to occur. Such legislation would have enabled acquisition of a much more suitable site for a prison and mitigated the special purchaser costs on other cases. Four of the five cases would have been assisted had broad compulsory powers been an option for the Commissioners.

vi. Records Immediate guidance on record keeping is required.

vii. Multi-disciplinary approach In each of the 5 cases this approach was absent and we believe the outcomes would have been very different had multidisciplinary teams being formed to progress options and approaches. A 'can do' subculture exists in OPW where on occasion enabled officers plough forward with projects focussing entirely on delivery and at best paying lip service to VFM issues. In a medical scenario it is unthinkable that a hospital manager would commence anaesthetising and operating on patients while making occasional phone calls to surgeons and medical professionals; however, this is what occurred in the sample cases and continues to do so in OPW.

viii. Restore Structured Option Appraisal approach to major projects Major projects are following solutions in a non-transparent way from the perspective of Valuers section. Market options which we would expect should be channelled through the Valuers section do not appear to be considered.

ix. Regionalisation of remit OPW delivers it property solutions centrally and at a high level (Principal Officer level and above). This bypasses knowledge of local and legacy property issues, normally held by more junior professionals operating regionally. It is impossible for senior managers to fully understand what is happening on several thousand properties and even where they do regional property management is general overpowered by pressing issues in a more valuable Dublin portfolio.

x. Sign-off of acquisitions by case valuer and 'chief' valuer. In the 5 sample cases there was no such sign-off, leaving OPW Valuers in the uncomfortable position of observing unexplainable acquisitions whilst formally having no role in the transactions. Partial use of private sector equivalents can appear self-serving when it is clear that they are not being fully appraised of context. The fiduciary remit of the staff is uncertain and while everyone understands an engineer's obligation to intervene where a structure becomes dangerous even though they have no remit, the obligations on a valuer to speak up when transactional concerns arise is less certain. A sign-off process accompanied by explanations of Special Purchaser premiums on larger transactions seems logical and would protect all parties to such transactions.

xi. Intelligent Client Role/ Professional staffing The OPW adds value to the management of property through the training and experience of its staff. Decision making on complex property issues including matters such as writing briefs for outsourced experts needs to be handled by professionally trained experienced staff. There is an imbalance in the number of professionally trained surveyors in OPW relative to that of other professions and general civil servants. Ensuring the correct balance in numbers and seniority are in place should be considered in the context of comparator organisations such as private sector companies managing property and other public bodies such as the Valuation Office.

xii. Development and Implementation of Documented Procedures Given that mobility policies drop front line staff and managers into roles for which they are not yet trained it is essential that new occupants have a manual to follow which will guide them on a step by step process on the various tasks allocated. Property Management manuals existed in OPW in the past but they were a statement of what an occupant of a post was doing and were not statements of best practice. Detailed manuals would require input from a full range of experienced and trained staff. The implementation of detailed procedures runs certain risks as they can compromise flexibility (property is not a standard product and there needs to be capacity for the office to recognise non-standard scenarios quickly and to have the capacity to amend where required. This in itself runs risks and some of the problems identified in this report arose because incumbent officers felt sufficiently senior to over-ride the procedures which were in place.

CHAPTER 5. CONCLUSIONS

The authors conclude that there is considerable potential for corruption to arise in property transactions conducted by the Office of Public Works although the incidence of such occurrences when they occur, are not believed by empirical observation to be significant.

The Accountability Vulnerabilities identified in this study exist primarily because commercial principles do not apply to civil service expenditure where the focus is on delivery within budgeted approvals. From the cases studied and from our combined 60 years experience working in OPW, the culture emanating from the Civil Service model results in a multitude of poor value for money outcomes. A considerable proportion of these are vulnerable to corruption essentially because surplus money/ waste is tolerated within the system.

The total elimination of the potential for corruption is doubtlessly impossible; however, a firm commitment to commercial principles would identify, seek out and eliminate such waste narrowing the opportunities for corruption. We are of the opinion that this objective can only be pursued effectively through moving from a civil service culture to a commercial culture (Option A). The alternative (Option B) is a poorer compromise which from our experience would, if chosen, quickly revert to the common non-commercial practices found under the existing Civil Service Model.

Option A A Commercial State Agency

It is the authors' view that the Civil Service model is fundamentally unsuited to and incompatible with

1. the delivery of accommodation solutions for the public service and
2. the management of commercial property assets.

and that waste will inevitably occur regardless of how vigilant managers and over-seers may be.

Accordingly, we recommend the establishment of a professionally run commercial state agency to be funded by rents payable by client Departments as the only sustainable model in terms of achieving efficiencies and effectiveness. By actively exploiting the commercial potential and usage of the State's property portfolio and delivery of accommodation by strict service level agreements, we believe that costs of accommodation provision will be optimised and would for the first time be capable of giving the state a proper return on its existing assets by using them to their best commercial advantage.

The State has already embarked on this route in the management of Forestry Assets by Coillte Teoranta and some European countries have commenced on such a path with their State property assets.

Option B Placing better Governance on the Civil Service Delivery Model

Section 4.4.2 above gives a series of recommendations which we believe, if implemented, would give a certain measure of improvement in the Delivery model. However, the cultural resistance of the Civil service has overwhelmed almost every past initiative and seems likely to continue to do so. In our opinion the existing civil service model is fundamentally unsustainable for the provision of property solutions to the civil service and the commercial management of the portfolio. The case examples studied in this case were selected because we were instructed to focus on the potential for corruption. Other cases, some historic/ some current are of greater concern from a value for money perspective but which at first sight did not offer obvious potential for corruption.

It may be that the civil service model can be adapted to enable OPW to be better guardians of the state's portfolio and to provide accommodation solutions more cheaply, but clearly the matter of budgeting, recognition of knowledge and experience and clear accountability will have to change. Such changes would need to be overseen by a body with a commercial property integrity and total independence. Neither OPW nor the Dept. of Finance should have powers to veto or control such a body as all reports to date have been undermined or watered down by internal vested interests.

Further Reading

1. Submission by the authors of this report to the Independent Panel on Accountability, established by the Dept of Public Expenditure and reform (DPER). per.gov.ie/wp-content/uploads/John-Dowds-Allen-Morgan.pdf.
2. The Audit Committee Guidance document (DPER, April 2014), Audit-Committee-Guidance_September-2014 http://govacc.per.gov.ie/files/2014/10/Audit-Committee-Guidance.pdf
3. The C&AG Report into the Effectiveness of Audit Committees in State Bodies (C&AG, Sept 2014). http://www.audgen.gov.ie/documents/vfmreports/87_Effectiveness_of_Audit_Committees.pdf
4. The Mullarkey Report, Report of the Working Group on the Accountability of Secretaries general and Accounting Officers, 2002. http://www.finance.gov.ie/sites/default/files/Mullarkey%20Report%202002.pdf
5. Draft Corporate Governance Standard for Central Government Departments (Sarah Swaine, 2015) http://www.per.gov.ie/en/minister-for-public-expenditure-and-reform-publishes-proposed-corporate-governance-standard-for-government-departments/
6. The Corporate Governance Standard, published by DPER on 17th. November 2015 http://www.per.gov.ie/en/corporate-governance-standard/
7. RICS divisions http://www.rics.org/ie/about-rics/professional-groups/
8. The Building Control Act 2007 http://www.irishstatutebook.ie/eli/2007/act/21/enacted/en/html
9. The Property Services (Regulation) Act 2011 http://www.irishstatutebook.ie/2011/en/act/pub/0040/
10. S.I. No. 181/2012 - Property Services (Regulation) Act 2011 (Qualifications) Regulations 2012. http://www.irishstatutebook.ie/eli/2012/si/181/made/en/print
11. Public Service Reform Plan http://www.reformplan.per.gov.ie/2014/downloads/files/Reform%20Plan%202011.pdf http://www.reformplan.per.gov.ie/2014/
12. Property Asset Management Delivery Plan 2014 http://www.opw.ie/media/Property%20Asset%20Management%20Delivery%20Plan.pdf
13. Capacity and Capability review of the Estate Portfolio Management function Concerto 7th April 2014 http://www.opw.ie/en/media/20140407%20-%20OPW%20-%20Concerto-%20Estates%20Management%20Capacity%20and%20Capability%20Review%20-%20Report.pdf
14. Business Transformation within Estate Portfolio Management, OPW http://www.whodoeswhat.gov.ie/division/opw/business-transformation-within-estate-portfolio-ma/
15. Civil Service Renewal Plan per.gov.ie/wp.../The-**Civil-Service-Renewal-Plan**-October-2014.pdf
16. IVSC Valuation Standards http://iopcg.me/images/IVS_2011.pdf
17. Committee of Public accounts Debate http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/ACC2006102600004?opendocument http://www.audgen.gov.ie/documents/annualreports/2005/2005_Report_Eng.pdf
18. Transparency International – "How do you define corruption" http://www.transparency.org/whoweare/organisation/faqs_on_corruptionAn invitation from the Minister for Public Expenditure and Reform to the public to make submissions on the matter of Civil Service accountability

Appendix 1
Submission on Accountability by John Dowds and Allen Morgan

Property and Accountability

The Civil Service and agencies supported by its Departments spend several hundred million euros annually in the provision of accommodation for civil servants and employees of funded agencies. The Office of Public Works (OPW) has a lead role in the provision of property for the Civil Service and holds a central role in implementing reform under the Property Asset Management Delivery Plan (PAMDP) whereby all public agencies are obliged to co-operate and share in the delivery of public service property solutions.

Members of the Society of Chartered Surveyors Ireland (SCSI) employed by the OPW have since the late 1990s voiced concern on multiple property transactions which at first view do not appear to make sense in the context of the property market of the time. The transactions invariably seem to be balanced against the State. The reasons in each case are not immediately apparent but potentially include:

- a mistaken superficial judgment by the surveyor
- hidden, but legitimate considerations
- ignorance of the market by the negotiating body or person
- poor negotiating skills
- compromised negotiating position
- corrupt actions

Without thorough investigation it is not possible to attribute a reason for apparently anomalous transactions but given the multi million euro expenditure on property, the Government Reform Unit should at the very least be concerned that - it would seem - nobody has ever been held accountable for a poor property transaction.

Most recently OPW surveyors made a broader submission to a Capacity and Capability Review of the OPW. This was being prepared in the context of OPW's new role under PAMDP. A central theme of the surveyor's submission related to accountability highlighting *inter alia* an inability of the Office to learn from mistakes and implement best practice in handling property and property transactions. The following section on accountability was contained therein. Whilst the matter was touched on by the consultants in their final report (which has only issued in part to date) to the Commissioners, the essential message appears to have been lost. It is not appropriate or relevant to include the full report for this study on accountability, although if required it can be provided.

"2.1 The problem of accountability:

__C&AG/ PAC/ political questions__ Even though the OPW Chairman is "The Accounting Officer" and notionally accountable to the Public Accounts Committee (PAC) through audits by the Comptroller and Auditor General (C&AG), the standard of scrutiny at best scratches the surface. The seeming glorification of often minor infractions and "grilling" of the chairman on such unimportant errors, has led to the joke - that the German word "schadenfreude" was invented for the behaviour of the C&AG/ PAC. In short, neither of these bodies has either the capacity or the capability to penetrate to the key issues. The use of external backup specialists may not have helped as their private commercial advisers were instructed by what would not amount to an "intelligent client" in the procurement sense..

In responding to often simplistic and superficial queries from auditors and politicians it is inevitable that OPW (and the Civil Service in general) responds through dissimulation. Unfortunately, this has become engrained in its culture and it would be surprising if the reviewers did not encounter it in their investigations. The practice is highly corrosive to staff at lower levels in the organisation breeding fatalism and cynicism. Regrettably where dissimulation becomes a necessary business tool, as in commercial negotiation, it is not recognised as being of importance and the creation of poker faced negotiators is a major challenge.

<u>DPER</u> OPW's parent Department (Finance and now Dept of Public Expenditure and Reform - DPER) is similarly not adequately resourced to keep track of the annual budget it delivers to OPW. Like the banking regulator who was similarly un-resourced/ enabled to monitor bank borrowing prior to the recent Irish Banking crisis, DPER have not the capability of seeing that budget allocations are handled in a commercially accountable fashion. Similarly, parliamentary questions which should lead to making the Commissioners accountable are largely ineffective and a waste of time as nothing results other than embarrassment.
Accountability is further diluted by mobility which determines that it is a successor who is obliged to answer for actions which occurred under the reign of a previous chairman.

<u>Sanctions</u> Even if the above bodies could comprehensively audit the organisation, none can impose effective sanctions. Even cases which involved multi-million euro losses to the Commissioners have not resulted in any serious retrospective examination/external scrutiny (never mind sanction) of the Commissioners. In short despite all the problems that have occurred no Commissioner (nor anyone at MAC level) has ever been removed or lost a bonus despite presiding over numerous commercial misadventures, most of which were avoidable.

<u>Health and safety Experience</u> One non-commercial avenue which is not advocated by the authors but which demonstrates a non-agency means of forcing cultural change, can be drawn from the approach to safety. Prior to the onset of safety legislation OPW's approach required improvement; a matter which became critical as the accountability issue for Health and Safety matters was addressed by legislation and focussed at the top of the hierarchy. The ability bordering on enthusiasm of the Health and Safety Authority (HSA) to take criminal proceedings against the Commissioners for breaches attributable to them resulted in major changes in structure process, training and micro management. This contrasts sharply with the approach taken on financial issues where training, use of professionals and exercise of due diligence have serious shortcomings. Currently, large transactions are negotiated without professional presence and frequently with minimal input. As one moves down through the organisational tree, the same recklessness in negotiation is less commonplace but the awareness of profligacy e.g. in allocating over generous and over "spec" accommodation, is minimal."

The problems of accountability in property matters highlighted in OPW are shared by many agencies funded by Civil Service Departments. The surveyors submission to the Capacity and

Capability review advocated establishing a commercial semi-state solution for OPW in performing its property function. Such a device was used in the establishment of Coillte Teoranta in the late 1980s when the commercial forestry role was split from the Forestry Section of the Dept of Energy. The surveyors took the view that commerciality was the best method of making the Office sensitive to money issues becoming in the process commercially accountable. Thus a resourced OPW should like Coillte be capable of returning a profit to the taxpayer progressively lowering the cost of property provision for the Civil Service.

Alternative solutions for embedding accountability in property matters might be

- to provide a dedicated monitoring property professional in the C&AG or
- have OPW's professional advisers in the office routinely obliged to advise the C&AG and PAC directly. The consequences of the latter solution would be challenging for the staff concerned and would raise numerous other issues.

John Dowds

Allen Morgan

31st March 2014

Appendix 2
Request for information from C&AG to OPW

-------- Forwarded Message --------
Subject: Fwd: Request for information C&AG
Date: Mon, 25 May 2015 12:43:54 +0100

John
Please see forwarded request for information from the C&AG.
It is based on a submission from John Dowds and Allen Morgan printed on D/Per website to the consultation paper "Strengthening Civil Service Accountability and Performance" (copy attached)
I also attach the OPW submission signed by the Chairman

In relation to the queries listed below;

1. Is the broader submission made by the individuals to Concerto available?
2. Please provide response
3. Please provide response
4. Can the final Concerto report be made available to the C&AG?
5. Please provide response

The C&AG have requested that we treat this request as urgent-any queries please give me a call

-------- Forwarded Message --------
Subject: Request for information
Date: Mon, 25 May 2015 12:13:09 +0100

Relevant extracts from the submission which we discussed earlier are shown below in blue

"Most recently OPW surveyors made ***a broader submission*** to a Capacity and Capability Review of the OPW. This was being prepared in the context of OPWs new role under PAMDP. A central theme of the surveyors submission related to accountability highlighting *inter alia* an inability of the Office to learn from mistakes and implement best practice in handling property and property transactions. The following section on accountability was contained therein. Whilst the matter was touched on by the ***consultants in their final report*** (which has only issued in part to date) ***to the Commissioners,*** the essential message appears to have been lost. It is not appropriate or relevant to include the full report for this study on accountability, although if required it can be provided......

........The surveyors submission to the Capacity and Capability review advocated establishing a commercial semi-state solution for OPW in performing its property function.....

...............Alternative solutions for embedding accountability in property matters might be

- to provide a dedicated monitoring property professional in the C&AG or
- have OPWs professional advisers in the office routinely obliged to advise the C&AG and PAC directly. The consequences of the latter solution would be challenging for the staff concerned and would raise numerous other issues."

Queries

1. Could I see a copy of the"boarder submission" by the OPW surveyors that is referred to above?
2. I assume that the above recommendations were for D/ PER to consider in the wider context of "Strengthening Civil Service Accountability & Performance" rather being an internal OPW report being considered for action within the OPW?
3. Is the OPW aware if any of the OPW surveyors recommendations to the "Strengthening Civil Service Accountability & Performance "D/PER" review that are referred to above were subsequently accepted, have been introduced or are currently being introduced following the D/PER review?
4. Could I see a copy the consultants final report to the Commissioners that is referred to above?

5. Given the seriousness of the assertions in the submission, has the OPW carried out a review into the areas of concern raised in submission by the two members of the OPW in their submission to D/PER or introduced new control systems to "implement best practice in handling property and property transactions" which the submission suggests the OPW have shown an "inability" to do in the past?

If you require any further information please let me know.

Many thanks,

Appendix 3
Synopsis of advice from OPW Planning Advisor

NAME: JAMES MULDOWNEY BL, MSc. (town and country planning).

Professional qualifications: Barrister at Law, Chartered Surveyor, Chartered Town Planner, CEDR accredited mediator.

Synopsis of work carried out on behalf of the Office of Public Works following instructions from Commissioner David Byers.

1. Legal and planning advices in relation to the sale of the former Veterinary College site, Shelbourne Road, Ballsbridge, Dublin 4
2. A series of legal and planning advices and submissions in relation to a proposed development at 4 Leeson Lane, Dublin 2.
3. Legal and planning advices in relation to the development of 17/19 Lower Hatch Street, Dublin 2.
4. Legal and planning advices in relation to listing/conservation issues on "Spruce House/former Nurses Home" site at Leeson Lane, Dublin 2
5. Review of reasons for refusal on appeal to An Bord Pleanála of a major planning application relating to a property in the Digihub complex, Thomas Street, Dublin 7.
6. Legal, planning and valuation advices in relation a proposed development and a proposed acquisition at 91-93 Merrion Square, Dublin 2.
7. Ongoing planning and legal advice in relation to the National Gallery.
8. Legal and planning advice in relation to the acquisition of the fee simple of small site at Clare Lane.

BACKGROUND TO ADVICES AND SUBMISSIONS IN RELATION TO 91-93 MERRION SQUARE.

In or about July 21st 2007, I received a telephone call from David Byers (Property Commissioner, OPW) in relation to a proposed speculative office development at the rear of 91-93 Merrion Square. Commissioner Byers explained that he urgently needed to engage my services in the preparation of an objection to the proposed development for lodgement with Dublin City Council prior to 30th July. This telephone discussion took place in the late morning while I was travelling to Kerry on the first day of a planned vacation. Commissioner Byers asked me to attend a meeting that afternoon at 51 St Stephens Green and he requested me to work on the project for the next nine days.

As I had previously undertaken a number of projects and given legal/planning advice to Commissioner Byers and given the high level of importance he ascribed to the project, I cancelled my holidays and hurried to his office in 51 St. Stephen's Green for a meeting which took place at approximately 2pm.

When I arrived at Commissioner Byers' office a meeting was already in progress under his chairmanship. Those present included Mr Klaus Unger APA, OPW, Mr John Sydenham PO, Ms Roisin Heneghan (Heneghan Peng Architects), Mr Raymond Keaveny Director, National Gallery, and a senior OPW engineer, (name unknown). Commissioner Byers explained the background as follows

Mr Raymond Keaveny, Director of the National Gallery, had very recently observed a planning site notice which was displayed at 91-93 Merrion Square. This notice described, inter alia, a proposal for the construction of a 5-storey over basement office block in the rear gardens of 91-93 Merrion Square, amounting to 2,350 sqms for which a planning application was lodged with Dublin City Council on 27th June. More specifically, the proposed development was outlined as follows

PROTECTED STRUCTURE: - Planning permission is sought for works to existing Protected Structure, to include re separation of of nos. 92/93 to include the closing up of non-original openings and remove non-original stairs between the two buildings. Removal of non-original partitions & false ceilings, removal of sanitary facilities at third floor level. Removal of safe/strong rooms at basement level Demolition of existing modern two-storey extension to the rear of numbers 91/92, providing 552 sqm of office accommodation. The construction of 5 storey over basement car park unit, providing 1,654 sqm of office/ancillary accommodation. Basement to provide 9 no. car parking spaces & 31 no. cycle spaces with access by way of a car lift from Clare Lane. This structure proposed to be separated by a glazed link at upper ground floor & garden level from the original building. The Merrion Square Co-Ownership, Richardstown, Ballyboughal, Co. Dublin

Commissioner Byers further stated that the National Gallery had long-term expansionary ambitions and the only available site that could accommodate such expansion was the site that was the subject of the planning application. During discussions it emerged that there was no scope for the Gallery to expand in a southerly direction as this would entail an incursion into the Leinster House complex, nor could it expand westwards for similar reasons. Expansion in an easterly direction was also constrained by listing/conservation constraints set out in the Dublin City Development Plan. It was therefore concluded that the only available site for the expansion of the Gallery was the site immediately to the north of the Gallery property which was the subject of the aforementioned planning application. In order to safeguard the Gallery's long-term future expansionary plans, Commissioner Byers opined that the OPW would have to acquire the site that was the subject of the aforementioned planning application. It was agreed that the grant of planning permission for a speculative office block would greatly increase the value of the site and hence render it more expensive to purchase.

Following a discussion I outlined the main grounds of objection to the proposal. As time was of the essence Commissioner Byers made his engineers and architects available to me and also advised that I consult Mr John Mulcahy, a partner in the property company Jones Lang LaSalle in relation to any valuation aspects that pertained to the proposed development and its impact on the OPW site. Commissioner Byers instructed me to commence work on the project immediately with a view towards completing the submission on or before Monday 30th July 2007. He also instructed the OPW employees in attendance to make all of the professional expertise/resources available to me to facilitate the preparation of an objection to Dublin City Council (OPW planning reference number 3903/07).

Over the course of the following 9 days I conducted a number of meetings with the various technical experts and prepared the final submission which was completed on the morning of 30th July 2007. I met with Commissioner Byers on the morning of 30 July and submitted four copies of the submission to him. Commissioner Byers, Klaus Unger, Architect and John Sydenham PO all read the submission. No changes were requested; however Commissioner Byers stated that the submission could not be lodged with Dublin City Council until it had been reviewed and approved by Mr Sean Benton, OPW Chairman, who was returning from vacation in order to review the said submission. The deadline for lodgement with Dublin City Council was 5p.m. on 30th July 2007. Mr Benton read the submission and approved same in or about 3pm on the afternoon of 30th July 2007. The submission (including the various appendices) was submitted to Dublin City Council at approximately 4pm on 30th July 2007.

On 15th. August 2007, Dublin City Council issued a notification of a decision to refuse permission for the proposed development. The reasons for refusal largely echoed the grounds of objection that were submitted on behalf of the Office of Public Works. This refusal significantly reduced the hope value element of the subject site.

This decision was appealed by Henry J Lyons and Partners, (Architects) to An Bord Pleanala on behalf of the applicants on 11th. September 2007. I again met Commissioner Byers to discuss the applicants' grounds of appeal and he instructed me to prepare a rebuttal submission. In addition, he instructed me to liaise with Mr John Mulcahy, who was acting on behalf of the OPW with regard to the purchase of the entire property that was subject of the planning appeal. I met Mr Mulcahy on two occasions and we discussed the impact that a grant of permission would have on the costs of acquisition of the subject properties/site. When I had completed the rebuttal submission in accordance with Commissioner Byers' instructions, I met Mr Mulcahy to review this submission in detail and answer any queries he had in relation to it. In the course of our discussions it was decided that prior to lodging this submission with An Bord Pleanala Mr Mulcahy would present the submission to the applicants at a forthcoming meeting and seek to use the arguments outlined therein so as to encourage them to withdraw their appeal to An Bord Pleanala. Mr Mulcahy subsequently informed me that during negotiations with the applicants he had convinced them that the prospects of a successful appeal were remote for the reasons outlined in my submission. He also stated that the applicants therefore decided to withdraw the appeal and that negotiations in relation to the purchase of the properties were ongoing. The appeal to An Bord Pleanala was withdrawn on 24th. September 2007.

I understood from our discussions that the OPW would achieve a significant reduction in the purchase price of the site (as the 'hope value' element of the site value had been eliminated) compared to what they would have had to pay in the event that permission for the proposed development was granted.

At a subsequent meeting with Commissioner Byers while discussing planning/legal issues in relation to other OPW sites, he informed me that 91-93 Merrion Square had been acquired and he thanked me for my work on the project.

If you have any further queries on the above, please do not hesitate to contact me.

19 November 2015

Appendix 4a
OPW Brief for New Revenue Offices Galway

NEW ACCOMMODATION FOR REVENUE COMMISSIONERS AND OPW IN GALWAY

The Commissioners of Public Works invite expressions of interest from Property developers who are in a position to provide, ready for occupation within a time frame of up to 12 months, circa 2,500 to 4,000 square metres (net lettable) of high quality offices, with some ground floor offices, in or near Galway city.

The premises should have excellent access to public transport as well as secure car-parking facilities. Premises should have all appropriate certification under Health & Safety, Building Regulations and Planning Acts and should be fully accessible by persons with disabilities.

The suitable applicant will need to produce a current valid Tax Clearance Certificate before any contract or lease can be finalised.

Interested parties should note that exchange/part exchange of Galway Custom House and/or 16 Eyre Square may be considered by the Commissioners

Expressions of interest from those in a position to meet all of the above criteria should be forwarded by 12 noon on 14th November 2003 to:

[redacted]
Property Management Services
Office of Public Works
51 St. Stephen's Green
Dublin 2

Tel: (01) 6476224

Submission of a proposal will not form a commitment on the part of the Commissioners to treat with any party

Appendix 4b

Memo of Valuer concerns on measurement protocol change from Net to Gross

[redacted]

Proposed New Offices for Revenue in Galway

1. Space sought by competitive tender.

2. Two viable options received, despite matrix based on Revenue requirements favouring office in Liosban, (following Revenue submissions) it was agreed following Finance approval, to take Fairgreen option at extra cost then estimated at €200,000 pa

3. Subsequent additional requirements by Revenue resulted in areas increasing. However, the auctioneer has substantially altered the original basis of tender by
   a) calculating total rent on a Gross Internal Area (it appears that early submissions and repeated communications up to Jan 2006 by him were in fact Gross Internal Areas but were stated to be Net Internal Areas)
   b) dropping a proposed rent free period and
   c) removing a break option

4. Valuers recommended maximum headline rents at €17psf NLA in August '04 updated to €18.50psf NLA in Oct. '05. Agreement purported to be €19.80 psf NLA on the prime office areas and €15psf on the Mezzanine area. Note – there are elements of the proposed demise such as the GF which it is conceded merit higher rents psf but this was already compensated for by agreeing to take it on shell and core specification.

5. [illegible] areas quoted by [redacted] [illegible] proposed — 1667.6 sq m NLA @ €19.80 psf; 5772 sq m GIA @ €19.80 psf

6. [illegible] estimate of floor areas show:

Total GIA — **62,130 sq.ft. (5772 sq.m)**
of which — *47,539.2 prime space @ €19.80 psf*; *14,589.52 mezzanine @ €15.00 psf*
[illegible] based on landlord's current interpretation — €1,160133.20

Total NLA — **54,595.44 sq.ft. (5072 sq.m)**
of which — *41,753.21 prime space @ €19.80 psf*; *12,842.23 mezzanine @ €15.00 psf*
[illegible] based on OPW's adherence to NLA code — €1,019,077.00

[illegible] arising as a result of landlord's position — €141,056.20 pa

[illegible] €312,194.80. This was over €200k more than the next [illegible] the area recommended by OPW to Revenue as being the most [illegible] has increased this cost differential to over €350k p.a.

Appendix 5

Comparable sales Mullingar

Market Transactions

Vendor	Purchaser	Address	Area	Date	Price
Penn Industries	Connaughton	Midland Industrial Est	9.25 ac	Oct 04	€5.6 million
ESB		12/14 Domnick St	0.92 ac	Nov/10	€4.8 million
		Gleann Pettit Sqaure	2 ac	Oct/06	€5.152 million W/D
Bennett Constructi on		Longford Road	1.3 ha	Jan/06	€5.6 million
		Lynn Industrial Est	1.1 ac	Jan/08	€1.5 million (Quoting)
		35-37 Domnick St		Oct/05	€3 million (Guide)

Appendix 6
Sales Brochure 91-93 Merrion Sq, July 2004

Appendix 7
E-mail advising OPW of likely property price of 91-93 Merrion Sq

From: [redacted]@opw.ie
To: [redacted]@opw.ie
Date sent: Mon, 05 Nov 2007 12:34:45 -0000
Subject: [Fwd] Commercially Sensitive
Priority: normal

----- Forwarded message follows -----
From: "[redacted] (Ireland)"
<[redacted]>
To: [redacted]@opw.ie
Date sent: Tue, 11 Sep 2007 10:10:25 +0100
Subject: Commercially Sensitive

Re : Project Gallery

Dear [redacted]

I had another meeting with [redacted] as agreed and I am
trying
to keep matters active while the approvals are sought. The update is
:-

1) The purchase price of the IIB buildings (3) and rear car park is
likely
to be between â□¬17 â□□ 18m.

2) The 4 apartments she currently has contracts on for â□¬2.2m
will cost
â□¬2.4m (i.e. â□¬200k incentive to her).

3) The 4 remaining will have a budget figure of â□¬3.2m. Any
figure below
that we will pay 50% of the difference to her by way of incentive fee.

e.g. Budget figure â□¬3.2m
Actual Price â□¬2.6m

Difference â□¬0 6m
50% paid to CM â□¬0.3m

Actual cost to us â□¬2.9m

So my estimate of the cost is
Houses and car park â□¬17.5m
Apartments first, say â□¬5.5m

Total say, â□¬23.0m

The major issue now is that she has to complete on the 4 apartments
she
has under contract and needs to move fairly quickly.

She is asking what our timescale is as she has to move to sign and
close
these purchases. (The issue clearly is Stamp Duty â□□ if we buy, we
save
the Stamp).

You might call for a discussion on the above.

Regards
[redacted]

[redacted]

Appendix 8
Georgian Property commentary and sales

Georgians on market reflect drop in prices

Wed, Jun 15, 2011, 01:00

Two Georgian buildings for sale in Dublin, at €1 million and less, show how the cost of such distinguished properties has fallen recently

SELLING PRICES for Georgian office buildings in Dublin's central business district have fluctuated over the years in line with the latest trends and the wider fortunes of the property market. For decades they made top prices because of the competition for them between medical and legal practices, professional organisations and ambitious companies looking for prestigious headquarters in Dublin 2.

Over the last 20 years most of the legal firms have relocated to modern office blocks with large floor plates to accommodate extra staff. The majority of the medical practices have also moved on to purpose-built centres or private clinics and hospitals in the suburbs.

A great many of the successful trading companies have also left the Georgian houses and now run their operations from spacious office blocks in the suburbs. A few companies that failed to last the pace are remembered by nameplates still in place outside tall Georgian houses.

During the property boom the largest and best preserved Georgians often made up €1,200 a sq ft (€12,916 a sq m) – working out at between €3.5 million and €5 million per house, depending on the size, condition and availability of car parking at the rear.

Even the smallest of the Georgians were selling for between €2 million and €3 million in 2006 and 2007.

There was one exceptional sale in June 2007, when the Merrion Hotel paid a staggering figure of almost €9 million for the neighbouring Georgian headquarters of the Football Association of Ireland at 80 Merrion Square.

Iain Finnegan of agents Finnegan Menton, who advised the FAI on the disposal of the 430sq m (4,635sq ft) house, described the sale as "the last hurrah. . . before the market slipped".

Around the same time Lisney secured €6 million for a house on Fitzwilliam Square with a development site at the rear. In recent months, most of the period houses going for sale have been priced between €1 million and €2 million, depending on the condition and whether a mews house is included.

Another indication of how values have fallen comes this week with the announcement by the former Society of Chartered Surveyors that it has set an AMV of €1 million for its Georgian headquarters at 5 Wilton Place in Dublin 2. A second period house coming on the market this week at Pembroke Road has a guide price of €910,000 while one at Northumberland Road in Dublin 4, is selling for €850,000.

Colliers International is handling the disposal of the Wilton Place building which is being sold following the amalgamation of the Society of Charter Surveyors and the Irish Auctioneers and Valuers Institute to form the Society of Chartered Surveyors Ireland. The new organisation is now based at Merrion Square.

The four-storey over basement mid-terrace Wilton Place house has an overall floor area of 359sq m (3,864sq ft) includin a lower ground floor with independent access. The top floor is currently in residential use. The guide price works out at €258 a sq ft (€2,785 a sq m). The society will also consider making the house available to rent at €60,000 a year – or €167 per sq m.

Colliers says the sale presents a "fantastic opportunity for either an investor or an owner-occupier to acquire a prime building right in the city centre". The agency says the "realistic price" being quoted reflects market conditions.

The Pembroke Road house being launched today through Lisney is slightly smaller, standing three storeys over garden level with a floor area of 221sq m (2,382sq ft).

Here again the agency says that the asking price is a sign "that vendors have become realistic with asking prices".

Lisney says the building is in good condition and, while it retains some of its period features, it also has modern element: including emergency lighting, Cat 5e cabling, ISDN lines, tea stations, shower facilities and a fire alarm. There are four parking spaces to the rear.

Finnegan Menton is handling the sale of the house on Northumberland Road which extends to 225sq m (2,424sq ft) and includes a 140ft rear garden with potential for a mews building.

Georgian buildings enjoy revival after doldrums

Aisling Tannum

January 24 2013 5:00 AM

-
- Email

The sale and leasing of Dublin Georgian buildings enjoyed a revival in the past 12 months after more than three years of low demand.

Georgian Dublin is usually one of the first sections of the office market to suffer with economic downturns. This trend was exacerbated by the preferences of many occupiers to locate on single-floor plates in modern office buildings.

Capital Values

In contrast, during the early 2000s the Georgian sales market performed well, boosted by the interest of both owner-occupiers and investors. Indeed, one of the highest prices achieved was for 31/32 Fitz-william Square, which sold by tender in December 2006 for €13,111,111, well over the guide of €10m. This price equated to €1,611 per sq ft.

An analysis of Georgian sales in 2005/2006 shows prices ranging from €700 to €1,600 per sq ft being achieved for prime Georgian squares and streets.

This reflects how Dublin's commercial property market also developed for decades around St Stephen's Green, Merrion Square and Fitzwilliam Square in the very centre of Georgian Dublin.

Consequently, Georgian Dublin has consistently provided prestigious, well-located commercial properties that are home to some of our leading legal, investment, wealth management and accountancy houses and suit a wide number of occupiers.

However, the period between 2008 and 2011 saw very few Georgian property transactions on the open market. Then, in 2011, interest began to pick. It increased last year when a large number of freehold Georgian office properties were sold.

Knight Frank Ireland was involved in a number of these sales, and we found that the viewer profile was dominated by owner-occupiers and families looking for a city centre home.

The above graph shows that the average sale price last year was €250 per sq ft. That is based on the sales over the 12 months of 2012 which ranged from €178 per sq ft in Merrion Square up to €336 per sq ft in Pembroke Road, although those prices would have reflected factors other than simply the locations.

Leasehold market

During the boom, rents of between €30 and €40 per sq ft per annum, and €3,500 to €4,000 per car space per annum, were secured for Georgian office buildings in 2007. Even higher rents were achieved for those in immaculate condition and located on prime squares.

As might be expected, rents are currently below those highs. Nevertheless, the market is performing relatively well, with rental levels increasing throughout 2012. Evidence shows leasing transactions recently averaged €15

Georgian buildings enjoy revival after doldrums - Independent.ie

per sq ft. Furthermore, entire, well-presented Georgian offices on good streets and squares are achieving in excess of this figure, and recent offices in Fitzwilliam Square achieved rents of €18.50 per sq ft.

In line with the current general office market, lease terms are also shorter, and repairing obligations have been mitigated.

Occupiers include those who are seeking attractive own-door offices in prestigious city centre locations, and those who cannot find suitable modern offices.

Georgian buildings provide occupiers with a prestigious address and image. However, such an image is only sustained once the internal grandeur of the premises matches that of the exterior. Consequently, period features such as original fireplaces, cornice work and im- pressive entrances are important.

Investors should remember that in good and bad times, Georgian properties will suffer when landlords do not put the necessary capital into the buildings.

On the otherhand parking can prove to be an advantage for attracting tenants. With city centre car parking ratios restricted for buildings constructed in the past 10 years, many Georgian properties can have the advantage of offering more car spaces than some modern offices.

Aisling Tannum is head of office agency at Knight Frank Ireland

Indo Business

Appendix 9
Submission to An Bord Pleanala by Consortium consultant surveyor

11th September 2007

Dear [redacted]

Re. 91 - 93 Merrion Square, Dublin 2

I refer to our ongoing discussions in connection with the above.

At the request of our clients given that the property has a Z8 zoning "to allow primarily residential and compatible office and institutional uses" we wrote, in February 2007 to 26 institutional, educational, cultural and governmental organisations in an attempt to draw their attention to the property. We attach a list of the organisations that we contacted.

To date, we have received absolutely no response or even a general enquiry for the property from the organisations that we wrote to which indicates that there is no market demand from this type of user.

As such we feel a scheme such as the one submitted is most appropriate.

If you require any further information, please do not hesitate to contact me.

Kind regards,

Yours sincerely,

- Bourke College of Marketing & Design, 57 Terenure Road, Dublin 6
- D.I.T., 30 Upper Pembroke Street, Dublin 2
- U.C.D., Belfield, Dublin 4
- H.S.I., Harcourt Business School, Harcourt Street, Dublin 2
- National College of Ireland, Mayor Street, IFSC, Dublin 1
- Milltown Institute, Milltown Park, Dublin 6
- Montessori Education Centre, 42 North Great Georges Street, Dublin 1
- St. Nicholas Montessori College Ireland, 16 Adelaide Street, Dun Laoghaire
- St. Patricks College, Drumcondra, Dublin 9
- Boston College, 42 St. Stephens Green, Dublin 2
- R.C.S.I., St. Stephens Green, Dublin 2
- Dublin City University, Glasnevin, Dublin 11
- Dublin Business School, 13-14 Aungier Street, Dublin 2
- Griffith College Dublin, South Circular Road, Dublin 8
- Higher Education Authority, Marine House, Clanwilliam Court, Dublin 2
- Irish Academy of Public Relations, 1 Newtown Park, Blackrock, Co. Dublin
- Open University, Holbrook House, Holles Street, Dublin 2
- Portobello College Dublin, South Richmond Street, Dublin 2
- Westmoreland College for Management & Business, 11 Westmoreland Street, Dublin 2
- Trinity College, College Green, Dublin 2
- The Arts Council, 70 Merrion Square, Dublin 2
- The OPW, 54 St. Stephens Green, Dublin 2

Appendix 10
Submission to An Bord Pleanala by OPW consultant surveyor

4 October, 2007

To Whom It May Concern:

91 – 93 Merrion Square D2

I have been asked to address the issue as to whether the above property development is of strategic or national importance.

I have addressed this issue from our perspective as property leasing agents and advisors.

In the general area where the property is located there is a vacancy rate (completed and unlet buildings) of approximately 10%. This equates to approximately 101,982sqm (1,097,757 sqft)

On the basis of this vacancy level and the amount of pipeline development together with the ongoing impact of Government decentralisation there will be no scarcity of office supply in the foreseeable future.

In addition market demand has moved decisiveness away from hybrid schemes involving older Georgian Buildings with modern office extensions.

Appendix 11

Sample Sales Apartments 2008-2010 Dublin

Fire sales draw bargain hunters

Banks trying to make back some of the money they've loaned to developers are behind dramatic falls in asking prices. This looks set to continue after the summer

Some buyers have been chided by the public for capitalising on others' misfortunes


THE SQUARE, EYRECOURT, CO. GALWAY

Value can still be found in Dublin city centre

ON THE MARKET DUBLIN CITY CENTRE

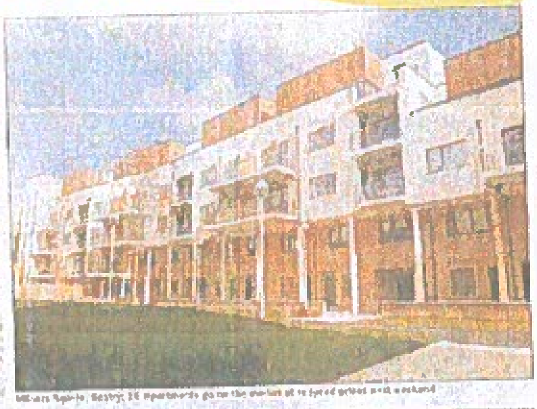
Apartments suffer as prices plummet in south Dublin

By Tina-Marie O'Neill

ON THE MARKET SOUTH DUBLIN

p6 NEW HOMES

Santry units with price reductions of over 50%



THE SUNDAY BUSINESS POST
JANUARY 20 2008

SOUTH DUBLIN

Ballintyre, Ballinteer: one, two and three-bed apartments, penthouses and mews from €425,000, 2-4pm, Savills Hamilton Osborne King.

NORTH DUBLIN

The Meadows, Swords: one, two and three-bed apartments, duplexes and townhouses from €229,950, 2-5pm, Savills Hamilton Osborne King.

WEST DUBLIN

Castlegrange, Castaheany: two, three and four-bed apartments, townhouses and duplexes from €305,000, 2-4pm, Sherry FitzGerald New Homes.

The Crescent at Rathborne: two and three-bed apartments from €335,000, 2-4pm, Savills Hamilton Osborne King.

WICKLOW

Holywell, Sea Road, Kilcoole: three and four-bed houses from €500,000, 2-4pm, Sherry FitzGerald New Homes.

To have your scheme included in On View Today, e-mail details to tina.marks@sbpost.ie by 2pm on the Wednesday prior to publication.

PRIVATE TREATY SALES RESULTS

DUBLIN 1

279 Custom House Harbour, IFSC: a two-bed apartment has been sale-agreed in the region of €410,000 through Savills Hamilton Osborne King.

65 Hapenny Bridge House on Lower Ormond Quay has been sale-agreed by the same agent for €280,000.

Lisney sold **Apt 2, Block 7, Clarion Quay**, a one-bed apartment with parking in the IFSC for about €345,000.

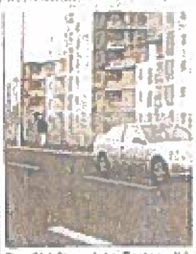
DUBLIN 2

23 Trinity Square, a one-bed apartment on Townsend Street, has been sale-agreed at €300,000 by Savills Hamilton Osborne King.

The same agent sold Apartment 8 at **12 Adelaide Road** for €310,000.

DUBLIN

[illegible]



The Old Chocolate Factory, Kil[illegible]

[illegible]

THE SUNDAY BUSINESS POST
FEBRUARY 17 2008

THE SUNDAY BUSINESS POST

PROPERTY WEEK

Terenure six-bed sells

AUCTION RESULTS

DUBLIN 2

DUBLIN 3

DUBLIN 4

DUBLIN 6

DUBLIN 7

DUBLIN 8

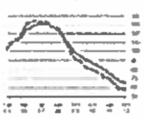
Fairfield Lodge at 58 Highfield Road made over €1.8 million throug

DUBLIN 11

DUBLIN 12

Residential Property Price Index

June 2012



Residential Property Prices fall by 11.4% in the year to June

Table 8 Dublin - apartments

Table 8 Dublin - apartments (continued)

Period		RPPI current base Jan. 2005 = 100	Percentage changes 1 month	3 months	12 months
			%	%	%
2008	January	122.3	-0.2	-0.2	-2.9
	February	123.4	0.9	1.7	-3.1
	March	122.2	-1.0	-0.3	-3.0
	April	121.1	-0.9	-1.0	-1.8
	May	117.8	-2.7	-4.5	-4.3
	June	114.7	-2.6	-6.1	-7.4
	July	112.9	-1.6	-6.8	-10.0
	August	111.8	-1.0	-5.1	-9.9
	September	109.1	-2.4	-4.9	-11.6
	October	103.6	-5.0	-8.2	-15.5
	November	99.5	-4.0	-11.0	-18.0
	December	97.0	-2.5	-11.1	-20.9
2009	January	96.5	-0.5	-6.9	-21.1
	February	93.2	-3.4	-6.3	-24.5
	March	89.9	-3.5	-7.3	-26.4
	April	86.5	-3.8	-10.4	-28.6
	May	85.9	-0.7	-7.8	-27.1
	June	84.6	-1.5	-5.9	-26.2
	July	83.2	-1.7	-3.8	-26.3
	August	80.9	-2.8	-5.8	-27.6
	September	78.1	-3.5	-7.7	-28.4
	October	76.4	-2.2	-8.2	-26.3
	November	75.8	-0.8	-6.3	-23.8
	December	75.2	-0.8	-3.7	-22.5
2010	January	74.1	-1.5	-3.0	-23.2
	February	71.7	-3.2	-5.4	-23.1
	March	70.8	-1.3	-5.9	-21.2
	April	70.2	-0.8	-5.3	-18.8
	May	70.5	0.4	-1.7	-17.9
	June	69.9	-0.9	-1.3	-17.4
	July	67.3	-3.7	-4.1	-19.1
	August	66.1	-1.8	-6.2	-18.3
	September	64.4	-2.6	-7.9	-17.5
	October	64.5	0.2	-4.2	-15.6
	November	63.4	-1.7	-4.1	-16.4
	December	63.9	0.8	-0.8	-15.0

Appendix 12
Letter from Secretary General, DPER to Top Level Appointments Commission

An Roinn Caiteachais Phoiblí agus Athchóirithe
Department of Public Expenditure and Reform

5 April 2017

Ms Jane Williams
Chairperson
Top Level Appointments Committee

Dear Jane,

As you are aware, one of the aims of the Senior Public Service is to support mobility at senior levels across the system. The SPS Mobility process has been an important initiative in supporting this goal, resulting in 19 moves at Assistant Secretary level across civil service organisations to date.

The Civil Service Management Board recognises that diversity of experience is critical at Management Board level in the Civil Service and have agreed that additional strategies are needed to strengthen mobility in support of this aim. We are writing to advise you of the two main drivers that have been agreed:

1. Strengthening the current wording in the TLAC booklet for new appointees to Assistant Secretary level to include a provision that they would ideally move position every 4/5 years, including to other Civil Service organisations. Where the post is specialist in nature it will be handled on a case by case basis;

2. Introducing criteria in TLAC competitions for Secretary General and Assistant Secretary posts that recognise the value of diverse experience at senior levels.

The TLAC booklet will be amended to reflect Point 1. With regard to the TLAC criteria, it has been agreed that the job description in relation to vacancies at senior levels (Secretary General and Assistant Secretary) will set out a number of desirable criteria, two of which applicants would ideally meet. While it is recognised that breadth of experience is already taken into account in practice in the selection process by TLAC, there is a value in explicitly setting out the criteria, particularly from the perspective of potential applicants. The criteria are as follows:

Secretary General Vacancies

Ideally, applicants will meet two of the following criteria at a senior level:

(a) Applicant has experience in more than one organisation
(b) Applicant has international experience (e.g. working abroad or significant engagement with international organisations and processes)
(c) Applicant has experience outside the Civil Service
(d) Applicant has a variety of experience (e.g. policy and operational)

[illegible]
Government Buildings
Upper Merrion Street
Dublin 2
[illegible]

Assistant Secretary General Vacancies

Ideally, applicants will meet two of the following criteria at a senior level:

(a) Applicant has experience in more than one organisation
(b) Applicant has international experience (e.g. working abroad or significant engagement with international organisations and processes)
(c) Applicant has experience outside the Civil Service
(d) Applicant has a variety of experience (e.g. policy and operational)

It is envisaged that these arrangements will take effect from 1 January 2018. However, in the meantime, we will contact SPS members and the wider Civil Service to ensure they are aware of the criteria being introduced in TLAC competitions from next year.

Yours sincerely,

Robert Watt

Robert Watt
Secretary General

CC: Fiona Tierney
Martin Fraser