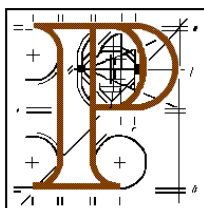


An Bord Pleanála



Inspector's Report

PL. 29S 246463

DEVELOPMENT:

Change of use to 108 bedroom hotel from office use to include: demolition of late 20th century structure at rear, retention of structure fronting onto Pembroke Street lower, construction of a new extension including replacement and enlarged fourth floor with setback terrace over basement plant rooms, three screened terraces to rear and twelve cycle parking spaces.

LOCATION:

16-18 Pembroke Street Lower, Dublin 2.

PLANNING APPLICATION

Planning Authority	Dublin City Council.
P. A. Reg. Ref:	2245/16
Applicant:	Plaza on the Square Ltd.,
Decision:	Grant Permission.

THIRD PARTY APPEALS

Appellants	(1) Patrick Donegan, (2) Active Property Management, (3) Michael Bannon and Fiona Hughes, (4) Maura O'Sullivan.
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Date of Site Inspection: 2nd August, 2016.

Inspector: Jane Dennehy.

SITE LOCATION AND DESCRIPTION

- 1.1 The site is that of the former offices of the Commissioners for Irish Lights which are unoccupied and are located on the plots of Nos. 16-18 Pembroke Street Lower. The front building on the west side of the street was designed and constructed circa 1959 and later extensions to the rear were added during the 1970s the combined total stated floor area of the which is 2,386 square metres. Historically, it is understood, with reference to historic maps, that Georgian town houses were not constructed on the site and that in the Pembroke estate it was in use as a yard and it appears that this use continued until the 1950s when it was developed as offices for the Commissioners for Irish Lights.
- 1.2 The building with frontage onto Pembroke Street has a façade finished in brick a the upper levels and cut stone at ground level and a vehicular entrance direct from the street. The 1970s extensions which are flat roofed are located along the centre of the site and across the width of the site at the rear. The site area extends as far as the boundary with the property to the west side and rear access entrances are located at the end of Laverty Court to the south and Windsor Place to the north.
- 1.3 Fitzwilliam Square is located to the south east with the corner site property, Humbledon House is directly to the east opposite the appeal site. The junction with Baggot Street Lower is a short distance to the north. Georgian houses facing onto the street adjoin the northern and southern side boundaries and are in office use in multiple occupancies. The rear gardens of the two properties to the south Nos 50-51 which are enclosed by calp stone boundary walls have been converted into office carparks with entrances off and access from Laverty Court, a rear access lane.
- 1.4 Terraced houses adjoin the northern site boundary to the rear of No 15 Pembroke Street. The houses located on Mackies Place date from the nineteenth century and three storey houses dating from the late twentieth century are located on Windsor Place and face westwards. Blocks in a gated campus in commercial use and multiple occupancies are on the west side of Windsor Place opposite the rear of the site and the dwellings on Windsor Place.

2. PLANNING HISTORY:

- 2.1 **PL 29s 225863/P. A. Reg. Ref. 4295/07:** Following appeal, the planning authority to grant permission for a mixed use office and residential development on a site comprising Nos. 15-18 Pembroke street owner and No 51 and 52 Fitzwilliam Square West (inclusive of the appeal site) was overturned for reasons relating to adverse impact of design, bulk, height, and

design detail on the adjacent Architectural Conservation and protected structures.

- 2.2 **P. A. Reg. Ref. 4199/08:** Permission was granted for a mixed use office and residential development on a site comprising Nos. 16-18 Pembroke Street Lower and lands at the rear of Nos. and No 51 and 52 Fitzwilliam Square West (inclusive of the appeal site) including of basement carparking. The duration of the grant of permission which has not been taken up has been extended to 14 January, 2019.
- 2.3 **PL 29S 242677/P. A. Reg. Ref. 2845/13:** Following appeal, the planning authority decision to grant permission for a 130 bedroom hotel on the appeal site at Nos.16-18 Pembroke Street Lower was refused for reasons relating to congestion and adverse impact on amenities of the area and residential property. Scale, bulk and lack of separation distance from adjoin development, overdevelopment, adverse impact on the Conservation area and protected structures and lack of a Services Management Plan. (The Board's file is attached)
- 2.4 **PL 29S 244021/ P. A. Reg. Ref 3239/14:** Appeals against the planning authority decision to grant permission for a 108 bedroom hotel on the site, similar to the current proposal were withdrawn prior to the determination of a decision.

3.0 **THE PLANNING APPLICATION.**

3.1 The application lodged with the planning authority on 15th February, 2016 is for change of use from offices to use as a 108 bedroom hotel c is a revised proposal, in which the applicant seeks to address the issues in the reason for refusal of permission following third party appeals under PL 29S 242677/P. A. Reg. Ref. 2845/13. The proposed development comprises:

- Retention and of the existing 1950s structure with a replacement fourth floor level penthouse level setback from the frontage.
- Demolition of the 1970s structures to the rear,
- Construction of a replacement, seven storey over basement level building comprising a new structure integrated with the existing 1950s structure which is to be adapted for hotel use with an additional fourth floor setback level. The total stated floor area comprises 1,272 square metres structure to be retained, 3,590 square metres, new build plus basement level plant space 558 square metres.
- The ground floor facilities include provision for a lobby/reception area, cafe and restaurant and outdoor seating. A service entrance and lift platform to transport deliveries and collections between the semi

basement and front entrance is also indicated on the plans. The upper floors comprise mainly of bedroom accommodation with the rooms at penthouse level above the parapet opening onto a terrace to the front.

- The floor plans do not include conference and meeting rooms. A semi basement level includes bedrooms at the rear and storage to the front and plant and equipment are to be located in a lower basement level.
- To the front a new glazed balustrade is to replace the existing balustrade and the front entrance will have a bronze surround and fenestration replaced.
- Twelve cycle parking spaces. The development is to be fully serviced from Pembroke Street at the front and no parking provision is proposed on or off site.

3.2 The application drawings are accompanied by a Traffic Impact Assessment and Mobility Management Statement, Delivery and Servicing management Plan, Specification for demolition, a Planning Assessment report, Conservation Comment, a Civil Engineering Infrastructure Report, a shadow analysis and photomontages.

3.3 The internal technical reports of the Drainage Division and Roads and Traffic Division indicate no objection subject to conditions. The application was not referred to the Architect's Department / Conservation Section.

3.4 The planning officer in her report notes the planning history, revisions to the building form and footprint relative to the previous proposal, consistency with height limitations within the current development plan, design and finishes, impacts on adjoining properties including protected structures and residential properties, servicing arrangements and the comments of the Roads and transportation Department. She indicates satisfaction with the proposed development.

4.0 **DECISION of the PLANNING AUTHORITY.**

4.1 By order dated, 4th April, 2016, the planning authority decided to grant permission subject to standard conditions which include the following requirements:

Condition No 2: Compliance submissions in relation to requirements of the Roads and Traffic Division relating to cycle parking provision, delivery and servicing management and a construction management plan.

Condition No 10: Standard requirements for construction management

Condition No 14: Requirements for waste separation, storage and removal.

Condition No 15: Implementation of the Delivery and Servicing Management Plan submitted with the application which includes limitation for deliveries and servicing to specified morning hours Mondays to Fridays only and arrangements for waste to be confined to the basement.

5.0 THE APPEALS

5.1 Third Party appeals were received from four parties:

(1) **Patrick Donegan.**

(Nos. 51-52 Fitzwilliam Square (Suite 100) which adjoins the southern boundary, represented by Mulcahy Associates.)

(2) **Active Property Management.**

(Windsor Place Development to the east and north east, represented by Manahan Planners,)

(3) **Michael Bannon and Fiona Hughes.**

(residential property at Mackies Place.)

(4) **Maura O'Sullivan.**

(No 5 Windsor Place residential property adjoining northern boundary represented by Joe Bonner)

5.2 Many of the issues raised in the objections of the four parties which are outlined below under a number of subheadings are similar in nature and there are some additional objections specific to one or more parties.

5.3 **Nature of Use:**

The buildings should be brought back into use as offices or alternatively, converted to residential use. These uses are compatible with existing surrounding development. The proposed hotel with its large and high level associated servicing arrangements, restaurant, bar and rooms is totally a unsuitable insertion into the site and sensitive surroundings for reasons relating to traffic generation, congestion, servicing and parking, visual and architectural heritage impact, impact on amenities of adjoining properties including residential properties.

5.4 **Overdevelopment:**

The proposed development is excessive in site coverage, plot ratio, massing, height and form resulting in overshadowing, visual impact, adverse impact on

adjoining commercial and residential properties, negative impact on architectural heritage, traffic flow, public safety (increased congestion, obstruction and conflicting movements) and convenience and amenity.

- 5.5 Site coverage / plot ratio: The proposed development is oversized for the site location with high plot ratio and site coverage far exceeding the indicative ratios in the development plan. With the basement areas included, the plot ratio is 3.94 instead of 3.15) which is double the indicative ratio for the Z1 zone (0.5-2.0) and the Z8 zone (1.5) The extant permission has a plot ratio of 2.8 and the plot ratio of the existing development 1.74 The site coverage at 77 per cent is excessively above the maximum indicative coverage in the development plan 45-60 per cent for Z1 and 50 per cent for Z8. There is no exception to support the excess above indicative ratios and site coverage so the proposed development is in material contravention of the development plan.
- 5.6 Architectural Heritage - Visual Impact: The proposed development will adversely impact on character, grain and amenity of the internationally recognised Architectural Conservation Area (ACA), part of the south Georgian city at Fitzwilliam Square, several important protected structures in the immediate vicinity, Conservation area and South Georgian Core. The sensitive landscape is that of projected structures and an international important ACA and conservation area, being part of the Georgian city at Fitzwilliam Square. Proximity to the ACA means that there is potential adverse impact on the amenity and nature of the square. A main characteristic is dominance of the primary structure and subservience by rear structures for the existing buildings on the site. There is a two storey difference which would be imbalanced.
- 5.7 The height is visible at the front from upper levels of adjoining properties at Pembroke Street and Fitzwilliam Square breaking the Georgian line running into Fitzwilliam Square. The penthouse is conspicuous and an incongruous insertion within the Georgian streetscape and it detracts from the setting of Nos. 51 and 52 in particularly by breaching the balanced and uniform rhythm of the streetscape. It is not reasonable to take the height of Humbledon House across the road as a reference as the context is different. It is not acceptable to move the servicing function to the front of the building where there is a sensitive Architectural Conservation Area context and protected structures.
- 5.8 **Traffic, Servicing and Parking,**
- 5.9 The proposed development will lead to significant congestion and obstruction of traffic. It is essential to retain and ensure unobstructed vehicular access via Windsor Place to the commercial and residential properties to the rear. No access for the hotel should be permitted off the lane. It is likely that in future the hotel operator will seek to relocate the servicing function (deliveries and

waste collection) to the rear by alterations such as removal of two bedrooms at the rear. The narrow laneway is a significant constraint. A binding legal agreement such as a s47 agreement with the planning authority prohibiting future use of the laneway for services is essential.

- 5.10 The TIA is incorrect in asserting that there is sufficient capacity along Pembroke Street to accept trips generated by the proposed hotel. The projection is based on an incorrect road category as noted in the report of the Roads and Transportation department. While the figures are below capacity there are close to capacity for the street when the correct road category is used.
- 5.11 There is serious concern about impact on the capacity of Pembroke Street of servicing of the hotel at the front of the building. Hotel development generates very high demand for services traffic and parking all of which is to take place on Pembroke Street and will contribute to obstruction and congestion. The servicing and arrangements for taxi set down areas remain unresolved. It is essential to have a dedicated coach drop off or taxi set down area.
- 5.11 Removal of two car spaces on Pembroke Street to facilitate a loading bay was not approved by local authority therefore there is consent for a loading bay which should be in place before planning considered. The application is premature without consent for loading bay in advance.
- 5.12 Cycle parking will be a source of nuisance with opening and closing of gates at the rear and due to cyclists coming and going along the lane.
- 5.13 **Impact on Residential Properties – Mackies Place and Windsor Place.**

The proposed development will tower above the adjoining residential properties on Mackies Place and Windsor Place and will overlook, overshadow and obstruct access to daylight. It is excessive in height as a massive solid block closer to and along the entire boundary, the roof of which is twelve metres higher than the ridge of the Windsor Place houses. The existing buildings have a break between blocks through which some daylight reaches the residential properties.

- 5.14 Obscure glazing on the corridors will overlook the residential properties. Relative to the previous proposal, the current proposal has little discernible improvement as regards impact on the residential properties. There is a rapid transition between the taller buildings on Pembroke Street and the small properties at the rear which is reflected in two the zoning objectives.
- 5.15 The shadow analysis indicates impact on a limited portion of surrounds due to cropping out of Mackies Place in the images. The proposed development does not pick up the building line at Windsor Place and Mackies Place leading to increased overshadowing and incoherence with an exposed excessive blank gable.

- 5.16 Noise will affect amenity from traffic and refuse collections at the front as well as addition to disturbance by use of the lane.
- 5.17 An ESB substation proposed at a location adjacent to the residential properties on Windsor Place is unacceptable due to fire hazard and noise impact.
- 5.18 Residential amenity will be significantly adversely affected and property value will be depreciated by the proposed development.

5.19 Demolition and Construction Stage Impacts.

Demolition and excavation details submitted are generic and details should have been resolved at application stage. The submission does not include details relating to several important issues such as excavation methodology including dewatering and stabilization of foundations traffic movements, removal of material off site. At construction stage there is potential adverse impact on ability to attract tenants to the adjoining property at Nos. 51-52 Fitzwilliam Square.

6. RESPONSE TO THE APPEALS BY THE APPLICANT

6.1 Two submissions have been received from Tom Phillips Associates and Associates on behalf of the applicant. The first submission is response to the appeal by Mr Donegan received on 17th May, 2016. The second submission contains responses to the three appeals by Active Property Management, by Michael Bannon and Fiona Hughes and by Maura O’Sullivan. As many of the issues raised in the appeals are similar in nature the responses to the appeals in the submission are outlined collectively, in summary form below.

6.2 Nature of Use.

- The principle of hotel use has been accepted for the site by the planning authority and by An Bord Pleanála, notwithstanding the refusal of permission under PL 29S 242677/P.A. Reg. Ref. 2845/13. Reference is made to the Order and to remarks of the Inspector in his report extracts from which are reproduced. There is a deficit of hotel accommodation in the city and the South Georgian Core is one of the key tourism districts. The claim that an office and residential development is more suitable to the site is without foundation.
- It is has been confirmed that a particular footprint, scale and envelope is suited to the relevant planning parameters and the site. A previous footprint and envelope is extant having regard to the prior grant of permission for a mixed use office and residential development under P. A. Reg. Ref. 4199/08 for which there is an extension of duration until January, 2019. Reference is also made to PL 29S 242677/P.A. Reg.

Ref. 2845/13 for a hotel development where the inspector indicated acceptance of the physical form as not being gross in excess of the existing development and in which the principle of hotel development was accepted. The planning history confirms the acceptability of this use on the site.

- It was reasonable for the planning authority reasonably to reflect the assessment on the assessment of the previous proposal and on addressing the previous reasons for refusal of permission following appeal.

6.3 **Overdevelopment: Scale, Mass, Height and Design,**

- The ACA, designated Conservation area and zoning objectives do not preclude hotel use on the site, There is precedent for hotel use on Z1 zoned lands in the grant of permission under PL 245162 at 5.7 New Street in the historic core of the city. The comprehensive analysis of the impact on adjoin protected structures demonstrates less impact relative to the permitted mixed use scheme permitted. The setbacks are increased between the rear garden and main building. The visual conservation assessment confirms negligible impacts.
- The proposed development does not constitute overdevelopment and deviation from site coverage standards is not in material contravention of the development plan. The proposed hotel use is acceptable in the Z1 zone and open to consideration in the Z8 zone. There is predominance of mixed use rather than residential use and a range of building heights in the vicinity of the site and environs in which the proposed development would be compatible.
- Given the location, the increased site coverage over the existing development and the indicative coverage in the development plan is not excessive.
- It is open to the board to seek observations from DAHG to assist it in determining the appeal if it wishes as regards the contention that the development is too big for the site as referenced in a previous submission from the department.
- The plot ratio of the permitted development under P. A. Reg. Ref. 4199/08 at 2.8:1 is marginally below that of the proposed development at 3.3:1 and should be considered in conjunction with other standards. There is a careful balance between the viable hotel operation and contextual restrictions of the site relative to adjoining plots and height policy standards. The correct plot ratio excludes the basement plant

area (639 square metres) and lower basement level (359) square metres.

- Two established building lines exist which are at Mackies Place and Windsor Place. The rear of the hotel refers to the existing structure on the site. The contention as to erosion of building lines is without substance. The proposed development does not constitute backland development.
- The height accords with the maximum development plan height of twenty eight metres and seven storeys for commercial buildings in the inner city. The existing facade is 15.54 metres from ground to parapet level and the proposed fourth floor setback parapet height is 18.46 metres. The height steps down towards the rear at 9.4 metres adjacent to Nos. 51-52 Fitzwilliam Square and 6.4 metres adjacent to the properties of Windsor Place. It does not differ significantly from the existing structure and is sympathetic to adjoining properties. The proposed development is a substantially modified development with eighteen fewer rooms, reduced scale and bulk increased separation distances and reduced heights towards Windsor Place.
- Drawing 254-P04-01 confirms that assertions as to the setback level of the penthouse are exaggerated. It is sympathetic to the Georgian Streetscape and this is also confirmed in the Conservation Assessment included with the application and accepted by the planning officer. There are precedents for glazed penthouse level treatments within Georgian terraces and conservation areas within lands zoned "Z8". Examples are at 33 Harcourt Street, 46 St Stephen's Green, 47-49 St. Stephen's Green. The claim in the appeal is without substance.
- The overall height of the spine element of the mixed use residential and office element at the centre does not impact on the adjoining residential property.
- The visual conservation assessment confirms negligible impact on Fitzwilliam Square and Pembroke Street and modest impact to Windsor Place, Mackies Place and Lavarty Court.

6.4 **Impact on Adjoining Properties.**

- The building heights are fully in accordance with development plan parameters. There is predominance of mixed use rather than residential use at the site location and environs at which a hotel development would be compatible. It is acknowledged that the link building is an increased scale of development but it has a 7.6 metre separation distance from the common boundary and 11.5 metres from 5

Windsor Place where the balcony will not be overlooked from the three storey element.

- There is improvement in access to daylight and sunlight for No 5 Windsor Place through positive flow of light from the west and onto the rear of the houses on the north- west side of Mackies Place.
- The applicant is required to carry out development in accordance with the application if permission is granted. It includes all servicing from Pembroke Street Lower in accordance with the Delivery and Servicing Management Plan included with the application. Drawing 230-PL2 confirms removal of two pay and display spaces and double lines to facilitate the loading bay and it is agreed that a licence must be obtained. There is no necessity for any legal agreement between the planning authority and applicant regarding possible future access to the rear of the development. It is not appropriate for any legal agreement with the planning authority to prevent use of the rear of the hotel for access purposes. Mackies Place and Windsor Pplace are public roads and a section 47 (1) agreement is appropriate.
- The objections relating to disturbance by cycle parking is exaggerated and there will be noise impact. Refuse collection is controlled by Condition No 14 (b) (iv) of the planning authority decision which is generic and serving will be at the front.
- Pembroke Street has sufficient traffic capacity as demonstrated in the submitted TIA and Mobility Management Statement. Traffic is free flowing and uncongested. Queuing will not occur outside the hotel frontage and a maximum of two service vehicles will enter and exit the loading area hourly with traffic moving efficiently along the street
- The ESB substation is under the control for fire matters by the Building Control Acts. A Fire Safety certificate will be obtained. The contention as to noise impact from the substation is without substance. The switch room is part of the building envelope at ground floor level and a stone wall on the boundary three metres high separates the substation from the adjoining property. (Drawing P 254-P-02-00 refers.)
- There is a significant setback from the central link element which is the highest element from the gable wall of 6 Mackies Place. (14 m at ground floor level increasing to 17 metres at upper levels) This is confirmed in the shadow study. The claim as to severe detrimental overshadowing impacts as asserted in the appeal of Michael Bannon and Fiona Hughes is exaggerated

- The outdoor terrace, courtyard and seating including the rear terrace will have no impact on the adjoining property.
- Drawing 254-P02-00 confirms separation distances of 3.73 between the terrace and rear return of Nos. 51-52 which is in mixed use and a glazed screen will provide for privacy. Noise emission is controlled by Condition No 12 of the planning authority decision which is acceptable
- Construction impacts are controlled by conditions which the applicant accepts; Condition Nos. 4 (c), 6, 7 8 and 10 of the planning authority decision ensure protection of amenity and public safety.

7. OBSERVATIONS OF THE PLANNING AUTHORITY.

7.1 In a submission from the planning authority it is stated that there are no further comments to be made and that the planning officer is satisfied that the report prepared on the application adequately addresses the application.

8. FURTHER SUBMISSIONS OF THE APPELLANT PARTIES.

8.1 Supplementary Submissions were received from two of the four appellant parties. A Submission were received on behalf of Active Property Management, from Manahan Planners) on 30th may, 2016 and a submission was received on behalf of Maura O’Sullivan on 31st May, 2016 from Joe Bonner.

8.2 Support and agreement with the appeal contents of the other third party appellants is confirmed in both the submissions.

9.0 DEVELOPMENT PLAN.

9.1 The operative development plan is the Dublin City Development Plan, 2011-2017 according to which the site comes within areas subject to two distinct zoning objectives:

- The area in the rear of the site is subject to the zoning objective: “Z1: *to protect provide for and/or improve residential amenities*”
- The area to the front inclusive of the frontage onto Pembroke |Street is subject to the zoning objective Z8: *To protect the existing architectural and civic design character, to allow only for limited expansion consistent with the conservation objective*”

- The Indicative site coverage for Z1 zoned lands is 45-60 percent and indicative plot ratios for Z1 zoned lands is
- The indicative site coverage for Z8 zoned lands is fifty percent and the Indicative plot ratios for Z8 zoned lands is 1.5
- The site location which is within the south city Georgian core and is:
 - immediately adjacent to a (statutory) Architectural Conservation Area (Fitzwilliam square) to the south and east;
 - within a “Conservation Area”.
 - adjacent to and in close proximity to multiple protected structures.
- Standards for development proposals in Architectural Conservation Areas and Conservation Areas are set out in section 7.2.5 and section 17.10.8
- Building Heights for central area /central business district are set out in section 17.6.2
- Parking standards are set out in section 17.40 and Table 17.1. Hotel development in Zone 1 (central / inner city) has a requirement for provision for one space per four bedrooms.

10. ASSESSMENT

- 10.1 The issues considered central to the four appeals and the determination of a decision can be considered below under the following broad subheadings:

Nature of proposed hotel use.

Scale Mass and Height – Architectural heritage.

Traffic, Servicing and Parking.

Residential Amenity and Property Value.

10.2 Nature of Use

For clarification purposes the only extant grant of permission for development on the site is the permission granted under P.A. Reg. Ref. 4199/08 for a mixed use office and residential scheme, the duration of which has been extended to January, 2019. Notwithstanding the observations as to acceptance of a hotel development on the site by both the planning authority and the Board, the site does not and has not had the benefit of planning permission for a hotel development. It is agreed that in principle, a hotel development would seem

appropriate, compatible and potentially desirable, in terms of vitality in the location which is which is ideal for possible future guests whether on business or tourism related stays but is predominantly in office use. While welcome in principle, any such proposal should accord with planning and technical standards and consequently, the proper planning and sustainable development interests of the area and to this end the capacity of the site and environs is limited and restrictive.

10.3 On review of the plans and particulars lodged with the application it is noted that conference and leisure facilities are not included in the proposed internal layout which is primarily taken up by rooms supported by the café and restaurant use and it would appear likely that it will serve a different market to a hotel such as the Merrion Hotel on Merrion Street which has a high staff to guest ratio similar to five star hotels and includes services such as valet parking.

10.4 The nature of hotel use, incorporating café and restaurant use contrasts considerably to residential and commercial/office use in terms of nature and intensity of use twenty four usage and in particular trip generation by guests, including pick-ups and drop off of guests and staff and deliveries, collections and other servicing requirements. A hotel development is very intensive in impact in these respects and it is considered that the reduction in the current proposal by eighteen bedrooms from one hundred and thirty to one hundred and eight in terms of overall impact of the nature of use is marginal in associated reduced impact.

10.5 **Scale Mass Height - Architectural Heritage.**

It is agreed that the proposed development does not exceed building height standards set out in the development plan. However it is problematic when considered in the context of the historic Georgian Streetscape which has a strongly defined parapet line and roof profile southwards in particular along Fitzwilliam Square and towards Leeson Street. It is not clear that elements above the parapet line would be eliminated from all public views towards the building or streetscape the setback behind the parapet being limited.

10.6 In views from Fitzwilliam Square North, (as opposed to views along Pembroke street northwards from east side of Fitzwilliam Square West on Pembroke Street which are parallel to the street frontage, as shown in images 1 and 4 on Drawing 242 P-30-11 provided by the applicant) and potentially from within the square itself, it is considered the penthouse level would be visible and the glazing may reflect some sunlight.

10.7 This gives rise to some concern, given the statutory ACA designation and special international interest of the southern Georgian core, the concentration of protected structures of the area immediately abutting the site and the conservation area designation which includes the site area.

- 10.8 Given the sensitive location, homogeneity of Georgian architecture in the streetscape and strongly defined parapet line without additions above other than chimney stacks the penthouse level is not acceptable. Similarly the top floor of the central block, if omitted would address concerns as to stepping down and subservience in height to the block and adjoining buildings on the street frontage the street frontage buildings.
- 10.9 There is no objection to the front façade finish but it may be advisable to reconsider replacement of the bronze detailing and railings with a black or stainless steel, albeit in a contemporary design to allow for greater integration and compatibility with existing historic railings along the street frontage.

10.10 Traffic, Servicing and Parking.

The proposed development has significant potential adverse impacts on vehicular and public safety and convenience and amenity, particularly having regard to the extent and nature trip and short term parking demand generated by visits by guests, staff, services, deliveries and collections attributable to hotel developments.

- 10.11 No on-site parking provision for guests, staff and other visitors is included in the proposal. It is arguable that this disincentives private car trips and encourages alternative and sustainable transport as provided for in the development plan's policy vision for the city. However the omission of parking proposals in entirety is not considered acceptable. The development plan standard for inner city areas is one space per four bedrooms and it is considered that a lesser amount than the twenty seven, for example that would be generated by the proposed one hundred and eight bedroom capacity would be reasonable and to this end, parking for persons with disabilities is an example as well for visitors with equipment carrying out maintenance works. There are no proposals for alternative locations such as a multi storey carpark that could be used for long term parking. On street parking, which in the area is pay and display parking of a short term nature the demand for use of which by public road users is heavy is not suitable as a long term parking option.
- 10.12 The traffic impact assessment and the observations of the transportation department as to the road category on the basis of traffic volumes have been predicted and the capacity of Pembroke Street is estimated have been noted. As pointed out in the report of the inspector of the previous proposal, Pembroke Street is integral to the N11 route. (PL 242677/P.A. Reg. Ref 2845/13 refers.) It also is a principle route linked to the other principle routes to the south city and county areas and as a principle route to and back through the city from the north and east the city. It is heavily used by public transport along several bus routes, taxis, coaches, private cars, commercial vehicles and motorcycles, cyclists and pedestrians. During the evening peak hours on Mondays to Fridays it is heavily congested and on street parking is at capacity

and this may appear be at variance with the observations of the Transportation Department.

- 10.13 The Delivery and Servicing Management Plan proposals are optimum, given the circumstances especially with regard to avoidance of the evening peak hours and is comprehensive. However, full achievement of compliance on an indefinite basis with the commitments in paragraphs 3 and with the methodology and the Delivery and Servicing Plan may occasionally be impractical and unrealistic notwithstanding the undertaking to this end on the part of the applicant.
- 10.14 Apart from the servicing requirements which it is proposed is to be confined to the frontage in dedicated space, the additional traffic and starting and stopping movements created by a hotel development, relative to an office/residential development at the frontage is considerable. It is assumed that the hotel would not have similar services to the Merrion Hotel at the entrance in terms of valet services and valet parking facilitating in drop offs and pick-ups of guest and other visitors to the hotel and this in conjunction with the dedicated separate slip road ensures that interference with and obstruction of traffic on Merrion Street does not occur.
- 10.15 In the absence of similar facilities it is likely that that obstruction and illegal parking along the frontage of the Pembroke Street premises which is much more confined and must facilitate the adjoining services / deliveries entrance will occur. 10.16 There is no dispute about proposed use being welcome in principle but preclusion of the current proposal owing to unsatisfactory proposed servicing and access arrangements and lack of carparking provision is regrettably considered essential.
- 10.17 It is not accepted that the proposed development would not give rise to significant additional traffic generation, interference with free and safe flow and obstruction by significant stopping and starting movements, potential illegal parking including double parking in the vicinity of the hotel. An office/residential scheme would not give rise to these concerns. Considerable demand for parking for drop offs and pick-ups of coach parties, by taxis and private cars, maintenance and deliveries and other vehicles in addition to the service vehicles would occur.
- 10.18 It would appear that there is scope for services access and a small amount of on site carparking to be provided via Lavarty Court and this option may not have been fully assessed and considered. A servicing and on site carparking access whereby vehicles would be required to enter into the semi basement area for collections and deliveries and exit in forward gear might be feasible. Lavarty Place historically and at present serves as a public access lane providing rear access to the properties Fitzwilliam Square and Pembroke Street. However vehicles would be required to enter and turn within the internal confines of the site and exit in forward gear.

- 10.18 Redesign of the internal layout, including omission of some semi basement level bedrooms would be required and in addition to possible scope for servicing from within the site area, a small amount of on site car parking to serve the development may be feasible. This would be highly desirable, given the serious concerns as to the absence of any proposals for on site carparking for guests and staff and or identification of alternative facilities at a convenient location that could be made available.
- 10.19 In the event that such an arrangement could be achieved, it is also considered that use of Laverty Court, within specified hours for large vehicles would not give rise to potential adverse impact on residential properties adjacent to the site on the north side or to the sensitive historic environment to the front from the perspective of the architectural heritage designations and would satisfactorily overcome concerns as to impact on traffic flow and safety on Pembroke Street. However, it is acknowledged that scope for use of Laverty Court has not been proposed in the application or appeal but assessment and consideration of the feasibility of this option in the event of possible future hotel development proposals may be merited.
- 10.20 With regard to cycle space provision it is considered that the proposal for twelve cycle spaces is somewhat limited considering the size of the development and reliance on cycling as a mode of transport to the city centre particularly by staff. Nevertheless, the twelve spaces is compatible with the requirement for on space per twelve bedrooms and one space per 150 square metres for restaurant and café use according Table 17.2 of the development plan. Increased provision would be desirable but is not considered material to the determination of the decision given the development plan standards.
- 10.21 **Residential Amenity and Property Value.**

Three storey terraced houses at Windsor Terrace and two storey artisan houses at Mackies Place off Windsor Place adjoin the northern rear boundary of the site. The applicants have addressed the objection to servicing and other traffic from Windsor Place by eliminating all vehicular access to the rear either by Windsor Place or Lavarty Court. In the event that the current proposal whereby all access arrangements are to be provided for on the Pembroke Street frontage is favourably considered and permission is granted, it would be necessary for a further grant of permission to be obtained in the event of future proposals to provide access off either of the lanes. No legal agreement between the developer and planning authority as sought by one of the appellants would be warranted.

- 10.21 The points made in the submissions made on behalf of the applicant as to the significance of the setbacks and separation distances from adjoining property boundaries to the sides at the upper levels to the rear are acknowledged. The proposed development is considered to be compatible with the adjoining side in to this end. A light coloured finish would be an enhancement. At the rear, the massing and height is acceptable. The omission of the top floor from the

central section as previously recommended would be appreciable from the adjoining residential properties but it is unwarranted for reasons of residential amenity.

- 10.23 While it is agreed that the shadow study is lacking in detail as to extent of building at upper levels are sufficient to allow sunlight and daylight penetration towards the residential properties. Similarly the distances are sufficient to overcome any concerns as to potential for overbearing impact on the residential properties. Potential for overlooking has been overcome in the design.
- 10.24 With regard to concerns about demolition, excavation and construction it is agreed that these works during to construction stage are a source of nuisance and disturbance to occupants of adjoining residential and commercial properties. Although the specification for demolition is somewhat generic, it is considered reasonable and acceptable for specific detail to be resolved by condition and that there be reliance on compliance with other codes to this end. Furthermore, disputes with regard to issues of dispute relating to structural stability or similar matters come within the legal remit.
- 10.25 The objection on ground of disturbance by cyclists accessing the rear of the premises is unreasonable and is not accepted It is noted that the proposed ESB substation is to be located internally and 'humming' noises should not be audible at the nearest residential properties.

11. **Appropriate Assessment Screening:**

- 11.1 The applicant has not included a report on any screening assessment that may have been conducted but, But on the basis on the information available about the proposed development, an appropriate assessment screening can be completed.
- 11.2 The North Dublin Bay SAC (Site Code 000206), the South Dublin Bay SAC (Site code 00201), the South Dublin Bay and River Tolka Estuary SPA (Site code 004014 and the North Bull Island SPA (Site Code 004006) are within fifteen kilometres of the appeal site at St. Stephen's Green which itself is not within any Natura 12000 sites. The conservation objectives are to maintain or restore the favourable conservation status of the Annex habitats species for the European sites.
- 11.3 Removal and disposal of toxic materials following demolition is to be conducted in accordance with best practice. Surface water collection includes rainwater harvesting and the system accords with SUDS standards and any material change relative to the existing development in terms of adverse impact would be negligible. Wastewater is to be discharged through the public system to Ringsend Treatment Plant for treatment and disposal the impact on the loading on which or consequent nutrients in receiving waters would also be negligible.

11.4 It is concluded that Stage 2 appropriate assessment is not required as the project has been screened as a result of which it has been concluded that having regard to the nature, scale and location of the proposed development the proposed development would not be likely to have significant effect, individually or in combination with other plans and projects on European sites.

12.0 **CONCLUSION and RECOMMENDATION.**

Given the foregoing it is recommended that the appeals be upheld and that the planning authority decision to grant permission be overturned and permission be refused. A draft order is set out overleaf.

DECISION

Refuse Permission on the Basis of the Reasons and Consideration set out below:

REASONS AND CONSIDERATIONS

1. Notwithstanding the acceptability in principle in the area of the proposed hotel use, it is considered that the proposed development is overdevelopment would cause significant congestion, obstruction and interference with the free and safe flow of traffic and would endanger public safety by reason of traffic hazard on Pembroke Street, an important public and private transport route linking the city and the southern suburbs and which is operating close to capacity during evening peak hours by reason of:
 - the proposed, sole use of the Pembroke Street frontage for deliveries and collections, services, and for drop off and collection of patrons and for other purposes amounting to a considerable of traffic movements on and off and parking the dedicated drop off loading space and adjoining area and
 - The absence of any provision for parking on or off site to serve the development, and lack of suitable public parking facilities in the area other than short term pay and display parking the occupancy of which is high and the removal of two existing spaces to facilitate the services access leading to encouragement illegal parking in the vicinity.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the acceptability in principle of the proposed hotel use, and, having regard to the location adjoining the Architectural Conservation Area comprising the internally important South City Georgian core within a designated conservation area and in close proximity to protected structures it is considered that the proposed development by reason of the height of the penthouse and the height of the central element of the block to the rear above the parapet level would be visually obtrusive and out character with the predominance of Georgian townhouses with a strong continuous parapet line in the Pembroke Street/Fitzwilliam Square streetscape and the adjoining Georgian property to the south side, a protected structure. As a result the proposed development would be overly dominant and intrusive and would adversely affect the integrity and character of the Architectural Conservation Area and protected structures in the vicinity.

JANE DENNEHY.
Senior Planning Inspector
5th August, 2016.