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Development	Demolition of 3-12 storey office development and erection of new office development ranging from 4 to 8 storeys at the former Fitzwilliam House, 1-6 Wilton Terrace, Lad Lane Upper & Cumberland Road, Dublin 2
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2051/16
Applicant(s)	IPUT PLC
Type of Application	Permission
Planning Authority Decision	Grant permission
Appellant(s)	<ol style="list-style-type: none"><li>1. Docomomo</li><li>2. Ciarán Ferrie</li><li>3. Sheila Deane</li></ol>
Observer(s)	<ol style="list-style-type: none"><li>1. The Pembroke Road Association</li><li>2. Philip O'Reilly</li><li>3. Killian Fitzgerald, Avatar Audio Post Production</li><li>4. Grandarm Management Company</li></ol>

5. Patrick White & Company  
Solicitors

6. Sureskills

7. An Taisce

Date of Site Inspection

28<sup>th</sup> September 2016

Inspector

Donal Donnelly

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## 1.0 Site Location and Description

- 1.1. The appeal site is located on Cumberland Road, Wilton Terrace and Lad Lane Upper to the south-east of Dublin city centre. The existing building on site (Fitzwilton House) comprises a 3-12 storey structure developed in 1969 in the Brutalist style of modernist architecture. The building has a truncated “h” layout with 3-storey podiums either side of the 12-storey tower. The Australian Embassy and the Tax Appeals Commission currently occupy the building on two separate floors and all other floors are vacant.
- 1.2. The site is triangular shaped with the largest frontage (c. 130m) facing south-east onto the Grand Canal corridor. The stated area of the site is 0.385 hectare and the floor area of the existing building is 8,513 sq.m. (excluding car parking areas). There is surface level car parking to the southern side of the building, as well as basement level parking (total 64 no. spaces). Adjoining ramps at the southern end of the building provide access to the basement and what was originally an above ground level car park, which has since been converted into office space.
- 1.3. Fitzwilton House is an externally expressed structure with cage-like network of concrete columns and mullions irregularly sized and spaced. Horizontal concrete bands are positioned to give a double-storey expression. There are at least five different external concrete finishes. The main entrance is from Cumberland Road to the north-east and the principal views of the building are from along the Grand Canal to the south.
- 1.4. Lad Lane Upper is aligned with mews buildings on its north-western side in a mix of residential and commercial usage. There is an apartment block opposite the site on Cumberland Road and the adjacent canal-fronting building to the north-east is Wilton Park House, a 7-storey modernist building in office use. This building faces onto a small triangular shaped park of similar proportions to the appeal site.
- 1.5. The site is within a Conservation Area and the Fitzwilliam Square Architectural Conservation Area is adjacent the site to the north. There are protected structures

aligning Fitzwilliam Place to the north-west and Mespil Road on the opposite side of the canal.

## 2.0 Proposed Development

2.1. The proposed development, as described on site notices, comprises the demolition of the existing 3-12 storey office development and the erection of a new office development ranging from 4 to 8 storeys. The main elements of the proposal are summarised as follows:

- The stated area of the proposed building is 17,405 sq.m.
- The 4-storey element of the building will be 17m in height and the 8 storey element will be 33m;
- Two basement levels with access via ramp from Wilton Terrace will accommodate 44 no. car parking spaces and 178 no. bicycle parking spaces, as well as plant, waste and ancillary areas.
- Landscaping within the site including the provision of gardens and terraces at lower ground, ground, 4<sup>th</sup>, 7<sup>th</sup> and roof levels;
- Resurfacing and upgrading and landscaping of adjacent public areas outside the site ownership boundary including the widening of part of Lad Lane to create a pedestrian footpath with tree planting, removal of 3 no. car parking spaces on Cumberland Road to create a service/ delivery loading zone, a new loading zone on Wilton Terrace for waste collection and provision of a (2 car) set down area on Wilton Terrace and associated relocation of the existing coach parking bay (all subject to the agreement of Dublin City Council);
- Plant enclosures (c. 520 sq.m.) and photovoltaic panels on 7<sup>th</sup> floor roof;
- Public artwork at the south of the site;
- Provision of an ESB substation;

- 31 no. surface level visitor bicycle parking spaces;
- External furniture and lighting to landscaped areas; and
- All associated and ancillary development and site works above and below ground.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Dublin City Council issued notification of decision to grant permission for the proposed development subject to 12 conditions.
- 3.1.2. Condition 4 requires the submission of details relating to the provision of additional screens required for wind impact mitigation at roof level.
- 3.1.3. Under Condition 5, the applicant is required to submit a swept path analysis for buses/ coaches and detailed designs for all works located outside the red line boundary.
- 3.1.4. All other conditions are of a standard nature.

#### **3.2. Planning Authority Reports**

- 3.2.1. The recommendation to grant permission, following submission of further information, reflects the decision of the Planning Authority.
- 3.2.2. Under the assessment of the application within the Planner's Report, it is noted that the new building will range in height from 4 to 8 storeys, and this exceeds the Development Plan height limit of 7 storeys (28m) for this area of the city. However, there is an existing 12 storey building on site and a building of the same number of storeys may be permitted subject to qualitative safeguards, including potential visual

impacts on adjoining residential properties and the historic fabric of the wider conservation area, overlooking, overshadowing, scale, massing and overbearing impacts.

- 3.2.3. The indicative plot ratio for a Z6 zoned site is between 2.0 and 3.0 and the proposed development with plot ratio of 3.89 exceeds this standard. However, the site coverage of 52% is less than the indicative standard of 60% and this is considered acceptable.
- 3.2.4. It is noted that the applicant has submitted a detailed visual impact assessment and it cannot be reasonably considered that the proposed development will detract from the surrounding streetscape.
- 3.2.5. The Case Planner states that while the existing building is of its time, it appears dated and in need of a considerable facelift. It is noted that the existing lower building is visible over a wide area and could be described as visually distracting from the amenity of the canal and conservation area. The adverse visual impact of existing mobile phone antennae on the roofscape is also referred to. It is the Case Planner's opinion that *"the existing building is of no architectural merit; it bears no relationship to the canal or surrounding streetscape with an awkward visually discordant arrangement to the front of the site with existing car park access and surface parking."*
- 3.2.6. It is stated that the new building relates more to the site context and street edges and provides a sense of enclosure to Cumberland Street and Lad Lane Upper. Reference is made to the approach to the building from Leeson Street Bridge, which is considered to be a major improvement, that will include enhancements to the public realm. The palette of materials is also considered to be visually pleasing, exuding a high quality and opulent finish.

- 3.2.7. In terms of overshadowing, it is noted that there will be a slight increase in early morning time and that this impact will not be any more significant than the existing situation.
- 3.2.8. Further information was sought from the applicant to include details of proposed parking, footpaths, signage, materials and kerb alignments on public roads around the site, as well as the submission of a Wind Impact Assessment.
- 3.2.9. In response, the applicant submitted further information relating to the public spaces around the proposed building, which was assessed by the Roads and Traffic Planning Division (summarised below).
- 3.2.10. The Wind Impact Analysis submitted as further information found that wind conditions around the site are expected to be slightly worse and a number of standard mitigating measures are proposed, including the provision of landscaping and screens.
- 3.2.11. Overall, it is considered that the further information response adequately addresses the initial concerns raised. It is concluded that the proposed building is both welcome and acceptable, and in accordance with Development Plan provisions.

### **3.3. Other Technical Reports**

- 3.3.1. Within the report of the Roads and Traffic Planning Division, it is highlighted that the Environmental and Transportation Department were not consulted prior to the submission of the planning application regarding the proposed amendments to public roads. There are concerns regarding the extent of these works including issues of kerb radii, refuse collection, set down areas, coach parking, pay and display, double lines, loading bays, footpaths, materials and construction management.



3.3.2. There is no objection to the further information response which proposes a drop-off layby and the maintenance of 58m of coach parking. It is considered that the provision of a 1.3m wide footpath along Lad Lane is an improvement over the current situation and is therefore acceptable. No objection was raised to the applicant's response to other further information items.

### 3.4. **Third Party Observations**

3.4.1. A submission from the Department of Arts, Heritage and the Gaeltacht makes the following heritage-related observations/ recommendations:

- Site is located within one of the most architecturally significant parts of the south Georgian area of the city and is surrounded by protected structures lining almost every street in the vicinity.
- Proposed development would have a significant adverse impact on the architectural heritage of the south Georgian area of Dublin; on the setting and visual amenity of a large number of protected structures; on conservation areas and ACA's; and on key views and prospects.
- Fitzwilton House is regarded by a number of architectural history scholars and architects as being a building of architectural merit.
- It is highly questionable if the existing building would ever be permitted today; however, it may be considered a good example from its period and its retention and/ or possible adaptation should be considered.
- Council should refer to its own survey of 20<sup>th</sup> century architecture when considering the relative merits of Fitzwilton House.
- Architectural Heritage Protection Guidelines state that *"the scale of new structures should be appropriate to the general scale of the area and not its biggest buildings."*

- Proposed demolition is at variance with Development Plan policies and objectives regarding the protection of historic buildings and the character of conservation areas and specifically with section 17.10.5.
- Department recommends that any new development should be less physically or visually intrusive than the existing building.
- Visual impact assessment is limited in its analysis – no consideration has been given to the potential impact of the proposed development on views to and from the principal floors of the protected structures in the area.
- Scale of the development may limit the potential for regenerating the residential life of the south Georgian area.
- Department is concerned that a grant of permission would establish a worrying precedent for further over-scaled developments within the historic city and its Georgian quarters in particular.
- Department recommends that a comprehensively revised development proposal for the existing building complex should be brought forward, which should seek to reuse the existing building.

#### 4.0 **Planning History**

4.1. There is no relevant planning history on the appeal site.

#### 5.0 **Policy Context**

##### 5.1. **Architectural Heritage Protection Guidelines for Planning Authorities**

5.1.1. It is stated under Section 13.8.2 that *“new development both adjacent to, and at a distance from, a protected structure can affect its character and special interest and impact on it in a variety of ways.”* In this regard, it is noted that *“a new development could also have an impact even when it is detached from the protected structure and*

*outside the curtilage and attendant grounds but is visible in an important view of or from the protected structure.” It is also stated that “large buildings, sometimes at a considerable distance, can alter views to or from the protected structure or ACA and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure or the character of an ACA.”*

- 5.1.2. It is stated in Section 8.3.66 that *“early mass or reinforced concrete structures will be of interest and should be identified and may often be worthy of protection.”*

## **6.0 Dublin City Development Plan, 2011-2017**

- 6.1. Within the Dublin City Development Plan 2011-2017, the site is zoned “Z6 – Employment/ Enterprise” where the objective is *“to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.”*

Permissible uses set out under this zoning objective include embassy office, enterprise centre, green/ clean light industries, industry (light), science and technology based industry and training centre. Uses open for consideration include office and residential.

- 6.2. It is stated with respect to employment that *“redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to redevelopment in terms of the numbers employed and/or floor space.”* With respect to uses, it is stated that any subsidiary retail or employment uses shall not conflict with the primary aim of Z6 land-use zoning which is to provide for the employment requirements of the city over the Development Plan period and beyond.

- 6.3. The site is within a Conservation Area (red hatching) and adjoining the site to the north is Fitzwilliam Square and Environs Architectural Conservation Area. Development proposals within all conservation areas should complement the character of the area, including the setting of protected structures, and comply with development standards.

- 6.4. Built Heritage is covered in Section 7.2 of the Development Plan. It is a policy of the Council (FC27) *“to seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city”*
- 6.5. Policy FC31 seeks *“to maintain and enhance the potential of protected structures and other buildings of architectural/historic merit to contribute to the cultural character and identity of the place, including identifying appropriate viable contemporary uses.”*
- 6.6. It is an objective (FCO26) of the Development Plan *“to identify and protect exceptional buildings of the late twentieth century, and to categorise, prioritise and where appropriate, add to the RPS, Dublin City Council will produce guidelines and offer advice for protection and appropriate refurbishment.”*
- 6.7. Chapter 4 of the Development Plan, Shaping the City, contains a number of policies and objectives relevant to the proposed development. Policy SC7 seeks *“to protect important views and view corridors into, out of and within the city, and to protect existing city landmarks and their prominence...”*
- 6.8. Section 4.4.4 looks at taller buildings as part of the urban form and spatial structure of Dublin where it is stated that proposals for taller buildings must be sensitive to the historic city centre, the River Liffey and Quays, Dublin Castle, the historic squares and the city canals. It is a policy (SC17) *“to protect and enhance the intrinsic quality of Dublin as a predominantly low-rise city, and to provide for taller buildings in the designated limited locations.”*
- 6.9. Under Section 4.4.9, Urban Form and Architecture, Policies SC30 and SC31 seek *“to promote understanding of the city’s historical architectural character to facilitate new development which is in harmony with the city’s historical spaces and structures”* and *“to promote and facilitate innovation in architectural design to produce contemporary buildings which contribute to the city’s acknowledged culture of enterprise and innovation”*.

- 6.10. Section 9.4.5 relates to the provision of office/ commercial/ employment space where it is recognised that there is a limited supply of the large footplate offices outside of Docklands, Heuston and the suburbs. Policy RE22 seeks *“(i) To promote and facilitate the supply of commercial space, where appropriate, e.g. retail and office including larger floorplates and quantum suitable for indigenous and foreign direct investment headquarter type uses, as a means of increasing choice and competitiveness, and encouraging indigenous and global headquarters to locate in Dublin and (ii) To consolidate employment provision in the city by incentivising and facilitating the high quality redevelopment of obsolete office stock in the city.”*
- 6.11. Assessment criteria for high buildings is set out in Section 17.6.3. The proposed building at 8-storeys would be considered a mid-rise building. With respect to building height it is stated that *“where a site has a pre-existing height over that stipulated above, a building of the same number of storeys maybe permitted subject to assessment against the standards set out elsewhere in the development plan.”* The indicative plot ratio for Z6 employment lands is 2.0-3.0 and the indicative site coverage is 60%.
- 6.12. Section 17.10.5. states that *“in assessing applications to demolish older buildings which are not protected, the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.”*
- 6.13. When assessing development in Conservation Areas (Section 17.10.8.1), consideration shall be given to the effect on buildings and the surrounding environment, both natural and manmade; the impact on the immediate streetscape in terms of compatibility of design, scale, height, plot width, roof treatment, materials, landscaping, mix and intensity of use proposed.

## 7.0 Natural Heritage Designations

- 7.1.1. The site is located approximately 2.5km east of the South Dublin Bay Special Area of Conservation (SAC) and the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA).

## 8.0 The Appeal

### 8.1. Grounds of Appeal

- 8.1.1. Three third party appeals have been lodged against Dublin City Council's notification of decision to grant permission. The grounds of appeal and main issues raised in each submission can be summarised as follows:

*DOCOMOMO Ireland, c/o Shane O'Toole, 8 Merrion Square, Dublin 2*

- DOCOMOMO is an international organisation committed to the documentation and conservation of buildings, sites and neighbourhoods of the modern movement.
- It is the appellant's opinion that the existing building is of such significant architectural merit that its destruction would be contrary to best conservation practice and to the policies and objectives of the Development Plan (in particular FCO26).
- Assessment of application by Planning Authority is incomplete and inappropriate given the architectural heritage concerns raised by the appellants and others including the Department of Arts, Heritage and the Gaeltacht.
- Leading architectural works of the 1960s and 1970s are being rediscovered by a new generation of historians and designers more appreciative of their many fine qualities.

- Principal designer of Fitzwilton House, Emmanuel Shoolheifer, was an architect of considerable skill and several of his contemporaneous London designs have been designated protected structures (Wheatlands Estate and Manygate Lane Estate)
- Sir Basil Goulding was a significant figure in the cultural life of Ireland and his association with Fitzwilton House should be taken into account when assessing the significance of the current building. Goulding's Summerhouse in Dargle Glen was in ruinous condition but was nonetheless added to the Record of Protected Structures and has now been restored – Council should adopt a similar approach with Fitzwilton House.
- NIAH survey now covers the whole of County Dublin apart from Dublin south city and Dun Laoghaire-Rathdown. Fitzwilton House would be a strong candidate for inclusion on a list of structures of architectural heritage significance and the absence of a completed survey places an additional moral responsibility upon planners when considering applications for the demolition of major 20<sup>th</sup> century buildings in the south city.
- Brutalist architecture gets different sociological explanations in different countries – in Ireland it represents the growing self-confidence of the State and its institutions and corporations that first emerged in the 1960s. Ubiquity of style also tells a clear story of technical and artistic momentum.
- There is no other building like Fitzwilton House in Dublin with its structure dominated exterior and playful rhythm of floor slabs expressed on the tower.
- Fitzwilton House is a significant building in the context of Irish architecture of the 1960s and 1970s, and of Irish concrete technology.
- When arriving at a heritage assessment, the current condition of the structure is never permitted to trump the intrinsic quality of the original.

- It would be more than tragic and reckless to lose significant architectural heritage structures now that would likely soon be protected for posterity under NIAH.
- Council has been inexcusably slow to protect the most exceptional buildings of the late 20<sup>th</sup> century and none of the modernist buildings put forward for inclusion in the RPS by heritage groups have been included. At least one of these buildings, French-Mullan House, has been demolished.
- Dublin City Council Pilot Survey of 20<sup>th</sup> Century Architecture for the period 1940-1973 is due for publication next year and Council made no reference to this survey, despite referring to it internally when assessing other applications (Reg. Ref: 2473/12).
- Fitzwilton House may potentially be of special interest under S. 51 of the Planning and Development Act, 2000.
- Application was not referred to the City Architect or the Conservation Officer for comment.

*Ciarán Ferrie, 12 York Road, Rathmines*

- Fitzwilton House is a noteworthy building in the canon of modern Irish architecture and was designed by a significant architect of the time (Shoolheifer).
- Building is a bold expression of modernist architecture with a complex layered façade incorporating at least five different concrete finishes.
- Building is almost invisible from Fitzwilliam Square and by contrast forms a dramatic backdrop to the canal.
- Redesign of unkempt surface car park could engage with the canal bank and reclaim the space from coaches.



- Same dismissive attitude that saw the destruction of so much of Dublin’s architectural heritage in the past is now being applied to the most recent heritage of 1960s modernist architecture.
- Existing building respects the historic urban grain and follows the same orthogonal geometry as the existing houses on Fitzwilliam Place, the mews buildings on Lad Lane, and the more recent apartment and office buildings on Wilton Place.
- Proposed building delivers a north facing triangular landscaped area to Lad Lane surrounded by tall buildings to the south and a convoluted triangular landscaped area to the west which unsuccessfully attempts to conceal the car park entrance.
- It is unreasonable to compare the existing building with internationally renowned works of architecture – building is significant in the context of modern architecture in Ireland in the 1960s and 1970s and should be measured on that basis.
- Proposed development does not appear to have any distinct form and existing building has a clear tower and podium arrangement which forms a striking composition from all sides. It is questionable if the proposed building makes a positive contribution to its setting given its greater bulk and scale, and increased overshadowing of surrounding buildings.
- Significant artworks were commissioned for the existing building.
- It is hard to think of a more unsustainable solution that to demolish a functioning office building and to construct a new larger replacement building on site. Development Plan notes that *“the retention, rehabilitation and reuse of old buildings can play a pivotal role in the sustainable development of the city.”* The One Building on Lower Grand Canal Street, the Bank of Ireland Building on Baggot Street, the former Carroll’s Building on Grand Parade and Cumberland House on Fenian Street have recently been upgraded to marketable office space.

- Overall height of building is just 5m lower than the existing, and lower sections are 5m higher than the existing.
- It would seem a drastic solution to replace an entire building in order to improve the public surface.
- Modernist buildings are equally deserving of the respect as part of the historical fabric of the city – they represent a point in time in the development of the city.
- Replacement building lacks the simplicity of form and architectural coherence of the existing building – it is effectively a design by numbers approach.
- Existing building's 3-storey base block respects the scale of the surrounding historic context and is counterpointed by an elegant tower as a bookend to the vista from Baggot Street Bridge.
- Proposed building is a bulky, amorphous assembly which overwhelms the scale of the adjacent mews lane. Use of shear glass walls in large blocks creates a form which looks and feels much more imposing than the existing structure.
- New building will be of indeterminate form and does little to enhance the urban axis.
- Proposed development constitutes overdevelopment of the site – plot ratio will be increased by 75% and will be well in excess of the Development Plan indicative plot ratio.
- When combined with the increased bulk, the effect of the building height on the urban fabric is considerable.
- We are in danger of stripping the city of the remnants of modernism in favour of a built environment that has more to do with maximising a return on investment.

*Sheila Deane, 8 Rathview, Rathmore, Naas, Co. Kildare.*

- Appellant is the owner of No. 11 Lad Lane Upper which is situated to the north-west of the appeal site – appellant intends to move to this property.
- Proposed office development is not a mixed use development and therefore materially contravenes the policies of the Development Plan – office is only open for consideration and proposal goes against the overall strategic aim for these lands which is to create science and technology based parks with a mix of uses.
- Applicant should be asked to clarify if the plot ratio calculation includes the area of public realm – if the red line is reduced back to the site itself, the plot ratio will be even higher. Section 17.4 of the Development Plan cannot be relied upon to justify a higher plot ratio – site does not adjoin a major public transport terminus or corridor and there is not a mix of uses.
- Mews development along Lad Lane is only 2-storeys and there is an abrupt transition in scale up to 4 to 8 storeys with a separation distance of only 7m. Mews dwelling and appeal site are all within a conservation area and the mews dwellings are within the curtilage of protected structures.
- Tall element of the proposed building is almost double the width of the existing 12-storey element and low rise element of existing building allows sunlight and daylight access to properties along Lad Lane Upper. Increase width of building will block appellant's sunlight access on a permanent basis.
- Shadow diagrams submitted by the applicant appear very crude and unorthodox – existing and proposed buildings appear distorted and unnatural.
- Proposed development will appear as a dominant and imposing structure looming over No. 11 Upper Lad Lane, resulting in an overbearing impact. Angled nature of southern element will also increase the height relative to existing development.

- Wind Impact Assessment finds that the northern part of Lad Lane will be worst affected and effectively rates this part of the public realm as being not worthy of proper protection. This area already suffers from shadow impact and provision of one extra tree is not going to have any material impact.
- Length of construction period will have a devastating impact on the appellant's ability to continue letting her property to tenants. It is unclear how Lad Lane will be accessed and when the surface works will be carried out. Car parking on Lad Lane will also be unavailable during construction.
- Letter of consent from Council suggests that Lad Lane could be sold off to the applicant in future.
- No dilapidation survey was submitted with the planning application.

## 8.2. Planning Authority Response

- 8.2.1. In response to the appeal submission, it is considered by the Planning Authority that the assessment provided in the Planner's Report still stands and that the proposed development, subject to conditions, is consistent with the proper planning and sustainable development of the area.

## 8.3. Other Party Responses

- 8.3.1. The applicant's agent responded to the third party appeal with the following comments:
- Existing building significance – existing building is not a good example of Brutalism. Berkeley Library in Trinity College is a good example and has been added to the Record of Protected Structures.
  - Architect of the existing building is of interest but not of note and concrete finishes are not of note in Irish terms. Some concrete surfaces are poorly executed.

- Artworks commissioned for the building are no longer there.
- Interesting features including use of fanned brackets, an externally expressed structure, expression of a double storey and podium tower typology have been realised in a less than optimum manner. Expression of the fanned brackets looks rather compromised.
- Application of mullions is arbitrary and frivolous for a building of otherwise rational form being of no structural reference.
- Combination of irregular lengths, angled aspect and poor foreground give rise to a jumbled and complex base to an otherwise simply conceived set of forms – to be worthy of preservation, a modern building needs to be successful as a whole.
- Fitzwilton House was not amongst the buildings proposed for addition to the Record of Protected Structures in 2010 and once again it has not been included within the Draft 2016-2022 Plan for inclusion in the RPS. The appellants also did not nominate the building for inclusion.
- Dublin City Council Pilot Study of 20<sup>th</sup> Century Architecture has not been published and has no current status in planning.
- Applicant commissioned various studies which conclusively prove that the existing building is simply not amenable to modern office use or conversion to residential. Social, environmental and economic sustainability also have a significant bearing on whether the retention of a building is sustainable.
- Recent commercial history of the building is one of waning rental values, reduced market demand and under-occupancy. Examples of refurbishment of 20<sup>th</sup> century buildings cited by the appellant have distinct differences that render upgrades to Class A office space feasible, most notably, greater floor to ceiling heights.

- Carbon impact of the proposed building will be less than half of that of a refurbished option per person served and is clearly the best environmental solution for the site. Building also achieves a 60% water saving relative to the existing building. Current building has a BER Rating of C3 and the proposed building will be A3.
- The existing use of the site is 100% office and the Z6 zoning objective is *“to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.”* Proposal was also reviewed within the context of Policies RE22, RE2, RE3 and RE4.
- Development Plan (S. 17.5) expressly states that quantitative standards, such as plot ratio, are intended to be indicative only.
- The new building form and scale are derived from the immediate building context – façade echoes elements of adjoining buildings and 2-storey high glass blades set a rhythm and provide sun shading and light patterns across the façade.
- Existing building does not reflect the historic urban grain comprising building line along the canal frontage – proposed building responds to the historic grain from all angles in the form of three wings aligning with the site context.
- Proposed building is set back 5m on Lad Lane Upper, and at the level above, the building is set back 2.25m. There is a 5m set back at the corner of Cumberland Road rising to 5 storeys and 9.4m at 6<sup>th</sup> and 7<sup>th</sup> storeys.
- Lowering of ground floor to street level creates active frontages and public interaction, and high quality paving, street lighting and tree planting the length of Lad Lane will activate this space socially.
- Sentiment that Fitzwilton House represents an eyesore is shared by the vast majority of local residents and businesses involved in the consultation process.

- Proposed building will have complex layering and lightness of touch whilst maintaining the three distinct forms and avoiding the “bulky, amorphous assembly” mentioned by the appellant. “Shear glass” massing is behind fins fragmented further through the use of shadow box spandrel panels.
- Magnitude of overshadowing impacts on No. 11 Lad Lane would only be minor in nature. Proposed scheme is broadly in line with BRE Guidelines and care has been taken to minimise impact on the neighbouring environment.
- Design is more sensitive to heritage and avoids being overtly monumental or a landmark, which the existing building inappropriately does. Development provides better townscape, edge condition and street enclosure without being overbearing.
- Lawson criteria for wind impact used – ‘business walking’ conditions are not uncommon around buildings similar to the proposed and existing. Widening of Lad Lane will allow for tree planting to mitigate wind impact and canopy will deflect wind as it descends into Lad Lane.
- Technical notes relating to access, turning, noise and dust were circulated to residents to address concerns during the construction period.
- Parking along Lad Lane will be unavailable during construction; however, applicant will make available the same number of spaces to property owners at Wilton Terrace.
- There is no intention or desire for the applicant to acquire ownership of Lad Lane.
- Costs associated with redevelopment to an appropriate standard requires that floorspace is optimised.
- Contextual failure – Fitzwilton House makes no attempt to engage with its context and results in the immediate environs feeling isolated and unsafe in the evenings and night time.

- Retention and refurbishment - Building is unsuited to continued office use or office conversion and has no prospect of commercially viable residential conversion.

8.3.2. A supplementary opinion on the existing building prepared by an architect accompanies the appeal response. It is considered herein that the existing building is neither architecturally distinguished, nor fit for purpose. The main points raised in this submission are as follows:

*Site use*

- Filtzwilton House discards its most important boundary, the richly varied linear form of the Grand Canal - this disturbs urban harmony and focuses the building's main attention onto a secondary street (Cumberland Street).
- The building's inappropriate dominance of the skyline from across the canal amplifies its out of kilter geometry, disconnecting it from its setting.
- The building is extremely tight on Lad Lane, reducing its status to a service route. The deep continuous concrete spandrel runs the full length of the building in contrast to the finely modulated rhythm of the mews opposite.

*Architecture of the existing*

- The building was designed during the late modern period in the architectural style known as Brutalism; however, apart from the location of the structural columns in the front floor slabs and their finish in board marked concrete, the connections with Brutalism are superficial.
- There is a lack of celebration and consistency in the use of the various textures of exposed concrete.
- Window spandrels and termination of precast concrete window mullions succeed in creating a strong horizontal break but the device belongs to a facadist approach.



- Structural grid of the lower wings is not fully aligned with that of the tower and the cage like appearance of the excessively narrow spacing at external corners of the podium block contributes to an impression of defensiveness and remoteness from context.
- Flying buttress support fans require ad hoc remodelling at internal corners of the podium and appear incongruously and out of scale at the external corners.

#### *Office workplace*

- The generation of 1960s and 1970s offices are unable to cope with the seismic shift into the information technology age. Insurmountable problems include:
  - A building which is only fit for isolated cellular type usage.
  - Floor to ceiling heights together with solid wall spandrels make for unsatisfactory daylight penetration to workplaces.
  - Rigid separation between horizontal floor layers works against social contact – there is an absence of access to appropriate external landscaped space.

#### *Proposed building*

- Proposed building addresses each of the very different boundaries and its wings enclose a series of shared external and internal vertical spaces.
- Building on the site perimeter, the clearly articulated façade on Wilton Place restores a sense of place, responds sensitively to its landscape and creates a clear and strong main entrance.
- Strongly modelled building line on Lad Lane, punctuated with a sunken landscaped courtyard, works together with its increased width to provide rhythm, visual interest and a human scale.

- Changing building setbacks in line with varying heights and the resultant profile variation to parapet lines, creates visual interest and break down the building mass in harmony with neighbouring buildings.
- Glazed fins on external wall are designed in complex and changing assembly formation to meet the high performance requirements of the interface between inside and outside conditions – materials combine to create a rich visual sophistication.
- Floor plates are adequately dimensioned and carried to accommodate changing typologies of office and planning settings – building will increase visual communication, provoke social interaction and foster creativity.

#### 8.4. Observations

8.4.1. There are a total of 7 no. observations on the appeal. The main points raised in each, avoiding repetition, are as follows:

*The Pembroke Road Association, 57 Pembroke Lane, Dublin 4*

- No scale model of the proposed development has been provided – this would permit an assessment of winter sunlight. It is believed that the new building will diminish the amount of sunlight in Wilton Place, Lad Lane and the banks of the canal.
- The full-time resident population is rising in the vicinity of Wilton Place and the requirement for high quality small parks is of paramount importance.
- Observers object to the introduction of any basement that is deeper than the existing – weight of building will cause disruption to water table level and settlement problems in the foundations of historic buildings. Water table is rising and there will be flood surges in the coming decades.

- Engineer's Report simply addresses the tanking of the basement of the building itself and not the repercussions to surrounding properties that can take 10-15 years to materialise.
- Addition of a building of this bulk and scale should take into consideration a 100 year timescale.
- Views from the nearby protected structures have not been demonstrated – new building will be very dominant over adjacent protected structures.
- Proposed development is in contravention of Section 4.4.4.1 of the Development Plan which states that *“in particular proposals for taller buildings must be sensitive to the historic city centre, the River Liffey and Quays, Dublin Castle, the historic squares and the City Canals.”*
- 3-storey plinth serves to respect heights in Lad Lane; however, height of up to 30m dominating an early 19<sup>th</sup> century mews lane of stone walls and arches will be overbearing – there must be a way of bringing light from the canal side of the development through to Lad Lane.
- Shadow study does not show shadow and light patterns for the winter months – tunnel experience and wind effects will exaggerate the effects of uncomfortable enclosure.
- Observer is not opposed to the principle of developing the site but any development should take into account the visual and environmental impacts on the surroundings.

*Philip O'Reilly, 18 Grosvenor Place, Rathmines, Dublin 6*

- Every age of architecture should be represented in the city – there has been widespread destruction of 1960s and 1970s architecture in recent years. At least six major buildings from the 1970s have been demolished in the city centre south side in the last three years.

- Fitzwilton House is one of the tallest buildings in the city of its era and is presented as a most unusual design with complicated vertical forward stone columns and recessed windows and glass panels – there is nothing like it anywhere and it is worthy of preservation.
- Fitzwilton House has stature and character and is a most unusual design using a uniformity of materials throughout its many elevations and facades.
- Building is perfectly capable of being refurbished and upgraded and a matching smaller building could be constructed to one side if increased footprint is required. Proposed development represents environmental waste and destruction of the city's heritage.
- Proposed building will be enormous and will constitute significant overdevelopment of the site – it will cause severe overlooking and overshadowing.
- Development Plan states that priority should be given to conservation and preservation of the existing building infrastructure over demolition and rebuild.

*Killian Fitzgerald, Avatar Audio Post Production, 12 Upper Lad Lane, Dublin 2*

- Observer is proprietor of small recording studio containing sensitive microphones and monitoring systems and located in a quiet, partially residential area within the TV and film production district of the city.
- Resultant noise from 8-month demolition period will be enormous and observer will not be able to conduct business in a professional manner (correspondence from acoustician attached).
- If sound levels exceed the 75 dBA limit imposed by the Planning Authority, observers will insist that works are halted.
- Access to car parking will be made impossible and observer's car parking facility will be inundated with dust and debris from the proposed works.

- Mechanical vibrations will severely affect Georgian buildings closely sited to the proposed works and will make it impossible to operate a professional sound recording business. Observer will also monitor vibrations during construction.
- Observer's business could also be affected by disruption to access, power and communication lines.
- Small businesses are not in a position to relocate elsewhere and face the threat of closure.

*Grandarm Management Company, Court Apartments, Wilton Place*

- Any redevelopment proposal should take account of the social and environmental, and the physical and visual impact of the proposed, together with the impact of demolition and construction and increased density.
- Dual use of commercial and residential should be taken into account to contribute to the ongoing sustainable development of the south inner city.
- Many houses in the Georgian district are changing from office to residential use and the bulk and scale of the current proposal will undermine this.
- Relevant conditions should be attached to any grant of permission relating to the protection of existing structures and the quality of life for existing residents and other users.

*Patrick White & Company Solicitors*

- Observers welcome the demolition of Fitzwilton House and the proposed improvements to the appearance and safety of Lad Lane Upper.
- Lad Lane Upper is currently a grim and intimidating place and is quite unsafe at night time.
- Observers draw particular attention to their support for the widening of Lad Lane, and the incorporation of a footpath area, landscaping, proper lighting, retention of

car parking, incorporation of a turning point, inclusion of a services lift to the new development on Cumberland Road, and car parking access to the development off Wilton Place.

*Sureskills, No. 14 Fitzwilliam Place & 14 Lad Lane Upper, Dublin and Fermagh Properties Ltd, 12 & 13 Fitzwilliam Place and Lad Lane Upper.*

- Applicant's consultations with Observers with respect to mitigation measures and site management arrangements during construction have addressed all concerns raised.
- Observers would like to indicate their support for the proposed development – proposal will result in a high quality development that is fully consistent with the Development Plan.
- Demolition of Fitzwilton House is welcomed, together with the improvements to the appearance and safety of Lad Lane Upper.

*An Taisce*

- Observer is concerned about the recent proliferation of planning permissions for the premature demolition of structurally sound and reusable commercial buildings dating from the 1960s to 1980s – it is more sustainable to keep the existing structure and adapt it to meet modern standards and requirements.
- Sustainability is the central objective of the Development Plan – thermal performance can be upgraded and adjustments can be made to comply with universal access.
- Projected energy consumption savings of a new building will never overcome the massive environmental footprint of its demolition and replacement.
- Paragraph 16.1.1 of the Development Plan states that *“to minimise the waste of embodied energy in existing structures, the reuse of existing buildings should always be considered as a first option in preference to demolition and new build.”*

- Fitzwilton House is also architecturally interesting and a rare example from the period – its demolition is irreconcilable with sustainable development.

## 8.5. Further Responses

8.5.1. The following is a summary of the third party responses following cross-circulation of the first party appeal response:

*Philip O'Reilly, 18 Grosvenor Road, Rathmines*

- Fitzwilton House is a most unusual and characteristic 1960s building which forms a very important part of the city's architectural heritage. It has a very open and visible setting.
- Many buildings of the 1960s and 1970s made no attempt to engage with their context.
- Building has been in office use for 40 years and failure to find a modern solution to the use of the building is because there is no desire to succeed.
- It is irrelevant how many different types of concrete or number of brackets were used – building has its own style and was not relating to anything else.
- Site layout and landscaping is not a justification for demolition – the fact that Fitzwilton House was not included in the Record of Protected Structures was an oversight.
- If demolition of the building were to be refused, as was the case with Liberty Hall, there is no doubt that a new use would be found for this building.
- The Board has refused permission for the demolition of unlisted buildings on many occasions on the grounds of setting, character and architectural features, notwithstanding that such features were not of outstanding significance.

- Any option to upgrade the existing structure must completely respect the existing character of the building – a hybrid proposal would destroy the character and setting of the building.

*Sheila Deane, 8 Rathview, Rathmore, Naas, Co. Kildare.*

- Applicant has failed in any meaningful manner to engage with the issue raised by appellant regarding mix of uses on site – applicant is providing 100% office use which is only deemed ‘open for consideration’.
- Key aim of the zoning objective is to create science and technology type development with a mix of subsidiary uses rather than large-scale, speculative office development.
- A significant increase in the indicative plot ratio for the site of 30% cannot reasonably be considered *de minimus* and clearly represents a material departure from the Development Plan. Development Plan also states that an increase above indicative plot ratio is only allowable in certain circumstances.
- Applicant’s agent has made no attempt to justify the rationale behind an abrupt transition from 2-storey buildings along Upper Lad Lane. Proposed development is of enormous scale, particularly at lower levels where the bulk and mass extend out to the edge of the site.
- Applicant has not provided any additional shadow study which focuses on No. 11 Lad Lane – shadow impact is essentially a generic blur in terms of its graphic representation. Considerable shadow impact is shown on no. 11 at 10am (21<sup>st</sup> March).
- No analysis of overbearing impact on No. 11 Lad Lane has been provided – central angled element which extends onto Lad Lane Upper for 6 storeys directly opposite No. 11, at a closer proximity than the edge of the current building, will have an increased dominant and overbearing impact.



- Although Lad Lane will be widened at ground level, the front first floor level up will in fact be closer to the buildings along Lad Lane.
- Provision of some trees and a canopy are minimal and will not fundamentally improve the wind impact along this street
- Loss of rental income will come from the fact that it is highly unlikely the appellant's existing tenant will stay in situ during the construction period and from the inability to attract a new tenant to live beside a large construction site.
- Dilapidation survey should take place prior to planning and results should be circulated to all residents for inspection.

*Ciarán Ferrie, 12 York Road, Rathmines*

- That Fitzwilton House is the only extant example of the architect's work is significant and highlights the need to protect it.
- Record of Protected Structures is very heavily weighted towards older structures with few buildings from the second half of the 20<sup>th</sup> century included.
- There is an elegance in the existing building that it hard to detect in the proposed building.
- It is difficult to make a proper comparison with other 20<sup>th</sup> century buildings being refurbished in Dublin.
- If owner is intending to demolish the building, they are unlikely to have invested in its upkeep and that in itself could be the cause of poor market demand.
- It is appellant's understanding that policy relating to pre-existing height relates to the extension or expansion of existing buildings.
- Scale and massing of proposed building are at odds with the surrounding urban landscape and widths and heights of existing buildings echo the surrounding

building scale – tower element provides a break from the vertical scale in an elegant way that is appropriate to the scale of the adjacent canal.

8.5.2. The applicant's agent responded to the observation by Avatar Studios with the following comments:

- Applicant is happy to abide by the standard conditions relating to noise from demolition and construction activities and is also happy to engage with the Observer.
- No limits are stipulated by the Planning Authority on noise as part of its grant of permission and it is unclear if the 75dBA referred to by the Observer relates to the maximum level recorded over a period or the noise level averaged over an hourly period [LAeq(1hr)].
- Applicant would be happy to work within the normal limits as set out within Table 1 of Transport Infrastructure Ireland's Good Practice Guide on the Treatment of Noise during the Planning of National Road Schemes, 2014, and this could be confirmed through preparation of a pre-construction plan and monitoring arrangements.
- Mews building used for sound recording is located about 13.5m from the development site – this is suggested as a more appropriate location for noise monitoring.
- Application of the suggested bespoke noise condition could make development impossible.

## 9.0 Assessment

### 9.1. Background

- 9.1.1. Planning permission is sought for the demolition of an existing 3 and 12 storey office building with floor area of 8,513 sq.m that was constructed in 1969 in the Brutalist style of modernist architecture. In its place, it is proposed to construct a contemporary office building with heights ranging from 4 to 8 storeys and with a floor area of 17,405 sq.m.
- 9.1.2. Dublin City Council issued notification of decision to grant planning permission and three third party appeals have been submitted against this decision. A total of 7 no. observations on the appeal have been submitted, two of which are broadly in support of the proposed development.
- 9.1.3. The main issues are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. These issues can be dealt with under the following headings:
- Development principle and proposed usage;
  - Significance of the existing building and justification for demolition;
  - Scale, form and design of proposed building;
  - Impact on surrounding architectural heritage;
  - Impact on adjoining amenities;
  - Appropriate Assessment; and
  - Conclusion

## 9.2. Development principle and proposed usage

- 9.2.1. The appeal site is zoned “Z6 – Employment/ Enterprise” where the objective is “*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.*” Z6 zones are intended to create dynamic and sustainable forms of employment in fields such as innovation, creativity, research and development, science and technology, and emerging industries (green/ clean technologies), primarily in an office based and business park setting. Residential and support businesses are seen as subsidiary to the primary use of the Z6 zoning as employment areas. It is also noted in the Development Plan that proposals for development on Z6 lands should provide the opportunity for green infrastructure, landscape protection, public open space and sustainable energy solutions.
- 9.2.2. In addition to the land use zoning objective for Z6 lands, a number of development principles are set out in the Development Plan for these lands. It is stated that there should be a compatible mix of subsidiary uses but that redevelopment proposals should ensure that the employment element is in excess of that on site prior to redevelopment. With respect to mix of uses, it is recommended that there should be an appropriate subsidiary ratio to generate urban intensity and animation.
- 9.2.3. Essentially, it can be assumed there are three main aims for the Z6 zoning which in order of priority are employment creation, subsidiary mix of uses and promotion of green technology/ infrastructure. The proposed development will generate more than double the quantum of office floor space at this site and an older office block will be replaced with a modern building with high energy performance standards. The justification for demolishing the existing block will be looked at in more detail below; however, I consider that the proposed development satisfies the primary objective of the zoning, which is to facilitate long-term economic development, whilst contributing to the development of the strategic green network.

- 9.2.4. Where the proposed development might fall short in terms of compliance with the aims and objectives of the Z6 zone is the proposed mono-usage of the building and the absence of a compatible mix of subsidiary uses. A third party appellant submits that office use is only open for consideration under the Z6 zoning and that the proposal goes against the overall strategic aim for these lands which is to create science and technology based parks with a mix of uses.
- 9.2.5. In response, the applicant submitted that the proposed development was also reviewed in the context of other Development Plan policies. Most notably, I refer to Policy RE22 which seeks *“to promote and facilitate the supply of commercial space, where appropriate, e.g. retail and office including larger floorplates and quantum suitable for indigenous and foreign direct investment headquarter type uses, as a means of increasing choice and competitiveness, and encouraging indigenous and global headquarters to locate in Dublin”* and *“to consolidate employment provision in the city by incentivising and facilitating the high quality redevelopment of obsolete office stock in the city.”*
- 9.2.6. The above policy does not relate to one specific type of land use zoning and I would agree that it could be applied to Z6 areas having regard to the overall aim of the zone to foster enterprise and employment creation. The site is limited in terms of area and it may only be realistic to provide office space for the purposes of attracting headquarter type uses. Furthermore, there would appear to be an undersupply of these type of premises in the city. The proposed development would also be in compliance with the second part of this policy if it is considered that the existing building is obsolete.
- 9.2.7. Overall, I would be satisfied that the proposed use is broadly in compliance with the zoning objective and is therefore acceptable in principle. I shall give further consideration of the principle of demolishing the existing building below.

### 9.3. Significance of the existing building and justification for demolition

- 9.3.1. Two third parties have appealed the proposed demolition of the existing building on the grounds of its architectural merit and that it represents a good example of Brutalist architecture. An appeal by DOCOMOMO<sup>1</sup> states that Fitzwilton House is a significant building in the context of Irish architecture of the 1960s and 1970s, and of Irish concrete technology. It is considered that there is no other building like Fitzwilton House in Dublin with its structure dominated exterior and playful rhythm of floor slabs expressed on the tower. Furthermore, the appellant highlights that this type of Brutalist architecture in Ireland represents the growing self-confidence of the State and its institutions and corporations that first emerged in the 1960s.
- 9.3.2. Another appellant emphasises that Modernist buildings represent a point in time in the development of the city and are equally deserving of respect as part of its historical fabric. It is submitted that we are in danger of stripping the city of the remnants of modernism and that the same dismissive attitude in the past saw the destruction of so much of Dublin's architectural heritage.
- 9.3.3. From the outset, it should be noted that the existing building is not a protected structure. It is an objective (FCO26) of the Development Plan *“to identify and protect exceptional buildings of the late twentieth century, and to categorise, prioritise and where appropriate, add to the RPS, Dublin City Council will produce guidelines and offer advice for protection and appropriate refurbishment.”* A number of 20<sup>th</sup> Century buildings in Dublin are designated as protected structures. It would appear,

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<sup>1</sup> International organisation committed to the documentation and conservation of buildings, sites and neighbourhoods of the modern movement.

however, that Fitzwilton House has not been put forward for consideration to be designated a protected structure in the Draft Development Plan<sup>2</sup>.

- 9.3.4. It is stated in the current Development Plan that the National Inventory of Architectural Heritage (NIAH) survey may result in further revisions to the RPS. In addition, there is a policy within the Amended Draft Development Plan (CHCO3) which seeks *“to review and consider the recommendations on the National Inventory of Architectural Heritage as part of the conservation strategy to review the Record of Protected Structures...”*. It should be noted that the NIAH survey does not yet cover Dublin south city where the appeal site is located.
- 9.3.5. Notwithstanding the above, Section 17.10.5 of the current Development Plan states that *“in assessing applications to demolish older buildings which are not protected, the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.”*
- 9.3.6. There are three issues to be addressed: whether it is feasible to reuse/ retain the building; the quality of the architecture of the building; and its impact on the surrounding streetscape. Reference is also made to the contribution the existing building makes towards the sustainable development of the city and at this point, I consider that it is pertinent to appraise the sustainability of demolishing the existing building and replacing it with a new building.
- 9.3.7. A third party appellant considers that the demolition of a functioning office building and its replacement with a new larger building represents an unsustainable solution for the continued use of the site. An observation from An Taisce comments that it is

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<sup>2</sup> Elected Members officially adopted the Dublin City Development Plan, 2016-2022 on 23rd September 2016 and this Plan comes into effect on Friday 21st October, 2016.

more sustainable to keep the existing structure and adapt it to meet modern standards and requirements. Sustainability is a principal objective of the Development Plan and it is considered that the reuse of existing buildings is a central principle of sustainable development. In this regard, it is submitted that the projected energy consumption savings of a new build will never overcome the massive environmental footprint of its demolition and replacement. Reference is made to paragraph 16.1.11 of the Development Plan which states that *“to minimise the waste of embodied energy in existing structures, the re-use of existing buildings should always be considered as a first option in preference to demolition and new-build.”*

9.3.8. A Sustainability Report was submitted with the planning application which concludes that the proposed building design significantly exceeds Building Regulations in terms of primary energy consumption and carbon dioxide emissions. It is stated that the proposed development offers a building that will consume approximately 50% less primary energy than the existing building. The carbon payback of the proposed development relative to refurbishment is calculated at 9 years, and over the 60 year life of the building, the carbon impact will be half that of a refurbishment solution per person served.

9.3.9. The applicant has considered four options for the site over the past number of years to include complete refurbishment for office use; refurbishment of the tower block with new office block replacing the existing annex building; and refurbishment of existing building for residential use. It was concluded that the vast scale of structural remedial works, landscaping and re-servicing works, coupled with the reduced floor area means that a retention and refurbishment proposal does not represent an economically sustainable solution. The option for partial retention and new build includes retention of the tower element as Class B office space and construction of an adjoining Class A office entailing demolition of the western wing. The applicant did not expand upon the reasons for disregarding this option other than to say that there are inherent issues preventing the upgrade of Fitzwilton House to Class A



office space. Conversion to residential use was also discounted on the basis of insurmountable difficulties, presence of sub-optimal units and unsustainable cost.

9.3.10. From a sustainability viewpoint, it would appear the applicant has demonstrated that demolition and reconstruction is justified. A part demolition proposal may have the benefit of retaining the tower element of the existing development; however, as pointed on by an appellant, any hybrid proposal may destroy the character and setting of the existing building. The proposed development will be a highly sustainable modern office building that will be developed having regard to best practice in terms of environmental impact. A refurbished building would still have low floor to ceiling heights and the issue of thermal bridging and air leakage would persist, thereby producing a worse fabric performance than a new build. Due consideration should also be given to the fact that the proposed building will have an increased occupation density in a highly accessible city centre location. This may have the effect of reducing urban sprawl and commuting to more remote business park locations. Another important factor is the improved levels of well-being that will be afforded to the occupants of a new building constructed to modern standards.

9.3.11. Returning to the issue of the significance of the existing building, there may still be justification for retaining Fitzwilton House notwithstanding its environmental performance, if the Board decides that the it is worthy of preservation. Many historic buildings are designated protected structures and obviously they were constructed at a time when environmental performance was less of a consideration. As noted above, a number of appellants consider that the existing building is significant in the context of modernist Irish architecture. Whilst not its primary concern, An Taisce also consider that the Fitzwilton House is architecturally interesting and a rare example of the period. The Department of Arts, Heritage and the Gaeltacht stated within a submission to the Planning Authority that a comprehensively revised proposal for the existing building complex should be brought forward, which should seek to reuse the existing building. The Department had concerns regarding the

proposed demolition of a mid-late 20<sup>th</sup> century building regarded by a number of architectural history scholars and architects as being a building of architectural merit.

- 9.3.12. I would be in agreement that the existing building on site is certainly of its time and may be considered a unique example in an Irish context of Brutalist architecture. The building has some of the hallmarks of this style of architecture including an exposed and raw concrete exoskeleton, repetition of elements and a large scale. There is a distinctiveness in the sense that the structure has a vertical emphasis when many buildings from the modernist period in Dublin are horizontal in appearance. The building also forms its own setting in a triangular site rather than appearing in a row or on a corner.
- 9.3.13. I have some sympathy that we are in danger of removing what now is being recognised as an important part of the historic fabric of the city. Many modernist buildings have been replaced in recent times and unfortunately there does not appear to be an up-to-date inventory of remaining buildings from that period, and particularly those from the Brutalist movement. This makes it difficult to compare Fitzwilton House with other modern buildings in the city and to quantify its potential loss. Whilst this form of architecture was deeply unpopular in the past, there is now a recognition of its qualities and of its place in the evolution of building forms. Similar to other nearby buildings, and indeed the predecessors on the site itself, buildings often become appreciated after they are demolished. However, when Georgian buildings were demolished in the past, there was at least a substantial stock remaining and it is unclear if this is the case with good quality Brutalist buildings.
- 9.3.14. Having regard to the above, I would firmly be of the belief that the most exceptional Brutalist buildings in the city should be preserved. However, I am of the view that Fitzwilton House contains a number of significant flaws that affect the overall composition and quality of the building and its surroundings.

- 9.3.15. The building has a very imposing entrance onto Cumberland Road. In my opinion, this is its most impressive view. Unfortunately, this façade is onto a secondary street with lower levels of pedestrian footfall and passing traffic meaning that it is underappreciated. The entrance is also overshadowed by the building itself. Fitzwilton House essentially turns its back on the Grand Canal and the left over surface level car parks to this frontage also present a poor image and usage to a southern aspect. The appearance from the canal frontage is adversely affected by the former access ramp to a one time above-ground floor car park, which has now been converted into office use. The ramp is currently used for pedestrian access and appears oversized and odd.
- 9.3.16. In general, the building does little to enhance the surrounding public realm. There is a dead frontage to Lad Lane Upper and this laneway becomes very uninviting at evening and night times. The building scale, and even its materials and finishes, exert a dreary and dark influence over Lad Lane Upper, which could otherwise form part of an attractive low trafficked pedestrian and cycle route.
- 9.3.17. With respect to the building itself, there appears to be discrepancies between the spacing of mullions along the building facades, and in my opinion, this irregularity compromises the overall building design. The tower element of the building has regular spacing between vertical elements, where fenestration appears in groups of three over three levels. However, there is no apparent pattern to the mullion spacing within the podium element of the building and this creates disunity and an unsettling relationship between tower and podium elements of the building.
- 9.3.18. Overall, I consider Fitzwilton House to be a distinctive building but not an exceptional one. There are certain redeeming features that may render the building worthy of preservation. However, I concur that the building has a negative impact on the immediately surrounding public surfaces. In my view, the tower element of the building has some architectural merit, but the relationship between tower and podium

is poorly executed. An attempt was made to continue the verticality from tower to podium but the irregular mullion spacing at podium level is at odds with the tower. As noted by the applicant, other notable podium/ tower buildings have a clear horizontal vertical distinction. Finally, I would be in agreement with the applicant that the building is not of any special interest under any of the assessment categories for architectural significance set out in the Architectural Heritage Protection Guidelines.

9.3.19. Having regard to the above, I consider that the demolition of Fitzwilton House is justified subject to an assessment of the suitability of the replacement building. The building is of some historic, architectural, cultural, artistic and/or local interest but fails to contribute to the character and identity of surrounding streetscapes and the sustainable development of the city.

#### 9.4. **Scale, form and design of proposed building**

9.4.1. The proposed redevelopment is unusual for the fact that the replacement building will be lower than the original. The existing tower on site is 12 storeys (38m) and the podium is 3 storeys (12m). The proposed building will range from 4 storeys (17m) to 8 storeys (33m). The bulk of the building, however, will increase significantly with the existing floor area of 8,513 being replaced by 17,405 of office floorspace. Density, site coverage and plot ratio will therefore increase substantially. In particular, plot ratio at 3.89 will be above the indicative rate of between 2.0 and 3.0, as set out in the Development Plan for Z6 zoned lands.

9.4.2. It is stated in the Development Plan that maximum height standards shall have precedence over the indicative plot ratio. The appeal site is not within an area identified as appropriate for high buildings. Within the inner city, the maximum height outside identified areas will be 7 storeys for office development. However, it is also stated in the Development Plan that *“where a site has a pre-existing height over that stipulated above, a building of the same number of storeys may be*

*permitted subject to assessment against the standards set out elsewhere in the development plan.”*

- 9.4.3. There is concern from an appellant that the proposed building is a bulky, amorphous assembly which overwhelms the scale of the adjacent mews lane. Reference is made to the use of shear glass walls in large blocks and the potential to create a form which looks and feels much more imposing than the existing structure. It is submitted that the existing building's 3-storey base block respects the scale of the surrounding historic context.
- 9.4.4. Another appellant, who is a property owner along Lad Lane, states that the mews buildings are only 2-storeys and there will be an abrupt transition in scale up to 4 to 8 storeys with a separation distance of only 7m. In addition, it is noted that the tall element of the proposed building is almost double the width of the existing 12-storey element.
- 9.4.5. The impact of the proposed development on surrounding residential amenity is assessed in more detail below. Hereunder, the scale, form and design of the proposed building within the surrounding built environment is assessed having regard to the surrounding heights, separation distances and uses.
- 9.4.6. There is a 6-storey apartment block to the north-east of the proposed development and the separation distance will be approximately 12m. The height of the element of the proposed building facing this direction will be 7-storeys. Beside the apartment block to its south-east is Wilton Park House, a 7-storey office block overlooking a small triangular shaped park. The main view of the proposed building along the canal will be seen in the context of the adjoining Wilton Park House, and whilst the proposed building will sit closer to the canal corridor, there will nonetheless be similarities in scale between these buildings.

- 9.4.7. As noted, the greatest transition in terms of scale will be along Lad Lane. There will be a 4-storey southern wing set back from the front boundaries of the mews properties by distances of between approximately 15m and 25m. However, the presence of a triangular landscaped surface level open space will actually increase the separation distances in this area. The main impact will arise from the 8-storey element rising at a height of 33m across a width of 26m and at a distance of c. 7m from the mews boundary. This element replaces the existing tower at the same approximate location. The tower rises to a maximum height of 42m and is as wide as 14m.
- 9.4.8. Overall, I consider that the main increase in terms of bulk will be observed from the canal frontage. The open aspect in this direction is capable of accommodating a building of increased scale and it will be a positive outcome that the proposed development will address this frontage. The scale of the building from this direction is also broken down into three elements with the main entrance set back between wings.
- 9.4.9. The relative bulk of the proposed building may have been decreased further by increasing the high part to a height similar to the existing building and by lowering other elements of the proposed building. This may also have made the building more distinctive. However, as noted in more detail below, the purpose of the reduction in height is so that the building will not be visible from Fitzwilliam Square.
- 9.4.10. The proposed building design has a number of distinctive features such as prominent pointed corners that mimic the triangular layout of the site. Vertical fins over one storey and traversing two storeys would also appear to make reference to the existing building. Building materials will be reflective and bright and will be in contrast to the dull concrete appearance of the existing building. The design will be contemporary in appearance and this is consistent with a number of other canal fronting buildings in the vicinity.

9.4.11. In general, I would be satisfied that the scale, form and design of the proposed building is appropriate for its setting both within its immediate context and when viewed widely along the canal. I consider that the proposed building, with the use of setbacks and changes in parapet height, has been designed in such a way that it will integrate successfully with its surroundings without appearing monolithic and overly bulky.

9.4.12. In terms of visual impact, I noted from my site visit that there are only a select number of views of the appeal site and these would appear to have been covered in the visual assessment of the proposed development submitted with the planning application. The building will be largely invisible from further along the canal in both directions owing to its curvature and the presence of substantial tree planting.

#### **9.5. Impact on surrounding architectural heritage**

9.5.1. The appeal site is located within a conservation area and on the edge of the Fitzwilliam Square Architectural Conservation Area. There are protected structures aligning Fitzwilliam Place to the north-west and on Mespil Road on the opposite side of the canal. The proposed development would also be visible within the context of protected structures along Leeson Street to the west. As noted within a submission to the Local Authority by the Department of Arts, Heritage and the Gaeltacht, the surrounding area would be considered an architecturally significant part of the historic city.

9.5.2. The Department in its submission was of the opinion that the proposed development would have a significant adverse impact on the architectural heritage of the south Georgian area of Dublin; on the setting and visual amenity of a large number of protected structures; on conservation and architectural conservation areas; and on key views and prospects identified in the Development Plan. There is concern that the proposed form of the development would result in a significant increase in massing and bulk.

- 9.5.3. When assessing development in conservation areas, it is stated in Section 17.10.8.1 of the Development Plan that “...*consideration shall be given to the effect on buildings and the surrounding environment, both natural and manmade; the impact on the immediate streetscape in terms of compatibility of design, scale, height, plot width, roof treatment, materials, landscaping, mix and intensity of use proposed.*”
- 9.5.4. It is stated within the Architectural Heritage Protection Guidelines that “*the scale of new structures should be appropriate to the general scale of the area and not its biggest buildings. The palette of materials and typical details for façades and other surfaces should generally reinforce the area’s character...*”. Furthermore, The Guidelines recognise that “*large buildings, sometimes at a considerable distance, can alter views to or from the protected structure or ACA and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure or the character of an ACA.*” It is also highlighted, however, that “*the construction of new buildings of a high quality contemporary design within a historic area can be successfully achieved.*”
- 9.5.5. It is evident from the photomontages submitted with the planning application that the proposed building will be most apparent from the canal frontage, at Leeson Street Bridge and between Georgian terraces either side of the Cumberland Road/ Fitzwilliam Place junction. For the most part, the before and after images show little change in terms of increased bulk from these locations. It appears that the greatest divergence in terms of increased bulk will be along the canal and even along this corridor views will be restricted by mature trees.
- 9.5.6. The conservation area designation around the appeal site relates to the canal corridor, as well as the Georgian areas to the east and west. The architectural conservation area designation splays from the appeal site to the north. I consider that the proposed development, with increased landscaping will have a positive impact on the surrounding natural environment of the canal corridor conservation



area. In terms of the impact on the surrounding designated conservation area and ACA streetscapes and views, I do not envisage a significant alteration in terms of scale. Photomontages taken from between the Georgian terraces either side of Cumberland Road and from Leeson Street Bridge show a similar scale of building from this angle. As noted above, any increase in bulk will be most perceptible from the immediate context to the south.

- 9.5.7. In my opinion, it is also significant that the closest protected structures on Fitzwilliam Place face away from the appeal site and indeed there is a strip of Z1 zoning (mews buildings on Lad Lane) buffering the site from the Z2 zoning applying to the protected structures along Fitzwilliam Place. There will also be a degree of physical separation between the protected structures on Mespil Road to the southern side of the canal corridor.
- 9.5.8. The top floors of the existing tower are currently visible from Fitzwilliam Square, which is the smallest of five Georgian Squares in Dublin and the centrepiece of Fitzwilliam Square ACA. The open space in the centre of this square is privately owned but is open to the public on occasion for events. The top of the tower is also visible through foliage from the western side of the square on Pembroke Street. The proposed development at a lower height will eliminate any view of modern development above the rooftops within the south-eastern corner of the square. In my opinion, this will bring about significant improvement in the way the square is viewed internally from an architectural heritage viewpoint.
- 9.5.9. In summary, I consider that the bulk of the proposed development will be mostly perceived from the wider canal corridor where an increase in scale can be accommodated without forming an obtrusive feature. Views from within the context of surrounding architectural heritage will not be significantly altered from the existing and in the case of Fitzwilliam Square, will be significantly improved.

## 9.6. Impact on adjoining amenities

- 9.6.1. An owner of a mews dwelling on Lad Lane has submitted a third party appeal relating principally to the impact of the proposed development on her/ her tenant's residential amenities. Observations have also been received from three business owners on Lad Lane, one of which objects mainly to the impacts of the proposed development during the construction phase, and the others emphasising their support for the proposed development, particularly the improvements to the public realm along Lad Lane Upper.
- 9.6.2. The third party appellant is concerned with the potential overshadowing on her property from the proposed development, as well as overbearing impacts. The effects of wind tunnelling and the duration of the construction period have also been raised as issues. In addition, an observer is concerned that construction noise may impact on the operation of his sound recording business on Lad Lane.
- 9.6.3. With respect to overshadowing, it would appear from shadow diagrams that the appellant's property will be the property most affected. However, it is shown that the additional overshadowing only occurs at 10am on the survey day of 21<sup>st</sup> March and by 12pm the main shadow has passed northwards to a similar location than the shadow cast by the existing building. Some additional overshadowing will be caused by the 4-storey element of the proposed building, but again, by midday this shadow will have mostly passed.
- 9.6.4. In terms of overbearing impacts, I consider that it is reasonable in this case to measure the proposed development against the existing situation. I accept that the highest part of the proposed development will have an increased width compared to the existing tower. However, this will be offset somewhat by materials on the façade that will be brighter and more reflective.

- 9.6.5. Two observers welcome the demolition of Fitzwilton House and the proposed improvements to the appearance and safety of Lad Lane Upper. It is submitted that Lad Lane is a grim and intimidating place and is quite unsafe at night time.
- 9.6.6. On balance, I would be of the view that proposed landscaping, surface treatments and widening of Lad Lane will outweigh any additional adverse impacts associated with the proposed development. Any increased overshadowing or overbearing impacts, or impacts from increased wind tunnelling will not, in my view, be of significance.
- 9.6.7. I recommend the attachment of a condition to any grant of permission requiring the applicant to submit a construction management plan to the Planning Authority for written agreement prior to commencement of development. Such a plan should contain details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- 9.6.8. Other observers had concerns with the proposals to excavate to lower basement level and the potential impact on the water table. This is a matter that could be monitored during the construction phase. I note that the Drainage Division of the Local Authority had no objections to the proposed development subject to conditions.

## 9.7. **Appropriate Assessment**

- 9.7.1. The EU Habitats Directive (92/43/EEC) requires competent authorities to review planning applications and consents that have the potential to impact on European designated sites, i.e. Special Protection Areas (SPA's) and Special Areas of Conservation (SAC's).
- 9.7.2. The South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA are the closest European sites located at close as 2.5km east of appeal site. Significant ground excavation will be required during the construction phase of the

proposed development. However, the site is not connected hydrologically to any of these sites.

- 9.7.3. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.8. **Conclusion**

- 9.8.1. In conclusion, I consider that the benefits of the proposed development exceed any argument for retaining and refurbishing the existing building. I recognise that Fitzwilton House is a distinctive building of its time but is not without its faults. The building is outdated and has insufficient floor to ceiling heights by modern standards. Most significantly, the building exerts a negative influence on the immediately surrounding environment.
- 9.8.2. The proposed development will see an improvement and enhancement of the surrounding public realm and the provision of a greater quantity of high quality office floorspace in a highly accessible city centre location. The applicant is targeting a certified environmental performance of Platinum through the Leadership in Energy and Environmental Design environmental assessment method and this will give rise to a building of high environmental performance that will create a comfortable environment for future occupants.
- 9.8.3. There are a number of other improvements that may accrue from the proposed development including the potential to attract headquarter type uses; removal of views of the existing building from Fitzwilliam Square; better orientation towards the canal; and reduced car parking and increased cycle parking.

## 10.0 Recommendation

10.1. I recommend that planning permission should be granted, subject to conditions.

## 11.0 Reasons and Considerations/ Reasons

Having regard to the “Z6 – Employment/ Enterprise” zoning objective for the site, to the pattern of development in the area and the proposal to provide modern, high quality office floorspace, together with the design, layout and scale of the proposed building and its location fronting onto the Grand Canal, it is considered that, subject to compliance with the conditions set out below, the proposed development would be compatible with the provisions of the Dublin City Development Plan, 2011-2017, would not adversely or materially impact on the character or architectural significance of the conservation area designation it forms part of, nor would it seriously injure the visual amenities of the area or residential amenities of properties in the vicinity. 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, as amended by the further plans and particulars submitted the 6<sup>th</sup> day of May 2016, 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. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted and agreed in writing by the Planning Authority.

**Reason:** In the interests of orderly development and the visual amenities of the area.

3. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission. Details of proposed screens required for wind impact mitigation at roof level shall be submitted for the written agreement of the Planning Authority.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

4. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.

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

5. Provision shall be made for cycle access from Wilton Terrace onto Lad Lane Upper. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation and safety.

6. The road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park shall

be in accordance with the detailed standards of the planning authority for such works.

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

7. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the employer. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Details of construction times;
- (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (c) Location of areas for construction site offices and staff facilities;
- (d) Details of site security fencing and hoardings;
- (e) Details of on-site car parking facilities for site workers during the course of construction;

- (f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (g) Measures to obviate queuing of construction traffic on the adjoining road network;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (j) Provision of parking for existing properties at Lad Lane Upper and Cumberland Road during the construction period;
- (k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

9. Water supply and drainage arrangements, including the disposal of surface water, shall otherwise comply with the requirements of the Planning Authority for such works and services.



**Reason:** In the interest of public health and to ensure a proper standard of development.

10. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity

11. The Landscape Masterplan, as submitted to the planning authority on the 6<sup>th</sup> day of May, 2016 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

12. Comprehensive details of the proposed lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development are made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

13. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme,

providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before the proposed development is made available for occupation.

**Reason:** To provide for the future maintenance of this private development in the interest of visual amenity.

14. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

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

Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Donal Donnelly

Planning Inspector

4<sup>th</sup> October 2016