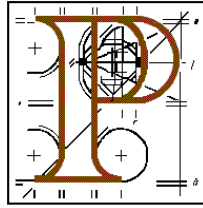


An Bord Pleanála



Inspector's Report

PL 29S.246717

Development

Demolish 4 office blocks and erect two 4-6-storey office buildings with sub-basement gym and two new café /retail units at the former AIB complex on the corner of Merrion Road and Serpentine Avenue, Ballsbridge, Dublin 4.

Planning Application

Planning Authority: Dublin City Council

Planning Authority Ref.: 2221/16

Applicant: RGRE Ballsbridge Developments Ltd.

Type of Application: Planning permission

Planning Authority Decision: Grant permission

Planning Appeal

Appellant(s): John Rogers & Philomena Rogers
Davy Target Investments plc
Rory Donoghue
Richard & Susan Devan & others
DOCOMOMO Ireland
Carmel O'Connor

Type of Appeal: Third v grant

Observers: Grace Quinlan
Faye Regan
Philip Boughan
An Taisce

Date of Site Inspection: 5th September 2016

Inspector: Karla Mc Bride.

1.0 INTRODUCTION

1.1 Site and location

The appeal site is located in Ballsbridge on the south side of Dublin. The surrounding area is characterised by a mix of residential, office, educational, institutional and cultural uses. There are a range of building types in the vicinity with a variety heights and designs.

The AIB Bank Centre site is located on the corner of Merrion Road and Serpentine Avenue. The site boundaries are defined by railings and mature trees and the site is well landscaped. The site comprises four identical 4-storey office blocks with a modern design arranged around a central linear plaza. The adjacent buildings to the rear N have a similar design and form part of the original complex.

The site is bound to the S by Merrion Road and it is located opposite the main buildings in the RDS complex; to the E by Serpentine Avenue which is characterised by 2 and 3-storey houses and apartments; and to the N and W by office blocks. Vehicular and pedestrian access to the site is off Merrion Road to the S and Serpentine Avenue to the E.

The attached photographs and maps describe the site and its surroundings in some detail.

1.2 Proposed Development

Permission is being sought to redevelop the c.1.5ha site:

- Demolish four existing 4-storey office blocks (c.9, 789sq.m)
- Erect two 4-6-storey blocks over 3 basement levels (c. 52,247sq.m).
- Provide c.40, 321sq.m. of office space (GFA) over 7 levels
- The basement levels would comprise:
 - Upper basement: Offices & café/retail
 - Lower basement: Parking and ancillary facilities
 - Sub-basement: Ancillary gym & plant rooms
- Lower the level of the central plaza to upper basement level
- Retain pedestrian access off the central plaza
- Retain existing vehicular access off Merrion Road
- Provide 164 car, 405 bicycle and 7 motor bike parking spaces.
- Provide an additional 58 visitor car parking spaces.
- All associated site works including landscaping, retention of existing boundary railings and new 2-storey substation (c.57sq.m.)

Accompanying documents:

- Planning Report
- Architectural & Urban Design Report
- Townscape, Heritage and Visual Assessment Report
- Landscape Design Statement
- Sunlight & Daylight Access Analysis
- Traffic Report
- Mobility Management Plan
- Engineering Services Report
- Sustainability Report
- Waste Management Statement
- Outline Construction Management Plan
- Flood Risk Assessment
- Arboricultural Assessment
- Justification & Outline Method Statement for Demolition of Existing Building

1.3 Planning Authority's Decision

The PA decided to grant planning permission subject to 10 conditions.

This decision reflects the report of the City Planning Officer.

Interdepartmental reports:

Transportation Department required further information in relation to traffic distribution and servicing and had no objection subject to conditions following the receipt of the FI.

Drainage Department had no objection subject to conditions.

Environmental Health Officer had no objection subject to conditions.

City Archaeologist had no objection subject to conditions.

Submissions:

A large number of observations were received from local residents, businesses, resident's associations, elected officials, and conservation groups which raised concerns in relation to:

- Over-intensification of office use in a transitional zone
- Visually obtrusive, overbearing and out of scale, and excessively high plot ratio

- Scale, height and proximity to houses at Serpentine Avenue, overshadowing, loss of light & visual impact
- Inadequate traffic assessment for now and 5 years in the future, significant increase in traffic congestion and on-street parking
- Potential impact of demolition on adjacent properties, construction details required in relation to traffic routes & compound
- Unsustainable demolition of 36-year-old buildings and contrary to Policy FC026 in relation to 20th Century buildings.
- Buildings to be demolished are an excellent example of 20th Century low level office development in a campus setting which should be designated as PSs.

Prescribed Bodies:

An Taisce raised concerns in relation to the visual impact of the proposal on the RDS which is a Protected Structure; intensity of office use would be excessive; adverse impact on residential amenity within a transitional zone and contrary to section 15.9 of the Development Plan.

1.4 Planning history

Appeal site:

Reg. Ref.: 3788/09: Permission *refused* by ABP (**PL29S.237503**) for a mixed use development on a 1.5ha site at the junction of Merrion Road and Serpentine Avenue. Proposal comprised the demolition of all six buildings (c.15, 700sq.m) and the erection of 6 x 7-9 storey buildings with 2 basement levels (c.52, 015sq.m). Permission refused for 3 reasons which are summarised below:

1. The existing pattern of development in this transitional zone area including the campus style architecture of the existing buildings on site fronting the RDS... the proposed development, by reason of its scale, massing and height does not justify removal of the existing building, would constitute an inappropriate design response to the existing context of the site, making a radical change to the urban form and established character of Ballsbridge which is not supported by any local or strategic objective in the said Plan.
2. The scale, massing, bulk and height of the proposed development, (notwithstanding the modifications) represents an overdevelopment and over intensification of use on the site and would result in a

development that would be out of character with the surrounding 'transitional zone' area, would be visually obtrusive and overbearing and would detract from the visual character of the area.... and adverse effect on the character and setting of the RDS which is a protected structure, located opposite the site on the Merrion Road.

3. The proposed buildings, by reason of scale, massing, height, proximity to the site boundaries and loss of mature vegetation would be overbearing and seriously injure the amenities of property in the vicinity including residential property, and in particular would seriously diminish the outlook of those properties along Serpentine Avenue, by reason of visual intrusion.

PAC00222/16 & PAC0632/15: Pre application meeting discussed issues related to height, scale and design; potential impacts on traffic, residential amenity and trees; and positive use of open space and enhanced public access.

Adjacent sites:

Reg. Ref.:5853/03: Permission *granted* by ABP (**PL29S.206806**) for a new office development (c.36, 834sq.m) in 3 linked 5-7 storey blocks in the rear section of the AIB Bank Centre, to the N of the appeal site.

Reg. Ref.4249/07: Permission *refused* by ABP (**PL29S.227259**) for a new 5-8 storey building (c.18, 600sq.m.) to the N and E of the existing blocks within the AIB Bank Centre for the 2 reasons:

1. The proposed development would constitute overdevelopment of the site and would seriously injure the amenities and depreciate the value of Blocks K and L....and it would detract from the design quality and profile of these blocks.... seriously injure the amenities of the area and of property in the vicinity.
2. Having regard to the transitional location of the site in a mixed commercial/residential area, to the height of the building, its orientation in relation to adjoining residential property and its proximity to such property....the proposed development would seriously injure the amenities of property in the vicinity by reason of visual intrusion, overshadowing and overlooking.

2.0 DUBLIN CITY DEVELOPMENT PLAN 2011-2017

Zoning objectives: appeal site

Z6: The site is located within the Z6 zoning objective which seeks “To provide for the creation and protection of enterprise and facilitate opportunities for employment creation.” Office uses are not listed as permissible but are open for consideration within this zone.

- Z6 lands constitute an important land bank for employment use in the city which it is considered strategically important to protect. The primary objective is to facilitate long-term economic development in the city region.
- The uses in these areas will create dynamic and sustainable employment, and these uses include innovation, creativity, research and development, science and technology and the development of emerging industries and technologies.
- The permissible uses above will be accommodated in primarily office based industry and business technology parks developed to a high environmental standard and incorporating a range of amenities, including public open space, green networks, leisure facilities and retail (at an appropriate scale).
- The uses in this zone are likely to generate a considerable amount of traffic by both employees and service traffic. Sites should therefore have good vehicular and public transport access.
- The following relevant development principles shall apply, in addition to complying with land use zoning:
 - **Employment:** Redevelopment proposals should ensure that the employment element is in excess of that prior to redevelopment in terms of numbers employed/floor space.
 - **Uses:** All other acceptable such uses should be subsidiary to the main employment generating uses.
 - **Transport:** Maximise access and permeability to public transport connections to accommodate the sustainable movement needs of employees.
 - **Built environment:** Create a distinct spatial identity high quality physical environment ...access to quality open space.

- **Landscape:** To exploit and integrate natural amenities and biodiversity ... in the layout of emerging urban structure.

Zoning objectives: neighbouring areas

Z15: The RDS to the S is covered by the Z15 zoning objective which seeks “To provide for institutional, recreational and educational, community, green infrastructure and health.” Office uses are not permissible nor open for consideration within this zone.

Z1: The lands to the E are covered by the Z1 zoning objective which seeks “To protect, provide and improve residential amenities.” Office uses are not permissible nor open for consideration within this zone.

Transitional Areas

Section 15.9 states:

- While the zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use zones.
- In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone.
- For instance, in zones abutting residential areas, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening in order to protect the amenities of residential properties.

Policies and objectives:

Policy RE2: seeks to promote and enhance the economic role and importance of Dublin.

Policy RE3: seeks to promote sustainable economic development by balancing complex sets of economic, environmental or social goals in planning decisions.

Policy RE4: seeks to take a positive and proactive approach when considering the economic impact of major planning applications in order to support economic development, enterprise and employment growth and also to deliver high quality outcomes.

Policy RE22: seeks to:

- (i) Promote and facilitate the supply of commercial space, where appropriate, including larger floorplates and quantum ... and to encourage indigenous and global HQs to locate in Dublin.
- (ii) To consolidate employment provision by incentivising & facilitating the high quality redevelopment of obsolete offices.

Development standards:

Indices	Standards
Site coverage	60%
Plot ratio	2.0:3.0
Height	Within 500m of DART Station: 6 storey office (below 24m)
Car parking	1 space per 200sq.m. GFA
Cycle parking	1 space per 100sq.m. GFA
Public open space	10% of site area

Heritage:

Archaeology: The site is located within the Zone of Archaeological Constraint for RM DU018-059 (Bridge Site) at Ballsbridge.

Conservation Areas: The site is located to the E of the River Dodder.

Protected Structures:

- Former Pembroke Town Hall to the SW: RPS 5084
- RDS complex to the S: RPS 5085
- Pembroke House to the W: RPS 5087

European sites: None on the vicinity

Natural Heritage Area: None on the vicinity

3.0 APPEAL

3.1 Third Party appeals

There are six Third Party appeals in relation to this case.

3.1.1 *John Rogers & Philomena Rogers - Serpentine Avenue*

- Gross over intensification of office use in the Z6 zone which seeks to “provide for the creation and protection of enterprise and facilitate opportunities for employment creation”, offices are only open for consideration, subject to compatibility with the overall objectives for this zone and the adjacent Z1 residential zone.
- Adverse impact on residential amenities at nos. 3 & 7 Serpentine Avenue and non-compliance with section 17.9 of the Plan, increase in noise, dust & traffic, overlooking, overshadowing and loss of light.
- Adverse impact on visual amenities due to height, scale and bulk which would be over bearing and dwarf the neighbouring houses.
- Adverse impact on the PSs at the RDS and no.32 Merrion Road.
- No respect for the transition between the two zones (Z1 & Z6).
- Inadequate consideration of the extent of the impact on amenity of adjacent residential and mixed use areas.
- Non-compliance with section 15.9 of the Plan with regard to transitions between zones.
- The use, scale, density and design are such that residential amenities can't be protected never mind improved as is required.

3.1.2 *Carmel O'Connor - Serpentine Avenue*

- Inadequate assessment of proposal by planning authority.
- Failure to deal with previous ABP reasons for refusal in relation to scale, massing, overdevelopment, intensification, PSs & amenity.
- Several inaccuracies in the applicants planning report.
- Incompatible with Z6 objective where offices are only open for consideration in certain circumstances subject to sustainable development principles.

- Loss of open space contrary to section 6.4.2 and Policy GC10.
- Out of character with the residential nature of the transitional zone.
- Adverse impact on the amenities of nearby residential areas which have already been compromised by several large scale permitted developments and events at the RDS and Aviva Stadium.
- Excessive scale, bulk and mass will have an adverse impact on the low rise residential character of the area and nearby houses.
- Adverse impact on residential amenities by way of overlooking, overshadowing and overbearing effect on neighbouring houses along with light pollution and inadequate separation distances.
- Inadequate separation and adverse impact on of the RDS (PS).
- The modal split forecast in the Traffic Report is unrealistic and unlikely to work, the Grand Canal Cordon is irrelevant and the current assessment of car use is inaccurate as most AIB staff drive to work and use the car parks at the RDS and Hockey Club.
- Increased traffic generation, congestion and overspill car parking, and the right hand turn off Merrion Road when approaching from the S is already problematic.
- Inadequate assessment of conservation and heritage issues given the area's architectural history and the number of Ps in the vicinity.
- The overall scale, height and design disregard the local character and historic fabric of the area and it would be at odds with the receiving Ballsbridge environment.
- AIB campus has significant architectural merit; it was designed by Andrew Devane who was influenced by Frank Lloyd Wright.
- Support the concerns of DOCOMOMO Ireland and An Taisce.

3.1.3 *Rory Donoghue - London*

- Proposal represents a significant over intensification of office use on a site where offices are only open for consideration in the Z6 zone, and changes to the building line would be visually adverse.

- Scheme fails to deal with previous ABP reasons for refusals for offices on the site (PL29S.237503) in relation to scale, massing, overdevelopment, intensification and residential & visual amenity.
- Non-compliance with Z6 zoning objective and planning policy in relation to the provision of excessive levels of office floor space in close proximity to a residential area (Transitional Zone Areas - Section 15.9) and the need to regenerate run down areas (Regeneration of Economic Areas - RE26 & RE27).
- Excessive scale and intensity of office development would set an unsustainable precedent for “iceberg” commercial developments in traditional low density city suburbs.
- Adverse impacts on the: - integrity and setting of the RDS (PS); residential amenity along Serpentine Avenue and Wellington Lodge by way of overshadowing; and the amenity of the adjacent offices to the N by way of overlooking and overshadowing.
- Adverse impact on urban form and conservation character of the area by way of overdevelopment, excessive height and changes to the building line, which would be visually obtrusive & overbearing, and no report from the Council’s Conservation Officer on file.

3.1.4 Davy Target Investments plc - AIB Bank Centre Campus

- Appellant owns Blocks E, F and G which form part of the original 1970’s Bank Centre Campus and adjoins the application site.
- No objection to the redevelopment of the site subject to the provision of an appropriate development interface.
- Proximity of scheme could give rise to unacceptable, significant and detrimental impacts on the amenity, development potential, and accessibility of the adjacent property.
- The interventions to the plaza will diminish and affect its attractiveness and amenity value, its relationship with Merrion Road, and the profile and prominence of Blocks E, F & G.
- Insufficient legal interest to carry out the proposed works.

Overlooking & overshadowing:

- Blocks E, F & G are 5-storey pavilion structures which are similar to the 3 & 4 storey Blocks A, B, C & D proposed for demolition.

- The four blocks form part of an architectural set piece with Blocks E & F framing a public space which is focused on the “Wings of Freedom” sculpture with Block G beyond.
- The layout and separation between blocks provides an open aspect to the space, a high level of visual amenity and direct light penetration to the space and blocks, which would be lost under the current proposal that would extend along the full frontage of Blocks E & F with a separation distance of c.6.6m
- Siting, design & height will adversely affect the amenity of Blocks E & F by reason of proximity, overlooking, overbearing aspect, overshadowing and a loss of sunlight (Block G to a lesser extent).
- The applicant’s Sunlight & Daylight Access Analysis acknowledges that the proposal is likely to result in a significant increase in overshadowing on the S facades of the nearby buildings.
- The applicant and the Planner concurred that that significant overshadowing of a commercial building may not necessarily be considered negative by the occupants, although it is possible that the Planner assumed all of the Blocks belonged to the applicant.
- The amenity of the existing commercial buildings in the vicinity of the site was specifically raised as an issue by ABP under PL29S.227259 for a new 5-8 storey block to the E of Block F; this establishes that overshadowing of commercial buildings and resultant impacts on amenity are substantive issues.

Reduced amenity, accessibility & legibility:

- Central plaza is an integral part of the overall layout, the “Wings of Freedom” statue and glazed atrium to Block G terminate the vista from Merrion Road, and the space contributes to the high profile setting and operates as a shared amenity space and access route.
- The current at grade plaza orientates visitors to the site, provides obvious and direct access to the existing blocks and ensures an accessible, legible and attractive environment.
- The lowering of the plaza to accommodate a lower ground floor will require those accessing Blocks E, F & G to descend c.4m via steps, pass through a sunken pavilion and ascend 4m via another set of steps, with no obvious provision for disabled access.

- The sunken plaza would constrain movement and accessibility within the complex and to Blocks E, G & F, reduce legibility for visitors, contravene the design intent of the wider campus and diminish the amenity and visual attractiveness of the area.
- Adverse impact on the profile and status of Blocks E, F & G which will be physically severed.

Legal Interest:

- The plaza is subject to detailed legal covenants and reservations as part of a Deed of Transfer transferring the property to the Applicant explicitly relates to its future use and development, the plaza effectively functions as a right of way, and the applicant may not have the legal right to carry out the proposed development.

3.1.5 *Richard & Susan Devan & others*

- The appellants are relatives of Andrew Devane, the architect of the original AIB Bank Centre Campus, they object to the proposed demolition of the 4 front blocks and the replacement structures.
- Andrew Devane was one of the foremost architects of the 20th Century, he practiced with Frank Lloyd Wright whose influence is evident in the AIB Bank Centre, and the buildings are representative of Ireland's architectural heritage.
- Blocks A, B, C & D area an integral part of the complex and their demolition will destroy the architectural integrity of the campus and no consideration has been given to the retention of the 4 blocks.
- Regard should be had to Policy FC026 which seeks to identify and protect exceptional buildings of the late 20th Century and DCC should add them to the RPS.
- Proposed mass, form, height and architectural treatment would have an adverse impact and overbearing presence on the AIB campus, the RDS and surrounding area.
- The AIB campus and the RDS form a seamless transition from the commercial to residential scale whilst the proposal will result in an inappropriate abrupt and over assertive transition.
- Proposed Blocks 1 & 2 would obliterate the original courtyard layout between Blocks A, B, C & D and the central entrance to the

campus, and they extend towards the site boundaries to present a long, bland, unmodulated facade along Serpentine Avenue.

- The entrances would occupy peripheral locations and the new buildings would be overbearing and out of scale with the existing residential area and buildings.
- Several inaccuracies relate to the presence and absence of roof level plant rooms in some of the drawings which is misleading.
- A letter from Howley Hayes Architects supported the appellant's conservation concerns. The AIB Bank Centre is amongst the best examples of modernist commercial design in the state and therefore a building of national importance, and to remove 4 of the original 6 blocks and destroy their landscape setting would be a great loss to Ireland's late 20th century built heritage.

3.1.6 *DOCOMOMO Ireland*

- The AIB Bank Centre is a significant work of Irish modern architecture by an important architect.
- The buildings are of such significant architectural merit that their destruction would be contrary to best conservation practice and to the policies of the DCC Plan in relation to the use of existing buildings as well as conservation and sustainability considerations.
- Disagrees with architectural assessment presented in the applicant's Townscape, Heritage and Visual Assessment report, and although Andrew Devane was an apprentice of Frank Lloyd Wright he went on to develop his own unique style and became an award winning and celebrated architect.
- Conservation Objective FC026 seeks "To identify and protect exceptional buildings of the late 20th Century, and to categorise, prioritise and where appropriate, add to the RPS".
- The NIAH survey covers the entire county except for S Dublin City and DLR, up to 1000 extra structures could be recommended as additions to the RPS and it is likely that the AIB Bankcentre would be a strong candidate for inclusion, and the absence of a NIAH survey places a moral obligation on DCC.
- DCC has been slow to identify and protect the most exceptional buildings of the late 20th Century which led to the demolition of french Mullen House on Charlemont Street in 2014.

- DCC's commissioned a Pilot Survey of 20th Century architecture which has been referred to internally when assessing planning applications, such as Texaco House, and it is possible that this survey may contain important information on the AIB Bankcentre.
- The application should have been referred to the City Architect or Conservation Officer.
- The ABP Inspector under PL29S.237503 identified a similar lapse and noted that the site contains some architectural merit and acts as a local landmark; the Board concluded that the campus style architecture of the existing buildings on the site fronting the RDS and that the proposal does not justify removal of the existing buildings, and that the proposal would make a radical change to the urban form & established character of Ballsbridge which is not supported by any local or strategic objective.

3.2 First Party response to Third Party appeals

Combined response to the issues raised by the appellants.

Contrary to Z6 zoning:

- Largely consistent with the Z6 zoning objective which covers most of the existing office buildings in the city and refers to the existing and established office use of the site with which it will integrate.
- Ballsbridge has been an important office location since the 1960s, a number of significant sites are being redeveloped, it acts as an extension to the city's CBD and comprises a wide mix of uses.
- The site has been in commercial use since the 1930s, occupied by offices since the 1970s, office use is open for consideration in the Z6 zone and proposal complies with s.15.10.6 of the Plan.
- Provision of high quality offices accords with Z6 zoning objective, facilitates opportunities for increased employment, maximises access to public transport, and creates a distinct spatial identity.
- Existing c.9, 789sq.m. development has a plot ratio of 0.65 which is an underutilisation of a commercial site in an urban location and the proposal will increase the office floorspace by c.40,321sq.m. to provide a more sustainable and efficient use of the lands.

- Attention has been given to the design, sustainability, boundary treatment, trees, the sustainable movement of employees and the open space which covers c.23% of site is open to the public.
- None of the previous ABP reasons for refusal related to the Z6 zoning objective and the principle of office use was acceptable.
- The principle of the development at this location is acceptable.

Open space and landscaping:

- Proposal will provide 23% open site within the site compared to the required 10%.
- Key elements of the existing landscape are retained and enhanced (trees, railings & boundaries) with a redesigned central plaza.

Transition zone:

- Proposal takes account of the adjacent to a Z1 (residential) zone and nearby Z15 (institutional, recreational and community) zone.
- The height from the adjoining streets is 4-storeys with the top two floors set back; the buildings are set back 19-23m from Merrion Road and 57-61m from the RDS, and 33-37m from the houses along Serpentine Avenue (Additional drawings on file).
- Existing boundary treatment is retained, development is set back from the perimeter of the site with trees and landscaping retained.
- Existing and proposed buildings have a 34m & 35m separation from the centre of residential terrace and the design acknowledges the sensitivity of the site and the previously refused scheme of six 5-7 storey blocks was set closer to the site boundaries.
- The development provides for an appropriate transition to the adjoining Z1 and Z15 zones.

Mass, height, form & scale:

- Wide variety of building heights in the area ranging from 2 to 7 storeys, nearby permitted blocks rise to 12 storeys.
- Proposed development (52,247sq.m) comprises less floorspace than previously refused scheme (52,685sq.m.)

- The proposed height (with recessed 5th and 6th floors) and substantial setbacks from the roadside boundaries) will integrate sympathetically with the existing streetscape.
- Key elements of the campus style setting are retained, the mass and height are reduced from the previous scheme, and lowering the ground floor maximises the development potential of the sites
- The intensity and scale are appropriate for an urban area close to public transport; the plot ratio of 2.24 is at the lower end of the range for Z6 (2.0-3.0); and the 43% site coverage is less than the 60% standard & other recently permitted developments in the area

Separation distances:

- More than adequate separation distance from the RDS and Serpentine Avenue.

Design:

- The high quality design responds to the distinct characteristics of the site, its existing buildings and the urban setting and context.
- The scheme seeks to maintain the central plaza, views through the site from Merrion Road and the landscaping around the perimeter and it responds well to the RDS and Merrion Road.
- Most plant equipment will be provided at basement level with a minimum of roof top plant which will be recessed.

Sunlight & daylight – residential:

- No technical evidence submitted by objectors.
- The Sunlight & Daylight Analysis by Arc concludes that there will be an imperceptible to slight impact on the rooms of some Serpentine Avenue houses, with some additional overshadowing to the front facades of some houses along Merrion Road in the evenings after 5pm during April to August, with no overshadowing of rear gardens (further Arc report is file)

Sunlight & daylight - commercial:

- No technical evidence submitted by objector.
- The Sunlight & Daylight Analysis concludes that there will be no material impact on daylight access within other commercial buildings in close proximity to the site.
- Proposal will have a sunlight impact on Blocks E, F & G to the N, although there are no standards for commercial buildings the BS suggests that overshadowing impacts should only be assessed where certain rooms have a special requirement for light.
- The existing office use of the neighbouring blocks would not constitute a special requirement or need for sunlight access.

Central plaza:

- Lowered central plaza will maintain the visual link through the site.
- The underutilised plaza will be enlivened by the addition of cafes and shops, the lowering will maximises the development potential of the site and strengthen the relationship between the users.
- Proposed development is fully compliant with Part M and disabled access to the plaza is achieved via elevators in the office receptions or by separate dedicated access lifts close to the central feature stairs on opposite sides of the concourse.
- Pedestrians can access the site from Merrion Road (2 entrances) and Serpentine Avenue (1 entrance).

Legal rights:

- Sufficient legal interest to make the application and implement to development and the application site is owned by the applicant.

Conservation and protected structures:

- Site is not located within a CA or ACS and there are no PSs.
- New buildings will make a more efficient use of the site while intensifying the relationship between buildings and the landscape within a sensitive setting, with adequate setbacks and boundaries.
- No adverse impacts on the character and setting of the RDS, no.32 Merrion Road or the former Pembroke Town Hall.

Architectural value of existing buildings:

- The existing buildings are not listed for protection in the current Development Plan or Draft Plan; this would be the appropriate mechanism to ensure their protection as per the 2004 Guidelines.
- DOCOMOMO did not request the addition of the AIB Bankcentre on the list of protected structures as part of its submission to Draft Plan 2011-2017 (Extracts from the Managers Report on file).
- DOCOMOMO did not include the AIB Bankcentre on a list of 8 modern buildings on the S side that should be included in the list of protected structures as part of its submission to Draft Plan 2016-2022 (Extracts from the Chief Executives Report on file).
- The relatives of Andrew Devane did not make a submission to have the AIB Bankcentre included in the Draft Plan 2016-2022.
- The 2004 Guidelines tests were applied to the AIB Bankcentre and it was concluded that they did not warrant protection or retention in the same way that other modern buildings would.
- There is no evidence in Devane's articles or writings that the architecture of the AIB project was directly inspired by his apprenticeship with FLW.
- The architectural merits of the scheme were never raised as a substantive issue in ABP's consideration of previous proposals.
- Detailed justification for the demolition of the buildings concluded that from an environmental, architectural, commercial and planning perspective that the buildings are no longer for for purpose.
- A conservation report submitted with the appeal response concludes that the buildings are not of International, National or Regional significance and do not merit protected status.

Traffic:

- No adverse traffic impacts predicted and additional report submitted (on file) and the 10% target car use is realistic as car parking spaces will be allocated to staff.
- No access off Serpentine Avenue and therefore no traffic impacts.
- The 60% public transport forecast is reasonable.

Construction impacts:

- Adherence to the Construction Management Plan and compliance with DCC conditions will minimise environmental nuisances.

3.3 Observers

There are four submissions from Observers.

Grace Quinlan, Faye Regan & Philip Boughan who live along Serpentine Avenue raised the following collective concerns:

- Support the concerns raised by the Appellants.
- Scale and height of buildings would be visually obtrusive and oppressive, and would give rise to overlooking and overshadowing of front living rooms along Serpentine Avenue.
- The setbacks from the site boundaries are inadequate.
- Adverse impact on the character of Ballsbridge, the existing complex has architectural merit, it should not be demolished and it was designed to complement the RDS.
- Visual impacts of the development and the seasonal loss of leaf cover from deciduous trees on houses along Serpentine Avenue not adequately addressed in the application.
- Potential adverse impacts on foundations of 19th century houses.
- Noise and disturbance during construction.
- Design at variance with the architectural styles in the area.
- Loss of open space, soft landscaping and parkland setting.
- Gross overdevelopment of office space which would be 5 times the current level in the 4 blocks within a “transitional zone”.
- The proposed office development is significantly larger than the previously refused development under PL29S. 237503 in relation to floor area, site coverage and plot ratio.
- Existing offices have been vacant for 18 months and not 8 years and the existing 3.3m floor to ceiling height could be reconfigured to achieve the 2.7m required.

- Incorrect reference to unusually small houses along Serpentine Avenue which are c.3, 000sq.ft. and the separation distances with adjacent houses are inadequate.
- DCC failed to give sufficient weight to the architectural merit of the existing buildings, the surrounding architectural heritage and the “transitional zone”

An Taisce:

Planning policy & zoning:

- DCC failed to undertake a balanced assessment of the application, several Plan policies are omitted with an over reliance on a small number of economic policies, and the report falls short of the requirements of the Development Management Guidelines.
- The scale of the proposal is significantly larger than the previously refused scheme (PL29S. 237503) which was considered to constitute overdevelopment under the same Development Plan.
- Buildings have not been vacant for 8 years, they were refurbished in 1992, and the blocks to the rear are fully functioning offices (which do not belong to the applicant).
- Excessive 5-fold increase in office space, non-compliance with Z6 zoning objective where offices are not a permissible use but only open for consideration, and at variance with s.15.10.6; and incompatible with adjacent Z1 residential zone and s.17.9.

Impact on amenity:

- Adverse impact on residential & visual amenities of the area as a result of the increase in height, mass and bulk; overshadowing & overlooking; traffic and overspill car parking; and negative impact on the established character of the area.
- The site is located within a “transitional zone” and opposite the RDS which is a PS; non-compliance with s.15.9 (transitional zones) as the intensive office use and building design would have negative impacts on residential amenity and heritage.

Conservation:

- Incompatible with the established pattern of development in the architectural receiving environment; the existing Bank Centre with its landscaped setting was designed by Andrew Devane under the influence of FLW respects the setting of the neo-classical RDS.
- Devane's buildings echo the granite façade of the RDS with the building to the front being of a similar height to the parapet height of the RDS main entrance (c.12m) although set back further from the site boundary in deference to the RDS.
- Inadequate consideration of potential impacts on RDS and no.32 Merrion Road (c.1762) which are PSs with no photomontage for no.32 which would be dominated by the proposal, and the setting of, and views from, the RDS would be significantly affected.

3.4 First Party response to An Taisce

No new issues raised over and above those summarised in section 4.2 above in relation to the applicant's response to the Third Party appeals.

3.5 Further Third Party correspondence

Carmel O'Connor: The response submission supports the concerns raised by the other appellants and it raised no new issues. A further submission supported the concerns raised by An Taisce and included a copy of an article about Andrew Devane.

Richard & Susan Devan: The response to the An Taisce submission provided more information in relation Andrew Devane, who considered the AIB Bank Centre to be one of his finest achievements. However, the response raised no new issues.

Philomena & John Rogers: The response to the An Taisce submission raised no new issues.

Davy Target Investments Plc: The response to the An Taisce submission raised no new issues.

3.5 Planning Authority response

The responses from the Planning Authority raised no new issues.

3.6 Prescribed Bodies

The appeal was not circulated.

4.0 REVIEW OF ISSUES AND ASSESSMENT

The main issues arising in this case are:

1. Principle of development
2. Visual amenity & heritage
3. Residential amenity
4. Movement and access
5. Other issues

4.1 Principle of development

4.1.1 *Compatibility with zoning objective:*

The proposed development would be located within an area zoned “Z6” in the current Development Plan which seeks “To provide for the creation and protection of enterprise and facilitate opportunities for employment creation.” Although office uses are not listed as being normally permissible within this zone they are open for consideration.

The primary objective of the Z6 zone is to facilitate long-term economic development in the city region. Acceptable uses include creativity & innovation, research & development and science & technology. The Development Plan states that such uses should be accommodated within dedicated parks with a range of environmental and social amenities including open space, landscaping and retail (where appropriate) and good accessibility.

The site currently contains several low rise office blocks within the well landscaped parkland setting of the AIB Bank Centre that dates from the early 1980s. The proposed development would entail the demolition of four of the existing six office buildings. The proposal would comprise offices (40,320sq.m.) with basement car parking, and a gym, shop and café, in a parkland setting with good access to public transport.

The type of office use has not been specified and it is unclear whether or not this use would include any of the range of permissible uses outlined above as being acceptable within the Z6 zone. However, it is noted that the proposed office development (c.52, 250sq.m. GFA) would replace an existing long established office development (c.9, 790sq.m GFA) on the site. Offices are also open for consideration within the Z6 zone subject to the scale of their impact on the receiving environment including residential amenity, traffic and heritage.

The principle of office use within the Z6 zone at this location is therefore acceptable in principle subject to a more detailed assessment of the amenity, heritage and traffic issues in the following sections of this report.

4.1.2 Transitional areas:

The Development Plan requires consideration of the potential impact of development proposals on adjacent land uses for schemes located within “transitional areas” where 2 or more land use zones interface. The proposed development would be located within the Z6 zone which immediately abuts the Z1 zone to the E at Serpentine Avenue and beyond, and the Z15 zone at the RDS to the S. The Z1 zone seeks “To protect, provide and improve residential amenities” whilst the Z15 zone seeks “To provide for institutional, recreational and educational, community, green infrastructure and health.”

Section 15.9 of the Development Plan states that it is important to avoid abrupt transitions in scale and use between zones, that it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone, and that particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening in order to protect the amenities of residential properties.

Having regard to the scale of the proposed development within the Z6 zone and the juxtaposition of the neighbouring land use zones, which have very different objectives and development standards, particular attention should be paid to the potential impacts of the proposed development on the amenities of the Z1 and Z15 zones. These concerns will be addressed in more detail the following relevant sections of this report.

4.1.3 Intensification of office use:

The proposed development would comprise the demolition of four of the 6 original office buildings within the AIB Bankcentre which have a GFA of c.15, 700sq.m. The four blocks proposed for demolition have a GFA of c.9, 790sq.m. These blocks would be replaced by two 4-6 storey office blocks over a 3-storey basement level with a GFA of c.52, 250sq.m. (including c.40. 320sq.m of office floorspace). This would result in a substantial increase in the overall quantum of office floorspace provided when compared to that currently provided in the 4 blocks proposed for demolition, which would give rise to a substantial intensification of office use on the site.

The potential impact of this intensification, in-combination with the existing quantum of office space in the AIB complex, on the amenities of the surrounding area requires careful consideration. These concerns will be addressed in more detail the following sections of this report. However, it is noted that the existing offices are located within the Z6 zone and the Development Plan states that redevelopment proposals within this zone should ensure that the employment element is in excess of that prior to redevelopment in terms of numbers employed and/or floor space.

4.1.4 Comparison with previous schemes:

The planning history of the appeal site and adjacent lands indicates that the intensification of office use on the site which is located within a “transitional area” was a serious concern for the Board in terms of the potential impacts on the receiving environment in relation to residential amenity and heritage. However, the principle of office use within the Z6 zone at this site was not previously raised a cause for concern.

The City Council previously granted planning permission for a mixed use development on the appeal site comprising the demolition of all six buildings (c.15, 700sq.m) and the erection of six new 7-9 storey buildings with a 2-storey basement level. The quantum of GFA was reduced to c.52, 015sq.m by way of a further information response. The Board subsequently refused permission under PL29S.237503 for the amended development for 3 reasons. Reason no.2 related to overdevelopment and over intensification of the use of the site which would be out of character with the surrounding ‘transitional zone’ area.

A comparison of the currently proposed and previously refused schemes for the 6 original blocks is summarised in the following table.

Indices	Proposed scheme	Previous scheme	Comparison
<i>No. of blocks to be demolished</i>	4	6	2 blocks will remain
<i>Floor area to be demolished</i>	9,790sq.m	15,700sq.m.	Less 5,910sq.m
<i>Remaining floor space GFA</i>	5,910sq.m	0sq.m.	5,910sq.m will remain
<i>Proposed floor space GLA</i>	52, 250sq.m	52, 015sq.m	Less 235sq.m.
<i>Remaining + proposed GFA</i>	58,160sq.m.	52,015sq.m.	Plus 6,145sq.m.

Under the previous proposal (PL29S.237503) all six blocks with a GFA of c.15, 700sq.m. would have been demolished and replaced by six new blocks with an amended GFA of 52,015sq.m. This would have resulted in a substantial increase in the overall quantum of floorspace on the site.

Under the current proposal four of the six blocks (A, B, C & D) would be demolished within the appeal site and two of the six blocks (E & F) would be retained outside of the appeal site. The demolished blocks would be replaced by two new blocks with a GFA of 52,250sq.m. This would be a similar quantum of floorspace to that permitted by the City Council (as amended by FI) under the previous proposal, but refused by the Board on for reasons related to overdevelopment and over-intensification of use. It is also noted that the current appeal site is smaller than the previous appeal site as Blocks E & F no longer form part of the proposed development.

The total GFA for the remaining and proposed blocks under the current proposal would be in the region of 58,160sq.m. This would equate to an additional c.6,145sq.m. of floorspace over and above the previously refused scheme on the AIB Bank Centre site. Although one level of office floor space would be provided at basement level and the two upper floors would be set back to reduce the overall scale of the proposed development, the quantum of floorspace would continue to give rise to an over-intensification of use on this site which is located within a “transitional area”. However, this concern could be addressed by way of a condition which requires the omission of the two upper floors 5 and 6 from Blocks 1 and 2.

4.1.5 Conclusions

The proposed development is acceptable in principle subject to an assessment of the potential impacts on the surrounding “transitional area” in relation to residential amenity, heritage and traffic. The site is occupied by the 6 original office blocks with a series of more recently constructed blocks to the rear N. The proposed development would entail the demolition of 4 of the original blocks and the construction of two new blocks. This would give rise to a substantial increase in office floorspace over and above what currently exists on the site and an increase on what was previously refused by the Board under PL29S.237503 as two of the original blocks (E&F) would be retained. The proposed development would therefore give rise to a substantial intensification of use within a “transitional area” and the quantum of

floorspace should therefore be reduced by the omission of the two upper levels in order to protect the amenities of the surrounding area.

4.2 Visual amenity and heritage

4.2.1 Context

The appeal site is located within the grounds of the AIB Bank Centre complex on the E side in Ballsbridge. The surrounding area is characterised by a mix of mainly low rise residential, commercial and institutional uses to the E, SW and S and there are a number of contemporary office buildings located to the W and NW. The site does not contain any Protected Structures and it is not covered by any sensitive heritage designations.

The original AIB Bank Centre complex of 6 low rise pavilion style blocks within a well landscaped parkland setting was designed by Andrew Devane in the late 1970s. Devane worked under Frank Lloyd Wright for a short period of time in the 1940s and he went on to design many modern buildings in Ireland in the subsequent years. Concerns have been raised about the architectural merits of the AIB Bank Centre and the potential impact of the proposed development on the integrity of this complex.

The surrounding residential streets to the E are mainly characterised by 2 and 3-storey houses which are not located within a Conservation Area. There are three Protected Structures in the vicinity including the RDS complex to the S of the site, and the former Pembroke Town Hall and Pembroke House to the SW. Concerns have also been raised in relation to the visual impact of the proposed development on the neighbouring low rise residential streets and the character and setting of the nearby Protected Structures.

4.2.2 Existing scheme

The AIB Bank Centre and adjoining lands comprises the 6 original interconnecting low density 4-storey office blocks within a landscaped setting which date from the early 1980s, and a series of newer blocks to the rear of the site. The most recent addition is the 5-7 storey linked blocks permitted under PL29S.206806 which is connected to the rear of Blocks E & F by a glazed structure. Blocks A, B, C & D are located on either side of a central plaza which runs along a N-S axis from the Merrion Road entrance to Blocks E & F. The view through the central plaza is terminated by the “Wings of Freedom” statue which is located in front of the entrance to Blocks E & F.

4.2.3 Proposed development

The proposed development would comprise the demolition of four of the existing six 4-storey office blocks (A, B, C & D) and their replacement with two 4-6 storey buildings (over 3 basement levels) on either side of the central plaza. The central plaza would be excavated to form part of the upper basement level, and it would comprise a café and shop and the space would provide natural light to the proposed offices at this level. The proposed buildings would have a contemporary design with extensive glazing and upper level setbacks, and the two blocks would be separated by the c.28m wide plaza.

Block 1 would be:

- C. 78m wide, 35-50m deep and 15-23m high (above ground level).
- The 2 upper floors would be set back c.3m & 4.5 m from the E and W elevations with the site to the W and the central plaza to the E.
- The 4-storey section would be set back between c.20m and c.31m from the adjoining former Sweepstakes site to the W.
- The 4-storey section would be set back c.22m from the site boundary with Merrion Road to the S.
- The 6-storey section would be set back c.6.7m from Block E.

Block 2 would be:

- C.78m long, 35-55m deep and 15-23m high (above ground level).
- The 2 upper floors would be set back c.3m and 5m from the W elevation which would be parallel to the central plaza.
- The 2 upper floors would be set back c.3m and 6m from the E elevation which would be parallel to Serpentine Avenue.
- The 4-storey section would be set back between c.14.5m and c.18.5m from the boundary with Serpentine Avenue to the E.
- The 4-storey section would be set back between c.33m and 38m from the houses along Serpentine Avenue and the two upper floors would be set back by an additional c.3m and 5m.
- The 4-storey section would be set back c.25m from the site boundary to the S with Merrion Road.
- The 6-storey section would be set back c.6.7m from Block F.

4.2.4 *Preciously refused scheme*

The Board previously refused permission under PL29S.237503 for a mixed use development on the site comprising the demolition of all 6 buildings and the erection of 6 new 7-9 storey blocks on either side of a central plaza for 3 reasons related to:

- Inappropriate design response to the existing context of the site.
- Overdevelopment & over intensification of use.... visually obtrusive & overbearing...detract from the visual character of the area.... and adverse effect on the character and setting of the RDS (PS).
- Scale, massing, height, proximity to the site boundaries and loss of mature vegetation would be overbearing and seriously injure the amenities of property in the vicinity.

4.2.5 *Comparison between schemes*

A comparison of (approximate) dimensions for the existing, previously refused and currently proposed schemes is summarised below.

<i>Dimensions</i>	<i>Existing scheme</i>	<i>Previous scheme</i>	<i>Proposed scheme</i>
<i>Height</i>	c.11-18m	c.11-26m	c.15-23m
<i>Depth</i>	c.52m	c.70m	c.52-60m
<i>Width</i>	c.30m (x2)	c.94m	c.78m
<i>Setbacks</i>	Nil	Minimal	c.3-5m
<i>Distance to S boundary</i>	c.37m	c.4-10m	c.23m
<i>Distance to RDS to S</i>	c.70m	c.38-44m	c.57m
<i>Distance to E boundary</i>	c.12-22m	c.11m	c.12-15m
<i>Distance to Serpentine houses</i>	c.35m-42m	c.31m	c.32-37m

4.2.6 Discussion

Basics:

As a starting point the currently proposed and previously refused high density schemes would be very different to the existing low density development on the site in terms of design, layout, scale, bulk, height, external materials and set back from site boundaries. The proposed scheme is also substantially different from the previously refused scheme in terms of design, layout and height and the number of blocks has been reduced from 6 to 2. Notwithstanding these differences, the proposed development would comply with all relevant Development Plan standards in relation to site coverage, plot ratio and height (within 500m of a DART station) and the provision of public open space would be well in excess of minimum requirement of 10% of site area.

Architectural merit of AIB Bank Centre:

The original AIB Bank Centre is not a Protected Structure, there is no evidence that protected structure status has ever been sought for the complex and the site is not located within an Architectural Conservation Area. The design and layout of the original scheme and its visual relationship with the surrounding area has been altered by the addition of new buildings including the recently constructed 5-7 storey interlinked blocks to the rear/N of Blocks E & F which are connected by a glazed atrium. Although certain aspects of the original scheme such as the height, layout and setbacks complement the character and setting of nearby RDS complex on the opposite side of Merrion Road, Devane's vision for the AIB Bank Centre site has been compromised by more recent developments. Although the AIB Bank Centre complex is architecturally interesting, this on its own could not be used as a reason to refuse permission for the redevelopment of the site.

Proposed design and layout:

The proposed development, as described in section 4.2.3 above, would comprise two 4-6 storey linear blocks with upper level setbacks located on either side of the excavated central plaza, and they would be laid out parallel to one another along a N-S axis. The proposed blocks would have an attractive contemporary design with extensive glazing and the design and layout would mainly complement the existing buildings in the N section of the site. However, the proposed 6-storey sections would be higher than the remaining Blocks E & F to the N which would be visually incongruous when viewed from Merrion Road and the surrounding area. However, this concern would be addressed

by the omission of the two upper levels as recommended in section 4.1.4 above. The design, layout and amended height of the proposed development, including the excavated central plaza, would be acceptable in terms of visual amenity within the overall complex.

Relationship to Protected structures:

The existing 4-storey buildings are set back c.32-37m and c.70m from the Merrion Road boundary and the front elevation of the RDS and the neighbouring former Pembroke Town Hall. The previously refused buildings would have been set back c.38-44m from the RDS complex. The 4-storey (above ground) S section of the proposed blocks would be set back 20-23m and c.57m from the Merrion Road boundary and front elevation of the RDS, whilst the two upper floors would be set back an additional distance. The remaining space would be landscaped and partly used for car parking, and the boundary railings would be retained and new trees planted.

The proposed design, layout and height (as amended under section 4.1.4 above) represents a significant improvement on the previously refused scheme and the proposed separation distances would ensure that the character, setting and integrity of the two Protected Structures on the opposite side of Merrion Road would not be compromised to any significant extent. The proposed development would also be located to the N of the existing RDS buildings and the former Pembroke Town Hall, neither of which would be overshadowed or overlooked having regard to the orientation and separation distances.

The character, setting and integrity of the third Protected Structure to the SW of the proposed development at Pembroke House would not be affected to any significant extent having regard to the separation distances and the presence of an access road and public house/restaurant building in the intervening space.

Relationship to Serpentine Avenue:

The two existing 4-storey c.30m wide buildings (Blocks C & D) in the E section of the site are set back c.12-22m and c.35m-42m from the E site boundary and the front elevation of the 2-storey houses along Serpentine Avenue. The previously refused buildings would have been set back c.11m and c.31m from the site boundary with Serpentine Avenue and the terrace of houses. The 4-storey (above ground) c.78m long E facing section of the proposed Block 2 would be set back c.12-15m and c.32-37m from the Serpentine Avenue boundary and front elevation of the neighbouring houses, whilst the two upper floors would

be set back an additional distance. The remaining space would be landscaped, the boundary railings and some trees would be retained and new trees would be planted.

The proposed design, layout and height (as amended by section 4.1.4 above) of Block 2 in the E section of the site represents a substantial improvement on the previously refused scheme. The separation distances with the roadside boundary and neighbouring houses along Serpentine Avenue have also been increased from those proposed under the previous scheme. Although the two existing c.30m wide staggered buildings (Blocks C & D) would be replaced with a c.78m wide unbroken building frontage the design of the E elevation would incorporate an element of variety so as to lighten the visual impact. The proposed development (as amended by section 4.1.4 above) would be acceptable in terms of visual amenity when viewed from along Serpentine Road and from its junction with Merrion Road to the S.

The height (as amended by section 4.1.4 above) and width of the proposed building taken in conjunction with the separation distances with the site boundary and the neighbouring houses along Serpentine Avenue, which are located within a Z1 residential zone, would be appropriate for this “transitional area”. Proposed Block 2 would not be unduly overbearing or visually dominant and it would not seriously injure the visual amenities of the surrounding area.

Relationship to existing blocks:

The proposed development would be located to the S of the remaining buildings in the complex including Blocks E & F that are connected to Blocks B & D by upper level link bridges which would be removed as part of the redevelopment of the site. The proposed blocks would be higher and have a larger footprint than the blocks proposed for demolition. They would also extend further across the frontage of Blocks E & F than the existing blocks although the separation distance would remain unaltered at c.6.7m. Concerns have been raised about the impact of the proposed development on the amenities of Blocks E & F in relation to overshadowing, overbearance, pedestrian access and the redevelopment potential of the adjacent site.

The design, layout, height of the proposed blocks (as amended under section 4.1.4 above), and exterior finishes would complement the existing neighbouring blocks and the proposal would not have an adverse impact on the visual amenities of the existing buildings.

Pedestrian access to the remaining buildings off Merrion Road would be via the proposed sunken central plaza which would have steps and lifts at the N and S ends, and there is a further pedestrian access of Serpentine Avenue to the E. It is noted that the development would have to comply with the provisions of Part M (Access and Use) of the Building Regulations in relation to universal access.

The proposed blocks would be located to the S of the existing buildings which would be overshadowed in the middle part of the day to a greater extent than under the current arrangement. It is noted that there are no relevant overshadowing standards for commercial buildings however I am satisfied that the proposed development would not injure the amenities of existing Blocks E & F to any significant extent.

In relation to the final area of concern, it would not be appropriate for the Board to comment on the redevelopment potential of the adjoining site in this instance.

Comparison with PL29S.227259:

The Board previously refused permission under PL29S.227259 for a new 5-8 storey development to the N and E of the AIB Bank Centre for 2 reasons related to overdevelopment and adverse impact on the existing Blocks K and L within the complex; and serious injury to the amenities of property in the vicinity by reason of visual intrusion, overshadowing and overlooking. The bulk of this development would have been located in the N section of the site with a smaller section located to the NE of Block F and to the N of proposed Block 2 along Serpentine Avenue.

The main part of this development would have comprised a large rectangular shaped block in the N section of the site to the N of Blocks K and L and to the immediate S of an existing residential apartment development. The proposed 5-8 storey block would have extended along an E-W axis for almost the full width of the site in close proximity to the four 5-storey apartment buildings to the N and the existing office blocks at K & L to the S.

Having regard to the height, scale and location of the currently proposed and previously refused development (PL29S.227259), I am satisfied that the two schemes are substantially different with regard to their relationship to neighbouring properties.

4.2.7 Conclusions

Having regard to the location of the proposed development within a “transitional area” and to the design, layout, scale, height (as amended by section 4.1.4 above) and separation distances from site boundaries and neighbouring residential, commercial and heritage properties, I am satisfied that the proposed development would not have an adverse impact on the visual amenities of the surrounding area. Having regard to the nature, scale and location of the current proposal when compared to the previously refused schemes under PL29S.237503 (for the current appeal site) and PL29S.227259 (for the site to the N & E), I am satisfied that the proposed development is substantially different from these previously refused schemes.

4.3 Residential amenity

4.3.1 Context

The proposed development would be located on the E periphery of the Ballsbridge commercial area and in close proximity to existing long established residential streets. Block 2 would be located to the W of the 2-storey terraced houses along Serpentine Avenue and the 3-storey semi-detached houses along Merrion Road. Concerns have been raised in relation to the impact of the proposed development on the residential amenities of the neighbouring houses. The existing, proposed and previously refused schemes have been described in detail in section 4.3 above.

4.3.2 Discussion

Block 2 would be located parallel to the E site boundary with Serpentine Avenue. It would be c.78m wide and 15 to 23m high (above ground level) and the 2 upper floors would be set back c.3m and 6m from the proposed frontage along Serpentine Avenue. The main 4-storey section of Block 2 would be set back between c.12m and c.15m from the boundary with Serpentine Avenue, and between c.32m and 37m from the houses along this road. Section 4.1.4 above recommended the omission of the two upper levels in both blocks as a means of reducing the quantum of floor space in the development and controlling the over-intensification of the use of the site. This omission would also serve to reduce the overall height and scale of the proposed development which is located within a “transitional area” and its resultant impacts on the amenities of neighbouring properties.

The reduced number of blocks, the proposed height (as amended by section 4.1.4 above) and the separation distances represent a significant improvement on the previously refused scheme. Although Block 2 would be higher than the existing buildings and have an unbroken frontage with reduced separation distance, it would have a similar, although not identical, relationship to the neighbouring houses in terms its orientation and potential for overlooking and overshadowing.

In relation to overshadowing, the proposed development would cast an additional shadow over the front of the neighbouring houses in the later part of the day at certain times of the year. This impact would not be significantly adverse, particularly having regard to the omission of the two upper levels (as per section 4.1.4 above) and the built up character of the surrounding area. The rear gardens along Serpentine would not be adversely affected as the existing houses would already cast a shadow over them.

In relation to overlooking and loss of privacy, the c.32m and 37m separation distance between opposing windows in the proposed E facing 4-storey elevation and the neighbouring houses is adequate to ensure that these houses are not overlooked to any significant extent.

3.3.3 Conclusions

Having regard to the orientation of the existing Blocks C & D to the W of Serpentine Avenue and to the height, scale and orientation of proposed Block 2, taken in conjunction with the separation distances with the neighbouring houses along Serpentine Avenue, the proposed development would not have a significant adverse impact on the residential amenities of neighbouring properties within the Z1 residential zone by way of excessive overlooking or overshadowing. The height, layout and location of the proposed development would therefore be of an appropriate scale for this “transitional area”.

4.4 Movement and access

Vehicular access to the proposed development and basement car park would be via the existing entrance off Merrion Road and the existing basement car park entrance to the rear NW of the site. The proposed access and car parking arrangements are considered to be acceptable they would not give result in a traffic hazard or endanger the safety of other road users. Existing car parking restrictions on the surrounding streets will ensure that the proposal would not give rise to overspill car parking in the area.

The site is located in close proximity to several public transport options including Dublin Bus and the DART with a nearest station to the NE of the site. The contents of the applicant's various transport studies are noted. The proposed bicycle parking arrangements and cyclist facilities are acceptable and should be provided in compliance with the requirements of the planning authority.

4.5 Other issues

Appropriate assessment: The proposed development would not have an adverse effect on the integrity of any European Sites. The contents of the applicant's AA Screening Report are noted.

Archaeology: The site is located within a Zone of Archaeological Interest for the Bridge site at Ballsbridge and the standard archaeological condition should be attached.

Disabled access: The proposed development should provide for universal access in line with the requirements of Part M (Access and Use) of the second schedule to the Building Regulations.

Environmental services: The proposed arrangements are considered acceptable subject to compliance with the requirements of Irish Water and the planning authority.

Flood risk: The Flood Risk Assessment report concludes that the site is mainly located outside of an area that is liable to flood and that the proposed works would not give rise to a significant risk of flooding in the surrounding area. This is a satisfactory conclusion subject to the full implementation of mitigation measures and compliance with the requirements of the planning authority.

Financial contributions: Standard conditions should be applied in accordance with the Council's Section 48 Scheme.

Legal interest: The concerns raised in relation to legal interest are noted however this is not an issue that the Board has jurisdiction over.

Waste management: Arrangements for the management and disposal of waste should comply with the requirements of the planning authority.

Sustainability: The concerns raised in relation to the demolition of the existing recently refurbished buildings which date from the early 1980s are noted. However, the proposed development represents a more sustainable use of the site having regard to its accessible location relative to the City Centre and public transport routes.

Statues: The existing statue “Wings of Freedom” would be retained in its current position however measures should be put in place to ensure its protection during the demolition and construction works.

Trees and landscaping: A significant number of the existing boundary trees would be retained and a number of new mature trees would be planted, and the existing boundary railing would remain, which is acceptable in terms of visual amenity and biodiversity. Appropriate measures should be put in place to ensure the protection of the existing trees during the demolition and construction works and the landscaping and tree planting scheme should be fully implemented.

5.0 RECOMMENDATION

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the Dublin City Development Plan 2011 to 2017, and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. 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 development shall be amended by the omission of the two recessed upper levels in their entirety at floors 5 and 6 in Blocks 1 and 2. Revised roof plans shall be submitted for the written agreement of the planning authority before development commences. Such plans shall contain details of any proposed roof plant equipment and/or roof gardens in these areas.

Reason: To protect the amenities of neighbouring residential, commercial and heritage properties located within this transitional area.

3. Details [including samples] of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

4. All existing trees to be retained on the site shall be protected by fences during demolition and construction works, the landscaping scheme shall be fully implemented and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of amenity and sustainable development.

5. The developer shall submit a detailed proposal to the planning authority for the protection of the statue. The details shall be agreed in writing with the planning authority before development commences.

Reason: In the interest of cultural heritage.

6. 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.

9. The developer shall comply with the following roads and traffic requirements:

- (i) Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.
- (ii) The developer shall implement the measures outlined in the Mobility Management Plan and ensure that future tenants of the development comply with this strategy. A Mobility Manager shall be appointed to oversee, co-ordinate and in implement the plan. Prior to occupation of development the Mobility Manager shall liaise with the planning authority in relation to the implementation of the Mobility Management Plan.
- (iii) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- (iv) The developer shall be obliged to comply with the requirements set out in the Dublin City Council Code of Practice for such works.

Reason: In the interest of orderly development

10. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.
Reason: In the interest of public health and to ensure a proper standard of development.
11. The flood mitigation measures outlined in the report entitled “Flood Risk Assessment” by Cronin and Sutton Consulting, Revision dated 03/02/16 shall be fully implemented.
Reason: In the interest of orderly development
12. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer’s expense on a daily basis.
Reason: To protect the residential amenities of property in the vicinity.
13. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00 hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.
Reason: To safeguard the residential amenities of adjacent dwellings.
14. 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, as amended. The contribution shall be paid prior to 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.
Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.
Reason: To ensure the satisfactory completion of the development.

Karla Mc Bride

Senior Inspector

21st September 2016