



An  
Bord  
Pleanála

## Inspector's Report PL29S.247393

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|-------------------------------------|--|
| <b>Development</b>                  | Retain existing office building to the front; demolish existing structures to the rear and replace with a 5-storey over basement office extension; change the use of an existing 4-storey office extension to 3 apartments; café at basement and ground floor level. |
| <b>Location</b>                     | 16-18 Pembroke Street Lower and Windsor Place, Dublin 2.   |
| <b>Planning Authority</b>           | Dublin City Council  |
| <b>Planning Authority Reg. Ref.</b> | 3152/16  |
| <b>Applicant(s)</b>                 | Plaza on the Square Ltd  |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Grant permission   |
| <b>Type of Appeal</b>               | Third Party  |
| <b>Appellant(s)</b>                 | Patrick Donegan  |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 11 <sup>th</sup> January 2017  |
| <b>Inspector</b>                    | Karla Mc Bride   |

## 1.0 Site Location and Description

- 1.1. The appeal site is located at Pembroke Street Lower opposite the N corner of Fitzwilliam Square on the south side of Dublin City. The surrounding area is characterised by a mix of commercial, institutional and residential uses and there are a large number of Protected Structures in the vicinity.
- 1.2. The “L” shaped site comprises two 4-storey office buildings that extend from Pembroke Street Lower to Windsor Place which are connected by an above ground level 2-storey wing. The building that fronts on to Pembroke Street Lower dates from the 1950s and it is bound on either side by no. 51/52 Fitzwilliam Square West and no.14/15 Pembroke Street Lower which are both Protected Structures. The 4-storey building to the rear of the site dates from the 1970s, it is bound by two residential terraces at Windsor Place and Mackies Place to the N, and by an office complex at Windsor Court to the W. Vehicular access to the site via an existing ramped access off Pembroke Street Lower which forms part of the existing building, and via Windsor Place to the N which serves the two terraces and the Windsor Court office complex.
- 1.3. Photographs and maps in Appendix 1 describe the site and surroundings in more detail.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise:
  - (a) Office accommodation formed by:
    - The demolition of existing structures to the rear (c.723sq.m) and their replacement with a new 5-storey over basement extension of c.2,487sq.m.
    - The retention of the existing 4-storey structure fronting Pembroke Street Lower (c.1, 272sq.m), with the existing fourth floor level reconstructed and extended, retaining a set-back terrace to the E.
    - Removal of the vehicular ramp off Pembroke Street Lower.
    - Provision of 36 cycle parking spaces.
  - (b) A café / restaurant facing Pembroke Street Lower at ground and lower ground floor levels (c.255sq.m) with a terrace to the rear on both floors.

(c) Change of use of the existing 4-storey block at Windsor Place from office to residential (3 x 2-bed units) on each of the three upper floors, car and cycle parking, entrance lobby and new lift shaft to the N elevation.

The total gross floor area would be 4,065sq.m, on a 1,375sq.m site of which 807sq.m would be demolished, 1, 540sq.m would be retained and 2, 614sq.m would be new build.

The application was accompanied by the following documentation:

- Planning Report
- Conservation Comment
- Engineer's Report
- Specifications for Demolition Report
- Mechanical and Electrical Services Report
- Mobility Management Plan
- Waste Management Plan
- Shadow Analysis Drawing

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Following the receipt of Further Information in relation to the café and residential uses and the design of the rear elevation at ground level, the planning authority decided to grant planning permission subject to 21 standard conditions.

Condition no. 3 required the omission of the top floor of the proposed building as per Drawing no. 325-P-02-02, in its entirety in the interest of visual amenity and heritage.

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

#### **3.2.1. Planning Reports**

The Planning Officer recommended that planning permission be granted.

### 3.2.2. Other Technical Reports

Road Department: No objection subject to conditions.

Waste Management Division: No objection subject to conditions.

Drainage Division: No objection subject to conditions.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland: Comply with Council requirements.

### 3.4. Third Party Observations

Several submissions from property owners in the vicinity which raised concerns in relation to Protected Structures, Georgian Core and the ACA; conservation and design; overdevelopment; impact on residential amenity; traffic generation and congestion; noise and disturbance; and unviable residential use.

## 4.0 Planning History

There is an extensive planning history on the appeal site and the most relevant cases to the current appeal are summarised below.

**Reg. Ref: 2245/16 & PL29S. 246463:** Permission **granted** for the change of use from offices to hotel. Works included the demolition of structures to the rear, retention of the structure fronting Pembroke Street Lower and the construction of a new extension (c.3, 590sq.m). The works included an enlarged fourth floor level with set-back terrace fronting Pembroke Street that was omitted by way of Board condition no.2 which stated:

The top floor of the proposed building (proposed fourth floor, as indicated on Drawing Number 254-P-02-02 received by the planning authority on the 15<sup>th</sup> day of February, 2016) shall be omitted in its entirety. Revised drawings

providing for this omission shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to protect the integrity of vistas from within the south city Georgian core including views from within and across Fitzwilliam Square.

**Reg. Ref: 2845/13 & PL29S.242667** Permission **refused** for change of use from offices to hotel. The works included the demolition of structures to the rear, retention of the existing structure fronting onto Pembroke Street Lower and the construction of a new extension to the rear. The area of retained and proposed buildings would be 5,140sqm. The reasons for refusal stated that the proposal would constitute overdevelopment and adversely impact upon the character of the Conservation Area and the setting of nearby Protected Structures; and the absence of a detailed Servicing Management Plan would seriously injure the amenities of the area.

**Reg. Ref: 4199/08:** Permission **granted** for an office and residential scheme at nos. 16-18 Pembroke Street Lower and nos. 51-52 Fitzwilliam Square West (PSs). The works would comprise the demolition and continued use of office floorspace and the provision of an additional 5,078sqm of office and residential floorspace, resulting in a total floorspace of 6,200sqm, including the provision of a new residential block fronting Windsor Place/Laverty Lane with access off Windsor Place. Duration of permission extended until 2019 under Reg. Ref.4199/08/x1.

**Reg. Ref: 4295/07 & 29S.225863** – Permission **refused** for an office and residential scheme at no.15 Pembroke Street Lower and nos.51-52 Fitzwilliam Square West (PSs) comprising the refurbishment of nos. 51 and 52 and the change of use from an office building to 2 x 5-bedroom residential units, the provision of a new 4 storey residential block to the rear of nos. 51 and 52 and the provision of a new pedestrian link between Windsor Place and Laverty Court. The reason for refusal related to the proposal being overly dominant and intrusive, adverse impact on the character and setting of the nearby protected structures and conservation area.

## 5.0 Policy Context

### 5.1. Development Plan

The proposed development would be located within an area cover by two separate zoning objectives in the Dublin City Council Development Plan 2016 to 2022.

**Z8 - Georgian Conservation Areas:** The front section is covered by Z8 which seeks “To protect the existing architectural and civic design character, and to allow for only limited expansion consistent with the conservation objective.”

- Permissible Uses include offices (excluding banks) and residential.
- Uses Open for Consideration include restaurants.

Section 14.8.8 states that offices may be permitted where they do not impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices.

**Z1 - Sustainable Residential Neighbourhoods:** The rear section is covered by Z1 which seeks “To protect, provide and improve residential amenities.”

- Permissible Uses include enterprise centres, residential & training centres.
- Uses Open for Consideration include restaurants.

**Compatible uses:** Section 14.4 states that uses not listed under the ‘permissible’ or ‘open for consideration’ categories will be deemed not to be permissible uses in principle in zones Z1 and Z8.

**Transitional Zone Areas:** Section 14.7 states that the land-use zoning objectives and control standards show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately

mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties.

**Built heritage:** The entire site is located within a Conservation Area and the Fitzwilliam Square Architectural Conservation Area, and the adjacent properties along with most of the other buildings in the vicinity are Protected Structures.

**Restaurants:** Section 16.29 states that the positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised..... and the following will be taken into consideration:

- The effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents
- Traffic considerations
- Waste storage facilities
- The number/frequency of restaurants and other retail services in the area

**Development standards:** Chapter 16 contains the following relevant standards.

| Indices             | Standard   |
|---------------------|--|
| Plot ratio (Z1)     | 0.5 – 2.0  |
| Site coverage (Z1)  | 45% – 60%  |
| Plot ratio (Z8)     | 1.5  |
| Site coverage (Z8)  | 50%  |
| Apartment size      | 73sq.m. per 2-bed unit   |
| Private open space  | 7sq.m. per 2-bed unit  |
| Communal open space | 7sq.m. per 2-bed unit  |
| Car parking         | 1 per 400sq.m (offices)<br>1 per dwelling<br>None (cafes)          |
| Cycle parking       | 1 per 100sq.m (offices)<br>1 per dwelling<br>1 per 150sq.m (cafes) |

## 5.2. Natural Heritage Designations

The following NPWS designated areas are located within a 5km radius of the site:

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)
- South Dublin Bay pNHA (Site code: 000210)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The Third Party appellant, Mr Patrick Donegan, is an occupier of nos. 51-52 Fitzwilliam Square West which adjoins the appeal site to the SW.

#### ***Zoning objectives:***

- The issue of zoning has not been properly addressed, nor has the potential adverse impact on nos.51-52 in relation to the construction phase and the café use, and the residential component is fundamentally flawed.
- Proposal is located within the highly sensitive and internationally important Georgian core and redevelopment of the site cannot be at the expense of the character of the Georgian area.
- The Board has ruled that two previous proposals for the site would give rise to overdevelopment and also raised concerns in relation to servicing, these form an important baseline against which to assess the current proposal.
- The site is partly zoned Z8 (conservation) and Z1 (residential), office use is permissible in the Z8 portion subject to a maximum of 40%, however more than 40% would be provided in material contravention of the Plan.
- Office use is not permissible or open for consideration in Z1 and the proposed office use to the rear materially contravenes the Plan; any argument that there



is existing office space on the site is null and void once the existing office space is demolished, as S.15.8 of the Plan only allows for extensions or improvements to existing non-conforming uses and not rebuilds.

***Impacts on nos.51-52:***

- Nos.51-52 comprise two Georgian office buildings with car parking to the rear that is served by Lavery Court, this site formed part of the access to the extant permission on the larger site that incorporated nos. 51-52, and there is no access to the current proposal site via Lavery Court.
- Adverse impacts on business operations at nos.51-52 during construction and operation by way of noise and disturbance and the need for a monitoring programme is noted; the absence of a dilapidation survey also raises concerns in relation to the impact of excavation and construction works.

***Café use:***

- The café/restaurant could result in the creation of a large public house subject to a special restaurant licence being granted with resultant adverse impacts on nos.51-52 by way of noise and disturbance; and Condition no.9 which relates to noise would be unenforceable.

***Residential use:***

- Question the commercial viability of the residential component and the provision of an elevator to serve 3 apartments; the balconies look directly down to the balcony below; inadequate access for fire trucks; substandard second means of escape; and insufficient private and communal open space.
- Request the Board to refuse planning permission.

## **6.2. Applicant Response**

***General:***

- The Board has dealt with a number of applications for the site and recently granted permission for a hotel under Reg. Ref. 2245/16 (PL29S.246463).

- The PA previously permitted a larger scale of redevelopment under Reg. Ref. 4199/08 (extended to 2019) than currently proposed which comprises a mix of office and residential uses on a larger site.
- The proposal has a plot ratio of 2.96:1 and a site coverage of 66% in line with Plan standards and this appeal does not raise any further issues in relation to overdevelopment which is therefore not considered to be an issue of concern.
- The issue of hotel servicing does not apply to this mixed use office and residential scheme.
- A previous footprint and envelope of mixed use office and residential development is currently permitted on the site which forms a key planning parameter in the assessment of the proposed development, and this was acknowledged in the Boards consideration of subsequent appeals.
- The current physical form of what is now proposed has been significantly reduced in scale in comparison to the extant office-residential scheme and is therefore well within the parameters established by the extant permission.

***Zoning objectives:***

- The recently adopted Development Plan does not contain a 40% restriction on office floor area in Z8 zones, offices are permissible provided they do not “impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices”; the issue of overconcentration does not arise having regard to the office use of the site since the 1970s and the previously permitted extant office scheme on the site.
- Any encroachment onto the Z1 residential zone to the rear replicates the pre-existing office use on this part of the site since the 1970s and the previously permitted extant office scheme; furthermore, uses such as training centres and enterprise centres which are similar to offices are permissible uses, and the proposal would not materially contravene the Z1 zoning objective.

***Impacts on nos. 51-52:***

- Any future construction related impacts on the neighbouring businesses at nos.51-52 are exaggerated, they will be short term and can be mitigated of by way of good site management and planning conditions; there would be no

new operational impacts because of the existing long established office use; no structural impacts are envisaged, a dilapidation is an unusual request and any related disputes would be a legal and not a planning issue.

***Café use:***

- Permission was sought for a café/restaurant at ground and lower ground floor levels; any future changes will require planning permission; and restaurant licensing relates to a separate legal code and is not a planning issue.
- Condition no.9 which deals with external music noise, is a commonly used condition for café/restaurants.

***Residential use:***

- The issue of commercial viability, fire truck access and means of escape are not planning matters and will be subject to the fire safety certificate process.
- The well located balconies will exceed 8sq.m.; communal open space is not required for 3 units located close to Merrion Square and St Stephen's Green.

Request the Board to uphold the decision of the planning authority.

**6.3. Planning Authority Response**

- No new issues raised.

**6.4. Observations**

- None received.

**6.5. Further Responses**

- None received.

## 7.0 Assessment

The main issues arising in this case are:

1. Principle of development
2. Visual amenity and heritage
3. Residential amenity
4. Access and parking
5. Other issues

### 7.1 Principle of development

The appeal site is covered by two separate zoning objectives in the Development Plan 2016-2021 which divide the site diagonally. The front section of the site is zoned Z8 which seeks “To protect the existing architectural and civic design character, and to allow for only limited expansion consistent with the conservation objective.” Offices are listed as permissible provided they do not impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices, as stated in Section 14.8.8 of the Development Plan. The rear section of the site is zoned Z1 which seeks “To protect, provide and improve residential amenities.” Offices are not specifically listed as being permissible however similar uses such as enterprise centres training centres are. It is noted that Section 14.4 of the Plan states that uses not listed as “permissible” or “open for consideration” will be deemed not to be permissible uses in zones Z1 and Z8.

The proposed mixed use development would be located in a city centre area which is characterised by a mix of commercial, institutional and residential uses and it would be immediately adjacent to the Fitzwilliam Square Architectural Conservation Area. The neighbouring Georgian properties to the NE and SW comprise mainly commercial uses. The adjacent site to the rear W at Windsor Court contains a contemporary office complex within the Z1 zone. The existing vacant office buildings on the appeal site, which date from the 1950s and 1970s, also have the benefit of

two extant planning permissions for offices under Reg. Ref: 4199/08 (which has been extended by the planning authority until 2019) and hotel use under PL29S. 246463 (which runs until 2021). The lands covered by Reg. Ref: 4199/08 also incorporated the neighbouring site to the SW at no. 51/52 Fitzwilliam Square West.

Having regard to the commercial character of the surrounding area, including the existing office uses on the adjacent sites to the NE, W and SW which lie within the Z8 and Z1 zones, the existing and long established office use of the site, and the existence of two extant planning permissions for commercial use on the site, I am satisfied that the proposed development would be acceptable in principle. As it is not proposed to demolish the building that fronts on to Pembroke Street Lower there would be no significant change to the physical relationship between the appeal premises and the neighbouring Georgian buildings and adjacent Architectural Conservation Area. However, the potential visual impacts will be assessed in more detail in section 7.2 below. The proposed café/restaurant use along Pembroke Street Lower would be compatible with the Z8 zoning objective, and the proposed change of use from offices to apartments in the rear N section of the site would be compatible with the Z1 zoning objective.

The proposed development would be located in close proximity to two small low rise residential terraces to the N at Mackies Place and Windsor Place which lie within the Z1 zone. Section 14.7 of the Development Plan states that: - it is important to avoid abrupt transitions in scale and use between zones; it is necessary to avoid developments that would be detrimental to the amenities of the more sensitive zone; and that particular attention must be paid to the use, scale, density and design of proposals in order to protect the amenities of residential properties. It is noted that the proposed mixed use development would be located on a site that is currently occupied by two interconnected 4-storey office blocks and that the residential component would be located within an existing 4-storey building adjacent to the neighbouring residential terraces. The proposed mixed use development would therefore be acceptable in principle subject to an assessment of potential impacts on residential amenity, which will be undertaken in in section 7.3 below.

## **7.2 Visual amenity and heritage**

The proposed development would be located within a Conservation Area and immediately adjacent to the Fitzwilliam Square Architectural Conservation Area. The front section of the site is covered by the Z8 zoning objective which seeks “To protect the existing architectural and civic design character, and to allow for only limited expansion consistent with the conservation objective.” Almost all of the buildings around Fitzwilliam Square and along Pembroke Street Lower and Upper are designated as Protected Structures. This is with the exception of the appeal premises which contains buildings that date from the 1950s and 1970s.

There have been several planning applications in recent years to redevelop the appeal site which are summarised in section 4.0 above. The two most relevant cases are PL29S. 246463 for a hotel in 2016, and Reg. Ref: 4199/08 for a mixed use office/residential scheme in 2008, which also included the neighbouring site to the SW at no.51/52 Fitzwilliam Square West. Both schemes comprised the retention of the building that front onto Pembroke Street Lower and the demolition of the structures to the rear. The permitted works also included their replacement by a hotel extension (c.3, 590sq.m) and an office/residential extension (5,078sq.m). As previously stated the extant hotel and mixed use office/residential mixed use planning permissions run until 2016 and 2021 respectively.

The proposed development would comprise the retention of the existing 4-storey 1950s building that fronts on to Pembroke Street Lower. The existing fourth floor level would be reconstructed and extended in a manner that would retain a set-back terrace to the E. The proposal would also comprise the demolition of existing structures to the rear and their replacement with a new 5-storey over basement extension (c.2, 487sq.m) along with the change of use of an existing 4-storey block from office to residential in the N section of the site.

Condition no. 3 of the planning authority's decision to grant planning permission for the proposed development required the omission of the top floor of the proposed building in its entirety (proposed fourth floor) as per Drawing Number 325-P-02-02 (copy attached). This omission was required in the interest of visual amenity and to protect the integrity of vistas from within the south city Georgian core including views from within and across Fitzwilliam Square. In the interest of clarity, it is noted that, according to Drawing Number 325-P-02-02, this condition relate to the proposed new fourth floor with set back on top of the existing 4-storey building to be retained along Pembroke Street Lower, although a small section would extend into the proposed new building to the rear. Condition no.3 also takes account of the previous hotel permission granted by the Board under PL29S. 246463 which included an enlarged fourth floor level with set-back terrace fronting Pembroke Street, as indicated on Drawing No. 254-P-02-02 (copy attached). This floor was omitted by way of Condition no.2 for the exact same reason. The dimensions of the front section of the previously omitted and currently proposed fourth floors would have been almost identical in terms of width, depth, height and set back, although the previously proposed fourth floor would have extended over the new building to the rear.

The height of the proposed development, and its height as amended by way of Condition no.3 of the planning authority's decision, would be less than that proposed under Reg. Ref: 4199/08 for a mixed use office and residential scheme on the site. However, it is noted from Drawing no. PL 5003 (copy attached), that the proposed fourth floor over the existing building would be narrower with a greater set back than under the current mixed use and previous hotel proposals. It would also be a set back from the neighbouring properties to the NE & SW which are Protected Structures.

Having regard to the highly sensitive heritage character of the surrounding Georgian area, the Z8 zoning objective for the site, the location of the proposed development within a Conservation Area, and its proximity to the Fitzwilliam Square Architectural Conservation Area and the adjacent Protected Structures, I am satisfied that top floor (proposed new fourth floor) of the existing building that fronts onto Pembroke

Street Lower and which partly extends over the proposed new building to the rear, should be omitted. This would be in the interest of visual amenity and to protect the architectural integrity of the Georgian Conservation area and views from within Fitzwilliam Square.

There would be some minor changes to the front elevation of the existing building along Pembroke Street Lower including the removal of the ramped access to the car park with is positive, and the installation of a new front entrance which is acceptable. The proposed changes are considered acceptable and the proposal would not have an adverse impact on the character or setting of the neighbouring Protected Structures or other heritage features in the area.

The proposed development would also comprise the demolition of existing structures to the rear and their replacement with a new 5-storey over basement extension along with the conversion of a smaller 4-storey building to 3 apartments. These elements of the proposal would be set well back from Pembroke Street Lower, the neighbouring Protected Structures, the Z8 zone and the Fitzwilliam Square Architectural Conservation Area. The new buildings would have a similar design to the retained building to the front in terms of external finishes and window openings, except for the proposed apartment which would have larger windows with balconies on the rear elevation. These arrangements are considered acceptable in terms of visual amenity and the proposal would not have an adverse impact on the character or setting of the neighbouring Protected Structures or other heritage features in the area.

Finally, the proposed development would broadly comply with Development Plan standards for site coverage, plot ratio and height as set out in Chapter 16 of the plan and it would not give rise to an overdevelopment of the site which is located in a sensitive heritage area. It is also noted that the overall height and quantum of floorspace would be substantially less than that permitted under Reg. Ref.41199/08.



## 7.2 Residential amenity

### 7.2.1 Proposed apartments

The existing 4-storey block at Windsor Place would be retained and its use would change from office to residential. Three 2-bedroom units would be provided on each of the three upper floors, with an entrance lobby and new lift shaft to the N elevation. The proposed apartments would broadly comply with the current Development Plan apartment standards in relation to floor area, room size and layout, daylight and sunlight, storage, car and cycle parking, and private amenity space in the form of projecting balconies. The proposed development would not provide for any communal open space which is acceptable having regard to the small number of units and to the close proximity of the scheme to Fitzwilliam Square, Merrion Square and St. Stephens Green, which are all within a short walking distance.

### 7.2.2 Surrounding area

The surrounding area along Fitzwilliam Square West and Pembroke Street Lower is mainly commercial in character although there may be residential units in some of the properties. There are also two small residential terraces located to the N of the proposed development at Mackies Place and Windsor Place. The potential impacts of the proposed development on neighbouring residential amenities therefore requires consideration.

The proposed and retained buildings would be mainly occupied by **offices** over the depth of the entire site. The footprint of the proposed building would be similar to the footprint of the existing building in terms of depth although the central section would be wider in places. The separation distances to the NE site boundary with no.14/15 Pembroke Street Lower would be reduced from c.4.0m to c.3.0m. The distance from the SW site boundary with no. 51/52 Fitzwilliam Square West would be reduced from c.13.5m to 5.0m at ground level and to 8.0m above ground level. The separation distance with the office complex to the rear at Windsor Court would not change.

The proposed offices, which would be separated from the existing residential terraces at Mackies Place and Windsor Place by the existing 4-storey building, would not give rise to any additional adverse impacts on residential amenity by way of overlooking or overshadowing. The existing buildings on the site already contain windows in all of the elevations over most of the above ground floor levels. The proposed development would not give rise to any significant increase in overlooking or overshadowing of the adjoining mainly commercial properties to the NE and SW at no.14/15 Pembroke Street Lower and no.51/52 Fitzwilliam Square West.

The proposed **apartment block** in the N section of the development would occupy the closest position to the residential terraces at Mackies Place and Windsor Place. The apartments would be located within an existing retained 4-storey building and the height of this building would be marginally increased. There would be no significant change to the physical relationship with the neighbouring terraces in terms of overbearance or overshadowing. The absence of windows in the side elevation would protect the terraces from overlooking and loss of privacy, and the proposed projecting balconies would be set back almost 6m from the boundary with the Windsor Court office complex. The rear elevation of the apartment building would contain bedroom and stairwell windows on all three levels. However, the c.20m separation distance from the rear elevation of no.14/15 Pembroke Street Lower would ensure that this neighbouring building would not be overlooked to any significant extent. The proposed apartments would not have an adverse impact on the residential or commercial amenities of neighbouring properties.

The proposed **café/restaurant** would occupy the front SE section of the existing and retained building that fronts on to Pembroke Street Lower at lower ground and ground floor levels. The proposed café/restaurant and existing residential uses at Mackies Place and Windsor Place would be separated by a diagonal distance of c.22m and the proposal would not have a direct adverse impact on amenity. The neighbouring properties along Fitzwilliam Square West and Pembroke Street Lower are mainly characterised by commercial uses however it is possible that some of them may contain residential uses. Having regard to the scale of the proposed café/restaurant and associated outdoor terraces, conditions should be attached to

ensure that the amenities of the surrounding area are not adversely affected by excessive noise and disturbance, particularly during the night time hours.

### **7.3 Access and parking**

The Development Plan requires one off-street car parking space per 400sq.m. of **office** floorspace and none would be provided. However, the proposed development would occupy a city centre location in close proximity to several public transport routes including mainline rail, DART, LUAS and Dublin Bus routes. There are also several car parks in the surrounding area, paid on-street car parking and a Dublin Bikes station nearby. The proposed office development would not give rise to overspill car parking because of the parking restrictions that operate in the area. The proposal would therefore be in keeping with the sustainable development of the City and it would not give rise to traffic generation or congestion. The provision of 36 cycle-parking spaces for the offices is considered acceptable provided that they are located in a safe, secure, sheltered and well lit position on the site.

A total of three car-parking spaces and six cycle-parking spaces would be provided for **residential** use only to serve the three apartment units which is considered acceptable and in accordance with Development Plan requirements. Vehicular and cycle access would be off Pembroke Street Lower via Windsor Place which already serves a number of houses and an office complex. However, the small increase in the number of cars using this route would not give rise to congestion, a traffic hazard or endanger other road users.

There are no off-street car parking requirements for the proposed **café/restaurant** use and none would be provided.

### **7.4 Other issues**

**Appropriate assessment:** Having regard to the long established built up character of the surrounding area and the separation distance with the nearest European site which would be in excess of 2km, the proposed development would not have an adverse effect on the integrity of any sites in the vicinity.

***Disturbance:*** Concerns raised in relation to noise and disturbance during the construction and operational phases could be addressed by way of planning conditions related to construction works and hours of operation. However, issues raised in relation to structural stability are outside the Board's remit.

***Environmental services:*** The arrangements are considered acceptable subject to compliance with the requirements of Irish Water, the planning authority and other relevant agencies.

***Flood risk:*** The site is located outside of an area that is liable to flood and the proposal would not give rise to a significant flood risk in the surrounding area.

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

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

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016 to 2022, and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

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

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

2. The proposed top floor of the existing building that fronts onto Pembroke Street Lower (i.e. the proposed fourth floor as indicated on Drawing Number 325-P-02-02 received by the planning authority on the 17<sup>th</sup> day of June 2016) shall be omitted in its entirety. Revised drawings shall be submitted for the written agreement of the planning authority before development commences.

**Reason:** In the interest of visual amenity and to protect the integrity of vistas from within the south city Georgian core including views from within and across Fitzwilliam Square.

3. Details of the external finishes shall be agreed in writing with the planning authority before development commences.

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

4. Details of the proposed signage and any security shutters shall be submitted for the written agreement of the planning authority before development commences. No further advertisement signs (including any signs installed to be visible through the windows), security shutters, advertisement structures, banners, canopies, flags, other projecting elements or shall be displayed or erected on the buildings, unless authorised by a further grant of planning permission.

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

5. The developer shall comply with the following roads and traffic requirements:
- (i) Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.
  - (ii) The developer shall implement the measures outlined in the Mobility Management Plan and ensure that future tenants of the development comply with this strategy.
  - (iii) One on-street car parking space shall be permanently allocated to each residential unit and number as such. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.
  - (iv) Cycle parking shall be secure, conveniently located, sheltered and well lit.
  - (v) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
  - (vi) The developer shall be obliged to comply with the requirements set out in the Dublin City Council Code of Practice for such works.

**Reason:** In the interest of orderly development

8. The opening hours of the café/restaurant shall be restricted to between 0800hours and 2200hours Monday to Sunday, inclusive of public holidays.  
**Reason:** To protect the residential amenities of the area.
9. There shall be no external speakers and internal speakers located in a position that music played on the premises is audible outside the premise.  
**Reason:** to protect the residential amenities of the area.
10. The management of waste, including storage, recycling and collection, shall comply with the requirements of the Environmental Health Officer and the planning authority, as appropriate.  
**Reason:** In the interest of public health and to ensure a proper standard of development.
11. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.  
**Reason:** In the interest of public health and to ensure a proper standard of development.
12. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.  
**Reason:** To protect the residential amenities of property in the vicinity.
13. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.  
**Reason:** To safeguard the residential amenities of the surrounding area.

14. The developer shall pay to the planning authority a financial contribution of one hundred and two thousand, eight hundred and twenty one euro and sixty nine cent (€102,821.69) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

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

**Reason:** To ensure the satisfactory completion of the development.

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Karla Mc Bride  
Planning Inspector  
18<sup>th</sup> January 2017