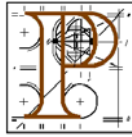


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:**

PL 29S.246130

**Development:**

Development Securities Properties Donnybrook Limited intends to apply for planning permission at Donnybrook House, 36-42 Donnybrook Road, Dublin 4 (with frontage also onto Pembroke Cottages and Rampart Lane). The development will consist of the amendment of a previously permitted development under Dublin City Council Reg. Ref. 2163/09, as extended in duration under DCC Planning Ref. 2163/09/x1. The proposed amendments to the previously permitted development involves internal and external alterations to the building to provide a revised mix of uses and internal layout that is augmented by a third floor roof extension to the front of the building together with a side extension to the north-western elevation of the building at first and second floor level to provide an additional 867 sq.m of office floorspace. Internal alterations and changes of use to the permitted development include (a) Internal alterations and reconfiguration of the gym layout at lower basement and upper basement level together with new ground floor entrance resulting in an increase in floor area from 1,661.5 sq.m to 1,867 sq.m; (b) Reconfiguration of permitted car parking and ancillary storage and plant rooms at upper basement level to provide a revised car parking layout (17 spaces, including 2 no. disabled car parking spaces) together with 54 no. of bicycle parking; ancillary staff facilities, relocated ESB substation and meter room; rainwater attenuation tank(s) and ancillary plant and store rooms; (c) Change of use of part of permitted restaurant floorspace at ground and first floor level to the rear of the building to front door office unit (315 sq.m at ground level) and 954 sq.m of office use at first floor level, together with a reconfiguration of the remaining permitted restaurant floorspace (370 sq.m) at ground floor level to include the omission of the permitted No. 7 ground level car parking spaces and bicycle parking to the west of the building at grade level to provide an ancillary outside dining terrace and landscaped together with the provision of 14 bicycle storage spaces and three on-street car parking spaces (including 1 disabled car parking space) along Pembroke Cottages; (d) Raising the level of the existing mock-pitched roof at the rear of the building by approximately 1.4m from level 18.4m to 19.8m; (e) Change of use of permitted No. 3 retail units (1,362sq.m) at ground floor level to retain existing car parking within a reconfigured layout comprising a cafe unit (215 sq.m) and office reception (297 sq.m) along the Donnybrook Road frontage with car parking (13 spaces) to the rear thereof with revised circulation area (including signalised access ramp off Rampart Lane), switch room, waste/bin storage area and ancillary plant; (f) Change of use of permitted 3 no.

medical consulting rooms (378 sq.m) at first floor level to office incorporating the proposed extension to the north-western elevation arranged around new internal courtyard; (g) Reconfiguration of permitted second floor office space to include the proposed extension to the north-western elevation arranged around new internal courtyard extension vertically to first floor level below; (h) Provision of roof top plant and extract unit (at 2nd floor level) to the rear to serve the permitted restaurant at ground floor level in the rear building together with the provision of a part sedum roof; (i) Internal reconfiguration of permitted office floorspace at third floor level together with the omission of the previously permitted roof terrace to provide a new third floor office extension (312 sq.m) to the front of the building that is set back from the south, east and west by approximately 1.8m, 1.6m and 1.6m respectively; (j) Provision of a sedum roof on top of the proposed side extension to the north-western elevation of the existing building at first and second floor levels below; (k) Internal reconfiguration of the permitted office floorspace at fourth floor level together with the provision of a sedum roof on top of the proposed third floor office extension below; (l) Removal and replacement of existing roof top plant with new screened plant and extension of existing lift overrun to accommodate additional lift shaft; (m) External alterations to building, including deep cleaning of existing facade, and replacement of existing fenestration with new glazing on all levels; alterations to facade fronting Pembroke Cottages, to include provision of new hardwood timber bay windows to the Northern Elevation and provision of new restaurant and gym entrance to Western Elevation and hardwood timber canopy; alterations to Ground Floor facade fronting Donnybrook Road to include provision of new glazed shopfronts and entrances; (n) Provision of hard and soft landscaping to the rear along the Pembroke Cottages Rampart Lane frontages. In the interest of clarity, the revised proposal provides a total of 5,496 sq.m of office floorspace (including 325 sq.m of ancillary storage space); 215 sq.m of cafe floorspace; 370 sq.m of restaurant floorspace and 1,867 sq.m of gym floorspace.

### Planning Application

Planning Authority:	Dublin City Council
Planning Authority Reg. Ref.:	4014/15
Applicant:	Development      Securities      Properties Donnybrook Ltd.
Planning Authority Decision:	Grant Permission with conditions

### Planning Appeal

Appellant(s):	Donnybrook Residents Association
Type of Appeal:	Third Party – V - Grant
Date of Site Inspection:	20 <sup>th</sup> May 2016

**Inspector:** Tom Rabbette

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The application site is located in the centre of Donnybrook village in Dublin 4. It has frontage onto 3 public streets or lanes. The Donnybrook Road runs along the front, south-western, boundary of the site, this road forms part of the national primary route; the N11. There is a lane running along the eastern boundary of the site known as Rampart Lane, this lane provides access to the rear of a terrace of residential properties that front onto Eglinton Terrace further east of the site. The road serving the residential area of Pembroke Cottages to the north of the site is also known as Pembroke Cottages, it has frontage along the north-western and northern boundaries of the application site.
- 1.2 The existing structure on the application site consists of a complex linked arrangement of three blocks. There is a 3-storey block fronting onto Donnybrook Road. Behind that there is a 5-storey block that runs perpendicular to the front 3 storey block. Both of these blocks are estimated to date from the 1970s. They are located over 2 levels of parking which is accessed via a ramp system off Rampart Lane. The third block is a later addition, estimated to date from the 1980s, it is a 2 storey block above ground level but has 2 levels of basement accommodation below. The building was used as a bank up until c. 2009, it appears it has been vacant since then.

## **2.0 PROPOSED DEVELOPMENT**

The applicant got permission to change the use of parts of the existing building on the site for a mix of uses including restaurant, gym, medical suites and retail. Office use was to be retained in part of the structure. That parent permission is reg. ref. 2163/09. An extension of duration of that permission was granted for 5 years, that permission lasts until 2020. The applicant is now seeking changes to that parent permission. There are 14 elements listed (a-n) in the development description as per the public notices. The main elements relate to the following:

- Refurbishment of the building including upgrading of the external envelope including: cleaning of the facade; the replacement and upgrading of all existing windows, as well as the replacement of all mechanical and electrical systems.
- Change of use of 3 permitted retail units at ground floor level fronting onto Donnybrook Road to one café/retail unit and one office reception area, retaining existing car parking off Rampart Lane.
- Change of use of 3 medical consulting rooms at first floor level to office use.
- Construction of an extension of office space at 3<sup>rd</sup> floor level fronting Donnybrook Road, and at first and second floor set back from Pembroke Cottages surrounding an inner courtyard.

- Reduction of permitted restaurant floorspace at ground floor to the rear and first floor to office use.
- Boundary treatments, landscaping, site development works and ancillary services.

### 3.0 PLANNING HISTORY

2163/09: Permission was granted on the site for the following development:

- (a) Change of use of 364sqm at ground floor level from banking hall/office use to retail use,
- (b) Demolition of upper level of car park to rear and construction of 998 sq.m of new retail accommodation at ground floor level;
- (c) Alterations to layout of lower level car-park inclusive of reduction in finished datum level;
- (d) Amendment to Car parking layout-34 No. spaces now provided in lieu of 37 no. previously; 7 no. ground level on Pembroke Cottages frontage and 27 no. at upper basement level, accessed from Donnybrook Mews, incorporating new vehicular access from Donnybrook Mews
- (e) Change of use of 378 sq.m of existing office accommodation at first floor level to medical consulting rooms;
- (f) Alterations to front facade on Donnybrook Road consisting of: reduction in datum level of ground floor accommodation to be at same level as existing footpath level; removal of existing ground floor elevation elements and provision of new recessed glazed shop fronts; new stainless steel & timber cladding to columns at ground floor level; new signage incorporated into shop front design;
- (g) Alterations to upper floors of Donnybrook Road elevation consisting of steel & timber louvered elements fitted to existing facade;
- (h) Natural stone cladding to selected areas of upper floors of front & side elevations of Donnybrook House;
- (i) Change of use of 377sq.m of former staff restaurant at 4th floor level to office use
- (j) Roof gardens of 357 sq.m at first floor level and 128sq.m at 3rd floor level
- (k) Change of use of part of building fronting Pembroke Cottages to provide 799sq.m restaurant at first floor level, 840sq.m of restaurant at ground floor level inclusive of extension of 6.5sq.m; 1661.5sq.m of gym/health club at upper & lower basement levels, inclusive of extension of 21 sq.m at lower basement level, with entrance at ground floor level; Change of use of 38sq.m at upper basement level to provide staff changing, & 75sq.m at lower basement level to provide storage, both for ground floor restaurant;
- (l) Provision of 2no. new ESB sub-stations with associated switch rooms, one fronting Pembroke Cottages, and one fronting Donnybrook Mews;
- (m) Alterations to front & rear elevations of part of building fronting Pembroke Cottages to provide new entrances

2163/09x1: the above permission was granted an extended duration.

### 4.0 PLANNING AUTHORITY DECISION

## 4.1 Planning and technical reports

### Planner's Report dated 14/01/16:

- Permission recommended subject to conditions.

### Archaeological Section Report dated 07/12/15:

- Development within the Zone of Archaeological Constraint for Recorded Monuments DU018-060 and DU022-082.
- Conditions recommended.

### Environmental Health Officer Report dated 09/12/15:

- Conditions recommended in the event that permission is granted.

### Engineering Department – Drainage Division Report dated 07/01/16:

- No objection subject to conditions.

### Roads & Traffic Department Road Planning Division Report dated 07/01/16:

- No objections subject to conditions.

Pre-application Consultations: PAC0128/15 held on the 25/03/15 and PAC 0566/15 held on the 21/10/15: Primary planning issues discussed included: changes to previously permitted scheme; additional office space; amalgamation of 3 retail units; residential amenity; zoning; height; design; finishes; materials, and additional floor.

Objections/observations: Objections/observations on file addressed to the p.a. makes reference to the following: height of building; removal of ESB substation; development on north side of the building; parking facilities not suitable; parking difficulties in the area; traffic increase in the area arising; disturbance to residents; non-compliance with the CDP; infringement on residents' rights; noise from the restaurant; impact on light; impact on privacy; excessive development; neighbouring cottages 102 years old; potential light pollution; noise generated by plant; noise generated by deliveries and pick-ups; concerns relating to potential nightclub use; overshadowing; potential overlooking; site is currently an eyesore in Donnybrook, and additional floor objectionable.

## 4.2 Planning Authority Decision

By Order dated 15/01/16 the planning authority decided to grant permission for the proposed development subject to 23 no. conditions.

Condition No. 7 required compliance with site-specific requirements as sought by the Roads & Traffic Division of the authority. They relate to, *inter alia*: omission of on-street parking; the traffic light system on the access ramp

to the car park; layout of the circulation in the car park; use of the car park; the MMP, and a Construction Management Plan.

Condition No. 11 relates to noise emissions at operational stage.

Condition No. 16 relates to sound levels.

Condition No. 19 relates to use of the external dining area adjacent the restaurant.

Condition No. 20 relates to hours of operation of the gym, café and restaurant.

Condition No. 22 relates to omission of the proposed sculptural lighting on the restaurant terrace.

## **5.0 GROUNDS OF APPEAL**

### Donnybrook Residents Association

The contents of the third party's grounds of appeal from the above can be summarised as follows:

- Height, traffic, parking implications and the proposed uses would be seriously injurious to the quality of life of existing residents.
- The conditions imposed by DCC do not go sufficiently far to protect the rights of residents and the village nature of Donnybrook.
- The development is extensive and intrusive to the residents.
- It cannot be said to comply with the CDP.
- The residents' homes are right on the road front, they do not have front gardens which would help alleviate impacts.
- The development would significantly increase the level of traffic in a small residential area not designed to cater for it.
- The streets immediately surrounding the development are very narrow.
- The increased traffic entering and exiting Pembroke Cottages could pose a traffic hazard.
- It could also affect pedestrian safety.
- The inadequate parking provision will directly impact the local residents.
- Residents often cannot get parking as is, the proposal will exacerbate the situation.
- Donnybrook has many popular shops, restaurants and public houses, there is always demand on the on-street parking.
- There are a number of events in the area which dramatically increase the demand for parking.
- The negative impact of the proposed development on the amenities of adjacent dwellings on Z1 designated areas is evident.
- Given the increase in height and intensity of use, it is considered that the proposed development would not protect existing residential amenities and would certainly not improve them (as required by the Z1 zoning).
- The proposal contravenes the CDP.

- The Z4 zoning of the application site limits office use to 600 sq.m.
- The plot ratio and site coverage exceed the CDP standards.
- The building already dominates its neighbours to an unacceptable degree.
- Proposals in relation to raising of height would constitute a material contravention of the CDP.
- The development will result in a huge increase in noise and sounds.
- The noise and traffic, especially from the gym, restaurant and café, will adversely affect the residents.
- The proposed hours of development works are far too extensive and unreasonable.
- The closing hours at 11 pm at the restaurant which also has permission for outside seating backing onto the residents is unacceptable and unreasonable.
- The fact that such an unsuitable building was placed there in the 1970s is no reason why such a clearly unsuitable proposal for pastiche refurbishment should be deemed acceptable in 2016.
- The Board is requested to refuse permission.
- In the event of permission, the appellants request that at a very minimum none of the conditions imposed by DCC should be diluted.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

In a letter dated 17/02/16 the planning authority indicated that they have no further comment to make and consider that the planner's report on file adequately deals with the proposal.

### **6.2 First party response**

The contents of the first party's response to the grounds of appeal can be summarised as follows:

- The appeal does not appropriately acknowledged the existence of Donnybrook House and its long-established relationship with adjoining residential properties.
- The appeal does not acknowledge that there is an extant and implementable permission in respect of Donnybrook House that represents an appropriate precedent decision.
- The appeal does not appropriately acknowledge the current status of Donnybrook House as a vacant building that detracts from the character and amenities of the area, contributes nothing to the local economy and vibrancy of the village centre.
- There is no material difference between the proposed and permitted development or the recommencement of the established and permitted office use with regard to trip generation.

- The majority of persons frequenting the gym will work or live locally and most will arrive by means of sustainable modes of transport.
- The p.a. is clearly of the view that the provision of the maximum car parking standard is not required or appropriate given the synergy of uses proposed, the potential for car park sharing after office hours, and the site's village location being easily accessible by a range of sustainable transport options.
- No grounds are advanced in the appeal submission to establish how an increased building height would affect amenities or how an increased intensity in use arises.
- No perceptible loss of daylight or sunlight occur and no material loss of privacy could arise given established separation distances and existing fenestration to the host building.
- The proposed development will not result in an overbearing visual impact on any of the adjacent residential properties.
- The proposed modestly scaled extension would be set well below the established height of the building and does not alter the perception of 'presence' of the host building by adding perceptibly to its perceived massing.
- There will be no increase in intensity of the proposed use of the site as the proposed range of uses are similar to the extant permission.
- A reduction in a late opening type use would hold less potential for disturbance than that approved under the extant permission and must be considered an improvement on the extant scheme.
- The applicant welcomes the conditions attached to the p.a. decision.
- The proposed development does not add additional building footprint to any undeveloped area of the site.
- In terms of proposed plot ratio, the appeal incorrectly states that the proposed development would result in a higher plot ratio than what was established by the extant permission.
- The extant permission comprises of a larger quantum of overall floorspace than the proposed scheme.
- The established building height of the host building is a pre-existing condition that existed prior to the current CDP.
- The CDP seeks to regulate new development and does not seek to penalise non-conforming or pre-existing developments.
- The proposed extension to the host building is a full storey lower than the existing building height and clearly complies with the relevant 4-storey/16 m building height standard prescribed.
- The reference to 11pm closing being too late for the restaurant use is not accepted given the context of the site and its District Centre zoning.
- The applicant refers to other commercial outlets in the area that serve food past 11 pm.
- The Board is requested to grant permission.



## 7.0 POLICY CONTEXT

The operative plan for the area is the Dublin City Development Plan 2011-2017. The site is zoned 'Z4-to provide for and improve mixed services'. Of direct relevance in the appeal are the following sections of that CDP:

- S.15.8 Non Conforming Uses
- S.15.10.1 Sustainable Residential Neighbourhoods – Zone Z1
- S.15.10.4 Land Use Zoning Objective - Z4
- S.17.6.2 Definition of a High Building
- S.17.40 Car Parking Standards
- Table 17.1 Car Parking Standards for Various Land-Uses

## 8.0 ASSESSMENT

8.1 I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to the relevant provisions of the statutory development plan for the area. In my opinion the main issues arising are:

- Traffic generated
- Car parking provision
- Land Use Zoning Objective
- Height
- Appropriate Assessment

### Traffic generated

8.2 The appellant raises concerns in relation to vehicular traffic generated by the proposed development. The concerns here relate to the proximity of the proposed development to surrounding dwellings, particular mention is made of the site proximity to Pembroke Cottages to the north and north-west of the site and Rampart Lane to the east. It is stated that these surrounding streets are narrow. It is held that increased traffic entering and existing Pembroke Cottages could pose a traffic hazard.

8.3 There is an existing and established office block development dating from the 1970s on the application site. There is an extant permission for a mixed-use development on the site, effectively changing the use of a significant proportion of the floor space from office use to other uses, ref: 2163/09 (that permission was granted an extension of duration up to 2020, ref: 2163/09x1).

8.4 The changes now proposed to the previously permitted 2163/09, in trip generation terms, are not significant, in my opinion. The applicant is utilising the existing entrance off Rampart Lane to access the on-site car parking at ground level and upper basement level. There are no significant changes being proposed here. There is no vehicular entrance to the site being proposed off the Pembroke Cottages side of the site. The existing vehicular

entrance to the car park is off Rampart Lane, the two-storey dwellings to the east back onto Rampart Lane, they front onto Eglington Terrace. There are no dwellings fronting onto Rampart Lane in the immediate vicinity of the application site. Three street level car parking spaces were proposed to the front of the proposed pedestrian entrance to the restaurant, these spaces were to be located at the entrance to the Pembroke Cottages development. The planning authority omitted these car parking spaces by way of condition following a recommendation from its Road & Traffic Planning Division (ref: Condition 7(i)). The p.a. 'Roads & Traffic Planning Division Report' states, *inter alia*, that "...it is considered that the traffic impact will be similar to that of the previous development on the site.". That report went on to recommend permission subject to conditions. I concur with that assessment. In trip generation terms I am of the opinion that the reduction in the restaurant floor area from that previously granted and the reintroduction of an office use here adjacent the Pembroke Cottages side of the site, would be beneficial to the residential amenities of those neighbouring cottages; the office being a predominately daytime use while the restaurant is a predominately evening time use. The applicant's 'Traffic & Transport Assessment' (by AECOM) on file concludes that the current proposal will generate significantly less vehicular trips in comparison to the permitted land use during both the morning and evening peak periods. The applicant has also submitted a 'Mobility Management Plan'. I note that there are a number of Dublin Bus routes operating in and out of the city along the Donnybrook Road to the front of the site. There are bus lanes and bicycle lanes along this road in the vicinity of the site. On-site bicycle parking is proposed long with changing and shower facilities. This will be to the benefit of sustainable modes of transportation. The development is surrounded by, and within walking distance of, large areas of residential development.

- 8.5 Having regard to the forgoing I would not recommend refusal on the grounds of vehicular trip generation. The proposal does not pose an unacceptable risk to traffic or pedestrian safety, in my opinion. Should the Board be disposed to a grant of permission I would recommend conditions similar to those as sought by the 'Roads & Traffic Planning Division' of the p.a.

#### Car parking provision

- 8.6 The appellant has raised concerns in relation to the on-site car parking provision being proposed. The appellant holds that this car parking provision is inadequate. The appellant holds that, effectively, the inadequate on-site car parking provision will result in over-spill with users of the development parking in the adjacent residential streets and thus directly impacting on the local residents.
- 8.7 The applicant is proposing car parking on site at ground level, upper basement level and three on-street spaces to the front of the proposed restaurant. In total, the applicant is proposing 33 car parking spaces. As

stated previously, the p.a. omitted the three on-street car parking spaces by way of condition.

- 8.8 The car parking standards as applied by the p.a. are addressed in s.17.40 and Table 17.1 of the CDP. It should be noted that those standards are generally regarded as the *maximum* parking provision. The appeal site is located in Area 2 as per Map J of the CDP. Applying the CDP maximum requirements based on the various floor areas, the applicant has calculated a maximum parking requirement of 33 spaces (ref: Table 4.1 of the 'Traffic & Transport Assessment'), this would appear to be a reasonable application of the CDP standards to me. The 'Roads & Traffic Planning Division' of the p.a. recommended the omission of 3 on-street spaces and concluded in relation to the on-site car parking provision that "*it is considered that given the village location and good level of public transport 30 car parking spaces within the development are considered adequate*". I concur with this conclusion. I would therefore not recommend refusal in relation to car parking provision. The applicant is providing the minimum number of 68 bicycle parking spaces in compliance with the CDP and is also providing on-site changing and locker facilities for cyclists.

#### Land Use Zoning Objective

- 8.9 The appellant refers to the zoning applicable to the adjacent residential areas 'Z1 – *to protect, provide and improve residential amenities*'. The appellant considers that the proposed development will be in conflict with that land use zoning objective.
- 8.10 The applicant is actually significantly reducing the quantum of floor space dedicated to a restaurant use adjacent Pembroke Cottages compared to the extant permission. Most of the previously dedicated restaurant floor space is now being dedicated to office use. This, in my opinion, lessens the potential impacts on the adjacent residential amenities during the more critical evening time periods. Nevertheless, the restaurant use is compatible with the Z4 land use zoning objective applicable to the application site. The conditions applied by the p.a. to protect the residential amenities of neighbouring properties, such as limits on the hours of operation of the gym, café and restaurant, are reasonable in my opinion. While the CDP limits office use to a maximum of 1,200 sq.m. I consider it reasonable to take into account that the existing building is entirely dedicated to office use, the application before the Board is proposing a mixed-use development more compatible to the Z4 zoning than the existing historic use. Section 15.8 'Non Conforming Uses' is also applicable in this instance in my opinion (see attached appendix). The other major changes in terms of uses are concentrated to the front of the site along the Donnybrook Road and therefore away from the Z1 residentially zoned areas. I therefore do not consider that the proposed development conflicts with the land use zoning objective applicable to the application site nor do I consider that it conflicts with the adjacent residentially zoned land.

## Height

- 8.11 The applicant is proposing to raise the height of the existing building at certain locations. The appellant cites the CDP policy on height in opposition to the proposed height changes.
- 8.12 The existing structure is 3 storeys along its frontage onto Donnybrook Road. The block to the rear is 5 storeys. The 5 storey element is clearly visible from several locations along the Donnybrook Road and other streets as the site is located at a slight bend in the road. The scale of the existing structure, specifically the 5 storey element, does jar somewhat against the older, smaller-scale structures that surround it. One of the proposed changes to the height is to take place above the front existing 3 storey block. The applicant is proposing to add another floor to the front block. The additional floor here will be recessed from the edges of the block that it sits on. The front block will still effectively read as a 3 storey structure along the front building line. I consider that the additional floor at this location is a positive contribution to the visual amenity of the structure. Currently, the 5 storey element to the rear of the front 3 storey blocks jars above this 3 storey block abruptly. The new floor creates a step from the 3 storey, back to the proposed 4 storey and then back again to the existing 5 storey block to the rear. It softens the transition between the 3 storey and 5 storey elements. This new floor will have finishes that tie it in visually to the front façade of the 3 storey element which is to be upgraded. I consider this proposal a planning gain. This additional floor space is still a full storey below the highest level of the existing structure i.e. the 5 storey element to the rear. I draw the Board's attention to the 'Architectural and Urban Design Report' (by H.J. Lyons Architects) on file. External alterations are proposed to the existing building to create a new identity and aesthetic to the building. I also draw the Board's attention to the photomontages as contained within the 'Visual Impact Assessment' submitted with the application, I do not consider that this proposed extension above the front 3 storey block detracts from the visual amenities of the area.
- 8.13 The next area where additional height is proposed is located towards the centre of the structure at the juncture of the existing three blocks on the site. The applicant is proposing to add additional floor space in a void created at this junction. Additional floor space is proposed here at first and second floor levels. The new build at this location is still well below the existing 5 storey block, the new build will be slightly visible above the existing 2 storey block along the Pembroke Cottages side of the site, however, there are no adverse visual impacts arising in my opinion. Again, I refer the Board to the 'Visual Impact Assessment' and elevational drawings on file, I consider the proposed new build element here to be acceptable.
- 8.14 The next area where there is a change in height proposed is over the existing 2 storey block adjacent Pembroke Cottages. The development description

states: “Raising the level of the existing mock-pitched roof at the rear of the building by approximately 1.4m from level 18.4m to 19.8m”. The appellant has specifically focused on this element and holds that it is a material contravention of the CDP in relation to height. The appellants cites s.17.6.2 indicated that a maximum height at this location is 4 storeys/16 m (commercial). It would appear the appellant is misreading the plans and particulars here. The reference to 19.8 m is a level and not a height above ground level (the ground level here is given at 9.25 m). So the resultant height is c. 10.6 above ground level, which is well below the CDP height policy. The increase in height of the mock-pitched roof here is marginal and is to accommodate plant.

- 8.15 Having regard to the foregoing I would not recommend refusal in relation to changes proposed to heights. The proposed changes do not cause the new build to conflict with s.17.6.2 of the CDP.

#### Appropriate Assessment

- 8.16 There is an Appropriate Assessment Screening Report on file. It identifies the Natura 2000 sites within 10 km and 15 km of the Dublin City Administrative Area. The Screening Report assesses how the proposed development, alone or in combination with other projects, is likely to affect the Nature 2000 sites. It concludes that significant effects are not likely to arise, either alone or in combination with other plans or projects that will result in significant effects to the integrity of the Natura 2000 network.
- 8.17 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, I consider that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### Other Issues

- 8.18 There is a report on file from the City Archaeologist, the site is within a Zone of Archaeological Constraint for DU018-060 (Donnybrook/Ballsbridge settlement) and DU022-082 (settlement). Should the Board be disposed to a grant I would recommend a condition requiring archaeological monitoring of the site.
- 8.19 The planning authority indicated concerns about the potential of impact arising from the sculptural lighting proposed at the external terrace to the restaurant. Should the Board be disposed to a grant I would also recommend that this be omitted having regard to the potential impacts arising from light spill on the neighbouring dwellings.

8.20 The River Dodder runs through the centre of Donnybrook and is known to have caused flooding in the area in the past. The Dodder is located c. 150 m east of the site. There is a report on file titled 'Donnybrook House- Flood Risk Assessment' (by AECOM). It indicates that the majority of the site is located within Flood Zone C as considered by the OPW, meaning it has a less than 0.1% Annual Exceedance Probability (AEP) of river flooding. However, a small section of the eastern part of the site lies within Flood Zone B which is defined as having a moderate risk from river flooding (between 0.1% and 1% AEP). That report goes on to make a number of recommendations. These include ensuring finished floor levels (FFLs) are set at a height above the 1% AEP plus climate change. It also recommends that further liaison with OPW/DCC be undertaken to confirm FFLs proposed for redevelopment are acceptable for the building from a flood risk perspective. In addition, it states that it is important to ensure that any basements proposed are afforded the necessary protection against groundwater flooding. There is a report on file from DCC's 'Engineer Department Drainage Division' indicating no objection to the proposal subject to conditions. Should the Board be disposed to a grant I would recommend that a condition apply requiring the recommendations contained within the applicant's 'Flood Risk Assessment' be implemented to the satisfaction of the planning authority. I note that the new floor areas being proposed are in the upper levels of the development (i.e. first, second and third), the basement levels date back to the original 1970s development on the site.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

I recommend that the planning authority's decision be upheld and that the Board grant permission for the proposed development subject to conditions as recommended below.

### **REASONS AND CONSIDERATIONS**

Having regard to the land use zoning objective for the area, the existing development on the site, the extant planning permission pertaining to the site (reg. ref. 2163/09), and also having regard to the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The hours of operation of the proposed uses shall be as follows:  
Gym: 0600 to 22:00 weekdays and 08:00 to 22:00 weekend days.  
Café: 07:00 to 20:30  
Restaurant: 07:00 to 23:00

**Reason:** In the interests of protecting adjacent residential amenities.

3. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority detailed design proposals relating to car parking, the on-site traffic light system and vehicle circulation requirements. The detailed design proposals shall include the following:
  - (i) The omission of the proposed 3 no. on-street parking spaces located on the western side of the site boundary in front of the entrance to the proposed restaurant.
  - (ii) A plan for the proposed traffic light system to serve the upper basement and ground level car parking areas, associated vehicular ramps, vehicle waiting areas and entrance off Rampart Lane.
  - (iii) The redesign of the on-site car parking layout and associated circulation areas to the satisfaction of the planning authority.
  - (iv) Proposals to make available the on-site car parking for the users of the proposed gym and café/restaurant out of office hours.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

4. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff and customer parking. The mobility strategy

shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. A Mobility Manager shall appointed to oversee and co-ordinate the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, construction traffic management and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

6. The proposed sculptural lighting at the northern end of the restaurant terrace (as indicated on the drawing titled 'Restaurant Terrace & Cottage Garden Detail', drg. No. 15-422-PD-02, by Stephen Diamond Associates) shall be omitted. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority an amended lighting scheme for this terrace that shall obviate potential light spill impacts on the adjacent residential areas.

**Reason:** In the interests of residential amenity.

7. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such



works. The recommendations contained within the report titled ‘Donnybrook house – Flood Risk Assessment’ (as prepared by AECOM and received by the planning authority on the 12<sup>th</sup> day of November 2015) shall be implemented to the satisfaction of the planning authority. Prior to the commencement of development, the applicant shall submit to, and agree in writing with, the planning authority detailed design proposals indicating compliance with this condition.

**Reason:** To ensure adequate servicing of the development, to prevent pollution and to reduce flood risk.

9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

10.

(a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-

(i) An  $L_{AeqT}$  value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]

(ii) An  $L_{AeqT}$  value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

[At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.]

(b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development

Contribution Scheme made under section 48 of the Act be applied to the permission.

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Tom Rabbette  
Senior Planning Inspector  
20<sup>th</sup> May 2016