



An
Bord
Pleanála

Inspector's Report PL 29S 247442

Development

Demolition of derelict building and construction of five storey over basement apartment complex to include nine apartments and eight carapaces, new 3.5 metre vehicular entrance and pedestrian entrance, roof garden boundaries landscaping SUDS and site works.

Location

53 Percy Place, Dublin 4.

Planning Authority

Dublin City Council

P. A. Reg. Ref.

2873/16

Applicant

Praiano Ventures Ltd.

Type of Application

Permission.

Decision

Grant Permission

Type of Appeals

Third Party against Decision to Grant

Appellants

- 1) Pembroke Roads Association
- 2) Nicola Keogh
- 3) An Taisce
- 4) Jabid Ltd.

Observers

None

Date of Site Inspection

6th January, 2017

Inspector

Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeals	6
6.1. First Third Party Appeal:	6
6.2. Second, Third Party Appeal:	7
6.3. Third, Third Party Appeal:	9
7.0 Assessment.....	18
8.0 Recommendation.....	24
9.0 Reasons and Considerations.....	24
10.0 Conditions	25

1.0 Site Location and Description

1.1. The site which has a stated area of 439 square metres and is located at the junction of Huband Bridge and Percy Place overlooking the Grand Canal and facing towards St. Stephen's Church (the Pepper Canister Church) on Mount Street Crescent. To the east side is a pair of three storey over garden level houses with front gardens railings and granite staircases to the entrances (Nos 49 and 51 Percy Place) and further along Percy Place to the east are two storey over garden level houses with front gardens and railings. An office development is located to the south west. An office block, (Warrington House which was formerly occupied by the Bank of Ireland is to the west side. Development at the rear was under construction at the time of inspection. At the rear of the site is Percy Close, comprising two storey terraced houses with communal parking at the rear of the two three storey houses on Percy Place. A former lock keeper's house, a vacant two storey building is located on the site directly facing the bridge. It was erected with a pedestrian gate and boundary wall and is now enclosed by hoarding along the frontage on the site.

2.0 Proposed Development

2.1. The application lodged with the planning authority on 13th May, 2016 indicates proposals for:

Demolition of derelict building;

Construction of five storey over basement apartment complex to include nine apartments and eight carapaces,

Construction of a new 3.5 metre vehicular entrance and a new pedestrian entrance, and,

roof gardens, boundaries landscaping SUDS and site works.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 26th September, 2016, the planning authority decided to grant permission subject to ten conditions of a standard nature which include a

requirement under Condition No. 3 for submission of a Flood Risk Assessment (FRA) report and under Condition No 4 a requirement for submission of a revised basement layout with minor revisions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning authority in an additional information request issued on 11th July, 2016 sought a sunlight and daylight analysis, an amendment to address concerns about infringement on adjoining property at Nos 51 and 53 Percy Place. A submission comprising a written statement, a sunlight and day light analysis and confirmation that no encroachment on adjoining property would occur was received by the planning authority on 8th September, 2016.

3.2.2. Other Technical Reports

The Roads and Transportation Department indicated satisfaction with the proposed development subject to some amendments to the proposed parking provision for cycles and cars and entrance arrangements at the basement level to be addressed by compliance with a condition.

The Environmental Services Department included a recombination for a flood risk assessment to be carried out, in addition to standard requirements by compliance with a condition.

The environmental Health officer included some recommendations including asbestos removal requirements in his report.

The application was not referred to the Conservation Officer or Architect's department for comments and recommendations.

3.3. Prescribed Bodies

An Taisce in its report of 16th June, 2016 indicates a need for high quality design and compatibility with the existing historic building environment due to the sensitive location and a claim that basement level car parking is contrary to transportation and land-use policies for the city.

3.4. Third Party Observations

- 3.4.1. Observations were received from several representatives of residential and commercial property in the vicinity the concerns about the impact on the sensitive historic location and on adjoining properties due to the proposed height, scale and footprint, objection to the proposed basement carpark and traffic and pedestrian safety and convenience, concerns as to impact on structural stability of adjoining properties.

4.0 Planning History

- 4.1.1. According to the planning officer's report there is no record of any planning history for the site.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022.

The site is within:

- an area subject to the zoning objective: Z1: to protect, provide for and improve residential amenities. A small area at the north east edge is within an area subject to the zoning objective: Z2: to protect, provide for and improve the amenities of residential conservation areas along with the Georgian Houses along Percy Place to the west which are also include don the record of protected structures and, in conjunction with the appeal site a Canal Conservation Area. (Policies and objective for residential conservation areas are in section 17.6 and appendix 10)
- Policies and standards for residential development are set out in Chapter 11 in which there is a requirement for consistency with, "*Internal Layout and Space Provision: Quality Housing for sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*" (DOE, H & LG, 2007) and *Sustainable Urban Housing, Design Standards for New Apartments: Guidelines for Planning Authorities* (DOE, C & LG, 2015)

- The location is within Zone 2 for carpark standards according to which
- Building Height Policies and standards are set out in chapter 16.
- Recommendations for consideration of development in Transitional zonal areas are set out in section 14.7.
- Section G18 provides for protection of important view and view corridors.
- Section 14.7 provides for avoidance of abrupt changes across contiguous transitional zones.
- Building height policies and standards are set out in section 16.7.1 according to which a maximum of sixteen metres (based on an average three metre floor to ceiling height and exclusive of appropriately setback and screened plant flues and lift over runs.) is permitted for residential development in low rise outer city areas.

6.0 The Appeals

6.1. First Third Party Appeal:

6.1.1. An Appeal was received from Siobhain Cuffe on behalf of the Pembroke Road Association on 21st October, 2016. According to the appeal there is no objection in principle to redevelopment of the site. The objections are outlined below:

- The proposed development will diminish the quality of architecture and visas on both side of the canal. (No scale model was submitted.) A recently refurbished building at 30 Pembroke Road is a good example of a successful insertion in the neighbourhood. The use of white/cream finish on the façade is inappropriate for a location opposite Huband Bridge which forms a bookend to the Georgian terrace with the Pembroke District and which forms a vista to and from Georgian streets.
- A basement is unacceptable due to proximity to adjoining structures and the canal. The water table could be affected and flooding could occur in coming decades. These issues are not addressed in the proposal to tank the

building. Developers of the Pembroke state addressed these issues by introduce garden levels for their buildings

- The new building will be stepped forwards of the established building line of the Georgian terrace and its parapet level. The signage is appropriate for a retail development. The external lighting is intrusive for a residential area.
- The return will diminish light to the house on Percy Place. Permission was refused for development at Eastmoreland Place due to loss of light under P. A. Reg. Ref 1364/15.
- Windows will overlook rear gardens of adjoining properties. A redesign is warranted.
- The vehicular access is too wide at 3.6.24 metres and larger than a front garden and in direct line of sight from Huband bridge.
- The Conservation Officer should have been consulted about the application
The proposed development does not satisfy the requirements of the Architectural Heritage Projection Guidelines and contravenes the development plan. Reference is made to section 4.4.4.1 and Objectives FC26 and FC27.

6.2. Second, Third Party Appeal:

6.2.1. An Appeal was received from Nicola Keogh on her own behalf on 21st October, 2016. Ms Keogh states that she is owner occupier of an apartment at Nos 49/51 Percy Place which adjoins the appeal site. According to the appeal:

- The former lock-keeper's dwelling on the site has been an eyesore for several years and there is an opportunity for positive redevelopment. The proposed development fails to deliver improvement to amenity and to the streetscape.
- The planning officer disregarded the 'Z2' zoning objective as the assessment and decision to grant was based on 'Z1' zoning objectives. It should have been considered under the stronger protection of the 'Z2' zoning objective.
- The height, scale, materials, fenestration, roof line, entrance, and overall design and landscaping are out of character with the existing streetscape and

Georgian terrace. The five story building would be overwhelming, would be oppressive, break the building line and rhythm of the terrace and surrounding environment of historic and more recent development. the density and design is unacceptable. The roof terrace and any equipment on it would be very visible in the skyline.

- The building would interfere with protected views. It forms the backdrop to the Pepper Canister Church and would be easily seen and would be detrimental in effect in views from Merrion Square.
- Contrary to the statement by the planning officer in his report, the proposed development does breach the building height criteria as the location is on the outer side of the Canal and over 500 metres from the nearest DART or rail station and 1.49 metres higher than the stipulated 16 metres.
- There is a potential for structural impact on Nos 49-51 Percy Place. The developer at his own expense should carry out a structural engineering study by a conservation expert before construction to ensure no harm to protected structures. This is particularly relevant given the inclusion of the basement carpark. There is a lack of physical gap between the buildings. Owners of protected structures have legal responsibility to maintain their building and there is a need for sufficient access to maintain the gable wall. (of no 51). The revised floor plans, (submitted as additional information) indicates a redesign that closes off the front and rear of the development. This will not facilitate maintenance work and is also a safety issue as regards free airflow.
- Excavation for the carpark and lift could undermine the protected structures and interfere with the underground water table. Excavation near residential property on the record of protected structures in conservation areas is discouraged (section 16.10.15 of the development plan refers).
- The basement level exceeds over 50 per cent of the garden space. Is excessive and detrimental to the residential amenities of the residential conservation area. The proposed metal rolling door mechanism is unsightly and would cause noise nuisance. If accepted, it should be relocated to the far ("Bank of Ireland") side of the building.

- No communal open space or landscaping/planting scheme has been included, and mitigation of the reduction of the capacity to accept storm water is required.
- The roof terraces would give rise to noise ad disturbance.
- Overshadowing of adjoining property would occur. The analysis submitted with the application addresses the lower floors but extended rear balconies will block access to light to bedrooms at No 51.
- The proposed entrance location gives rise to concern about hazardous traffic conditions between vehicles and cyclists especially at rush hour.

6.3. **Third, Third Party Appeal:**

6.3.1. An Appeal was received from McCabe, Durney Barnes on behalf of Jabid Ltd which is the management company for the residential development at Nos. 49-51 Percy Place, adjoining the appeal site on 24th October, 2016 and is outlined below:

- The assessment and decision to grant was based on the Z1 zoning on. It should have been considered under the stronger protection of the 'Z2' zoning objective. The application was not referred to the Conservation Officer and her comments and recommendations should have been sought. The planning officer disregarded the 'Z2' zoning objective.
- The mixed zoning of the site confirms the transitional nature between the protected structures and the modern office buildings to the west and this is provided for in policy 14.7 of the development plan. The most sensitive zoning objective should take precedence.
- The proposed development is in material contravention of material contravention of development plan policies, notably, section 11.1.5.3, 11.1.5.4, Policy CH3 on conservation areas due to the location within a conservation area which it harms, within the envelope of a protected view opposite Huband Bridge, a protected structure, (which provides an elevated view of Percy Place) and adjacent to and near protected structures.

- The proposed development is in to section 11.1.5.6 regarding the setting of protected structures due to height, massing, proportions, roof profile, solid to void ratio, window alignment, breach of the building line and material and finishes. It fails to complement the terraces on both sides of the Canal. The roller shutter door at the entrance and fenestration detail are seriously out of character with the bridge. The protection of the significance and special interest of Huband Bridge and the Pepper Canister Church and the space between them would not be achieved.
- The development is contrary to Policy Objective G18 in the recently adopted development plan (which supersedes Policy SC7) on views and prospects as it would adversely affect the protected views from Merrion Square towards Nos 49 and 59 Percy Place and the appeal site which are in the backdrop of and higher than St Stephen's Church especially in night time light. Impact on the protected view at St Stephen's view was within the reason for refusal of permission under P. A. Reg. Ref. 3885/15 for a six storey development at Warrington House at Mount Street Crescent. This was not addressed in regarding the respect of context in assessing proposals for taller buildings.
- The five storey and 16.49 metre height is higher than the existing protected structures, the two adjoining three storey houses being higher than the others in the terrace and a focal point and higher than permitted in the criteria for higher buildings in section 16.7.2 of the development plan and contrary to the policies for the conservation area., Plant rooms and furniture at roof level may be visible.
- The proposed development breaches the building line directly adjacent to a protected structure an opposite the protected bridge. The elevation sits forward of the building line and above the bank presenting as an overpowering five storey block dwarfing adjacent development in the streetscape in approach from Baggot Street Bridge and Haddington Road. The modified side elevation in the additional information submission does not alleviate the inappropriate massing scale and height and the proposed recesses are out of proportion. A better design solution is to set back the building closer to that of the former bank building. The impression in the drawings which exclude the gates is misleading with regard to the ratio of the

window to the dark stone frieze above and it is assumed that front ground level elevation windows will have blinds This ground floor elevation and roller shutter in close proximity to the street edge is a poor design response.

- There is no justification for the basement which is contrary to the development plan policy to discourage significant underground works near protected structures and in conservation areas. in section 16.10.15. This matter was not addressed in the planning officer report. There is potential for damage to the adjacent protected structures. The entrance is immediately adjacent to the 1840s-building's gable and should have been positioned at the western end of the frontage. The basement carpark is contrary to transportation policy for the central city location where there is public transport availability. At least a structural engineer's report and preconstruction survey to address the adjacent 1840s buildings should have been prepared for the basement in the proposal. An appropriate condition (reproduced in the appeal) was attached to the grant of permission under PL 29N 245385 for an extension with a basement 7.5 metres from a protected structure.
- The development has excessive plot ratio, coverage, height and is overdevelopment with poor amenity for residents at the transitional site. The plot ratio at 3.0 substantially exceeds the development plan standards of 0.5-2.0 The sixty percent site coverage is at the outer limit for the Z1 zone at 45-60 percent and in excess of the limit for the Z2 zone at 45%. The grant of permission under PL 209242 referred to in the appeal cannot be compared to the current proposal. Site coverage was lower, there were four storeys and the development context was quite different and mixed use and active ground floor frontage.
- The proposed development is contrary to good design principles and development plan standards having regard in particular to the protected structures, protected views, conservation area and transitional zoning. It has a poor ground floor elevation, inappropriate entrance of poor design with inappropriate materials, dominant scale and projection from the approach from the west. Dominating the streetscape and obliterating view of protected structures and their setting. Poor roof profiles interfere with and damage the strong parapet line of the Georgian Terrace.

- The proposed development would have adverse impact on the residential amenities of properties at Nos 49 and 51 Percy Place due to:

Noise and nuisance from the use of the basement entrance and roller shutter

Impact on vents in gable wall of No 51 and obstruction of access for maintenance purposes.

Overlooking and noise from the balconies and roof garden of the proposed development.

Loss of sunlight as shown in the sunlight daylight analysis even though the remaining amount may be above the minimum (BRE) standard.

- The proposed development would have adverse impact on the residential amenities of properties Impact on residential amenities at Percy Close.

There is no contiguous elevation in the application submission to address the impact.

The gable end of Percy Close is one metre from the proposed ground floor element.

The 16.49 metres high building will be overpowering irrespective of the setbacks. Rear gardens and windows at Percy Close will be overlooked. Reference is made to a refusal of permission under P 29S 216290 for a development that would be overbearing on existing development.

6.4. Fourth, Third Party Appeal

- 6.4.1. An appeal was received from An Taisce (prescribed body) on 24th October, 2016, in which it is claimed that the proposed development due to poor quality, excessive scale and inappropriate design would have serious adverse impact on the prominent historic setting of the Grand Canal adjacent to protected structures of importance

and to the amenities of residential property. It would be contrary to the provisions of the Dublin City Development Plan, 2011-2017 on protected structures the conservation area and land use zoning. According to the appeal:

- the location has high sensitivity and it has a conservation area designation (Policies FC 41 and section 17.10.8), the Z2 'Residential Conservation Area zoning for part of the site, Huband Bridge, St Stephen's Church, (landmark protected structures) and their setting and backdrop in protected views and other protected structure to which Policy FC 30 refers.
- The proposed development exceeds building height limits for the outer city location (section 17.6.1) and should have subordinate height to Nos 49 and 51 Percy Place which close the view over Huband Bridge.
- It inappropriately projects forward of the established building line and has a 'heavy effect with large windows and inappropriate beige cladding for the area. It fails to promote the historic understanding of the area to be protected according to Policy FC 30 and is a dominant and obtrusive impact on the conservation area and setting of the protected structures.
- It would overlook, overshadow and obstruct access to daylight at adjoining residential development.
- The transitional zoning including the sensitive location as provided for in section 15.9 of the development plan has not been addressed.
- The carpark at basement level is contrary to the land use policies for the central area and the conservation area as is the entrance directly opposite Huband Bridge.
- It is evident in the CGI images that the proposed development was not informed by the overall character and setting in respect of scale, height, design and materials. Permission should be refused. A complete revised proposal is necessary.

6.5. Applicant Response.

A submission was received from Hughes Planning Consultants on behalf of the applicant on 21st November 2016. Attached is a structural engineer's report, samples of building materials and, a letter of support for the proposal prepared by the Mr. Stewart Kenny of Apartment No 12 of No 8 Percy Place. The submission is considerable in length and details and can be outlined briefly below:

- The proposed four storey and setback fifth storey building provides nine apartments with private open space in balconies a roof garden and ground floor gardens, onsite parking for eight cars and nine cycles. It is consistent with the height policies, contributes to the enhancement of the character of Percy Place and consolidation of the city and all development plan requirements and standards and the provisions of section 81 of the Planning and Development Act, 2000 as amended providing for protection of areas and structures of special architectural heritage interest and designation of Architectural Conservation Areas (ACA) although it is pointed out that the area has not been designated as an ACA.
- The proposal accords with policies to make a more compact and sustainable city, minimising wastage of urban land with mixed use developments on well located urban sites including smaller infill sites and Policies SC13 and SC 14.
- A wide range of residential development in sustainable communities is envisaged for the city in the plan. (Policies QH 18, 19 and 20) The proposal is consistent with these policies and is a dramatic and efficient improvement to the current run down nature of the dwelling on the site.
- The planning officer report acknowledges the sensitive setting in considering the proposed development acceptable.
- Zoning:

It is not fully agreed that the site location is in a transitional zone. The planner, owing to the larger site area being in the Z1 zone judged it not necessary to consult the conservation officer. Both the Z1 and Z2 zones provide for sustainable residential communities and the design successful transitions between the modern development to the west and compatibility with

established built form to the east. The plot ratio optimises efficient land use objectives and can be justified and the and site coverage does not exceed the 60 percent indicative maximum for the Z1 zone.

- Height

The development plan allows for higher development in certain locations including the location in what is predominantly a low rise city as there are four and five storey buildings to the south west on Percy Place at an acceptable height and the proposal will not seriously injure the terrace of two and three storey house to the east. This is assessed and acknowledged in the planning officer report. The building height is below the sixteen metre limit for the outer areas at 15.6 metres and the plant and lift shaft are minimised. The fifth-floor setback and step up respects the surrounding buildings.

- Basement.

The claims as to traffic hazard are unfounded and the planning authority is satisfied that there is no potential traffic hazard and the requirements of the Transportation Department on the entrance and basement layout have been addressed.

- Design and Scale.

The proposal is not pastiche. It is a fitting and scaled, contemporary and complimentary infill in form, introduces a modern flavour and identity that links the buildings to the west with those to the east. High quality building materials (samples provided) and Georgian features, (regular window positions, symmetrical rectangular build and horizontal front elevation parapets) are used. The example in the Pembroke Road Association Appeal is not comparable as it was on a more sensitive site location in a mid-terrace with full Z2 zoning. (P.A. Reg. Ref 3535/13, Eaton House at No 30 Pembroke refers.)

The revised west side elevation addresses the original proposed blank façade and it does not detrimentally disturb the building line of the terrace in views in an easterly direction.

- Views:

- With regard to contentions as to impact on protected views and prospects in the appeals the correct protected view in the development plan is from the junction of Merrion Square East and Mount Street Upper and the appeal site is not within this view. The distance between the site location and the junction is 450 metres and has no effect on the view or prospect and the vista is the Georgian Streetscape closed by St Stephen's Church.

The visual context was considered from a number of vantage points and there are limited opportunities from which the development could cause negative impact on the surrounding area.

- Entrance and car parking.
- With regard in particular to the proposed vehicular entrance for the basement lift and carpark, it should be borne in mind that the position which corresponds with that of the adjoining property is relatively far set back from the road frontage. It would not come into streetscape views from the east side and is not dominant in views on approach over Huband |Bridge the eye being drawn upward over the front façade of the building. Appropriate colours of a mute or dark shade compatible with those used for the façade and windows and doors can be used and this can be addressed by condition.
- Access to Light, Overshadowing and Overlooking.

The submitted shadow analysis is acceptable to the planning authority. It indicates little change which is imperceptible to the rooms studied in daylight access in the surrounding area. There is no fenestration in the return section which minimises overlooking of Percy Close and the living rooms at upper floors are seven metres from the boundary of No 6 Percy Close.

- Encroachment.

There is no right of access to the appeal site for maintenance purposes for the adjoining building at No 51 Percy Place. There are no safety considerations to be addressed in relation to contentions in one appeal as to accidents leading to falls into the adjoining property from the proposed roof garden.

- Noise and Disturbance.

Contentions as to noise and disturbance that would affect amenity of No 51 Percy Place are unfounded and entirely speculative and should be disregarded

- Structural Engineering Report.

According to the report included with the submission:

There is no correlation between the canal and the level of water in it and the water table and it cannot affect the proposed basement. The water table is below the level where the soil becomes permanently saturated and the basement is to be tanked. The foundations of the bridge are also remote from the site. The building adjoining the site to the south and a new building at the canal edge have basement carparks similar to the proposed basement.

Normal practice is to investigate by excavation ground conditions and to underpin as appropriate an adjoining structure as far as the level of the basement. The basement plan has been adapted to allow for 1 to 1.5 metres distance from the perimeter of the adjoining protected structure to allow for construction in the event that consent to underpin the adjoining structure may not be forthcoming.

- Supporting statement of Mr. Kenny.

According to Mr Kenny the appeal site is in urgent need for redevelopment and that the proposed contemporary development is distinct appropriate infill, should be encouraged and has massing and height that bookends the Georgian Terrace and, creates transition t between the Georgian terrace and multi storey office buildings.

6.6. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

- 7.1. The four appellant parties are not opposed in principle to redevelopment of the appeal site but have objections to the current proposal over several issues, most of which are common to two or more of the four parties.
- 7.2. The issues raised in the appeals that are central to the determination of a decision can be considered below under the following broad sub-headings:

Strategic policy and development objectives.
Intensity of development.
Impact on established sensitive built environment
Residential Amenities of Future Occupants
Residential Amenities of adjoining properties.

7.3. Strategic policy and development objectives.

- 7.3.1. The site is best considered as a brownfield serviced site adjacent to the central city. While it is clear that the former lock keeper's house which is vacant could be restored and brought back into residential or possible other viable uses, a replacement, high quality more intense development can be fully justified and is warranted having regard to the policies for sustainable consolidation of land use within the city. To this end, the proposed replacement of the existing structure with an apartment development that contribute to building sustainable residential communities is fully justified and the case made in the applicant's submissions to this end with reference to development plan policies and objective is supported. In principle, the parties are unopposed to redevelopment of the site.
- 7.3.2. It can be confirmed from examination of the zoning maps that the majority of the site entirety comes within the area of the Z1: (sustainable residential neighbourhood) zoning objective but that the entire Georgian terrace to the north east side which are included on the record of protected structures comes within the area of the Z2 (residential neighbourhood, conservation area) zoning objective. Both the site and Georgian terrace are within a Conservation Area which is a specific objective of the development plan but is distinct from a statutory Architectural Area as provided for in

Section 81 of the Act. Furthermore, there are protected views towards the location from Merrion Square/Mount Street Crescent.

- 7.3.3. The observations in the appeals as to lack of evidence of consideration of the Z2 zoning objective, conservation area designation and associated objectives and standards and recommendations within the planning officer's report and the concerns about the failure to consult the conservation officer for comments and recommendations are reasonable have been taken into consideration in carrying out a following comprehensive assessment of the proposed development. In this regard the impact on the more environmentally sensitive zone with regard to scale, density and design as required in section 14.7 of the development plan is noted.
- 7.3.4. There is no dispute that the site is transitional in relation to the sensitive location adjacent to historic Georgian Terraces to the north east on both sides of the canal and Merrion Square, Mount Street, Mount Street Crescent crossing over Huband Bridge across the Grand Canal, (the protection of the views of which are subject to a protection) and in relation to the contrasting relatively recently constructed commercial developments to the south west which are interspersed with some residential development. It is necessary for the proposed development to compliment these contrasting characteristics in the environs and appropriateness to the views directly towards the site on approach over Huband Bridge.

7.4. Intensity of Development.

It is accepted that the plot ratio at 3.0 is considerably in excess of the indicative ratio in the development plan whereas the site coverage being at the maximum of the indicative coverage the Z1 zone. It is not agreed that the proposed development should be rejected on the basis of the plot ratio without consideration as to whether it is agreed that the proposed development constitutes overdevelopment and deficiencies in standards. Essential considerations in this regard are as to whether standards are achieved with regard to visual amenity and compatibility with the sensitive built environment and, attainable standards for residential amenity at the proposed development and securing of the existing amenity at adjoining properties.

7.5. Impact on established sensitive built environment

- 7.5.1. The building height at 15.9 metres as indicated on the application drawings with a lift shaft overrun above the parapet toward the rear is consistent with the height

parameters for the location provided for in s 16.7.2 of the plan. However the height is unacceptable when taken in conjunction with the projection forward of the building line of the Georgian terrace and that of the existing lock keeper's dwelling on the site. The proposed building, owing to the height and block form, notwithstanding the vertical emphasis is obtrusive and dominant in views on approach over Huband bridge and on approach from the east, on both sides of the canal and, where it is in view from the west. As such the proposed development undermines instead of integrating with, enhancing and complimenting the adjoining pair of three storey Georgian houses along with the two storey Georgian terrace in views from the above mentioned vantage points.

7.5.2. Given the site location, a new build which potentially reads as a landmark can be favoured provided that it compliments rather than detracts from the established historic built environment as discussed above. The case made as to linkage at the location with the building lines to either side is also acknowledged but there is insufficient capacity for the footprint as proposed to be accepted owing to the dominant impact of the scale, height and form of the block. However, it is considered that this effect can be ameliorated if the if the top floor, (including the roof garden element) is omitted in entirety. As a result, the proposed stepped front building line can be appropriately inserted between Georgian terraced houses and the former Bank of Ireland building.

7.5.3. It is considered that the height reduction and corresponding reduction in mass and proportion results in a building form, which is a compatible insertion into the streetscape at this sensitive and prominent transitional location. Sufficient vertical emphasis and solid to void ratio in the arrangement of fenestration in the facade is retained owing to the stepped front building line. This modification would effectively overcome the overbearing and dominant impact of the gable end on approach along Percy Place from the east. It would also effectively address potential, dominance in height and scale in views on approach along Mount Street towards St Stephen's Church, and from Mount Street Crescent over Huband Bridge and, from both sides of the canal to the west along the Georgian terraced streetscape overlooking the canal. It is of note that the pair of three storey terraced houses adjoining the appeal site come into view as a back drop to St Stephen's Church on approach along Mount Street Crescent. Approaching St Stephen's Church and along Mount Street

Crescent, the reduction in height proposed achieves a satisfactory solution in protecting the visual integrity of the pair of Georgian three storey houses.

7.5.4. The modification would result in the omission of the top floor apartment as a result of which eight apartments would be accommodated within the building. There is no objection to the proposed materials, including the sample provided by the applicant, and finishes, including the entrances but a condition should be included for finalisation of details with regard to all elements of external material and finishes, including windows and doors, should permission be granted.

7.5.5. Structural Stability of Adjoining historic houses.

It is considered that the opinion set out in the Structural Engineering report included with the appeal clearly satisfactorily demonstrates that the excavation and foundation layout for the basement can be fully implemented without adverse impact with regard to potential for flooding and for any adverse impact on the adjoining historic buildings. As it is apparent that consent to carrying out of the works beneath the adjoining structure may not be obtained, the modification proposed with regard to the separation distance from the boundary can be implemented. An appropriate condition can be included should permission be granted.

7.6. Residential Amenities of future occupants.

7.6.1. With regard to private open space provision, the balcony space indicated for each apartment at first, second and third floors are deficient in size and limited in amenity potential although adequately integrated with spacious living room kitchen spaces within the units. The floor areas of these balcony spaces are seriously deficient having regard to the requirement in section 16.10.2 of the development plan that a minimum of ten square metres per bed space should normally be applied.

Furthermore, the outlook from these spaces towards the ground level surface carparking at the rear is poor but the more elevated position directs views over and above the ground level are reasonable. The roof terrace, (which it is proposed should be omitted) on the top floor according to the lodged plans appears to be intended for sole use of and access by occupants of Apartment No 9 only and not intended as semi private open space for all units. Nevertheless, a flexible approach in this regard is recommended if it can be established that satisfactory standards in

the quality of residential amenity at the units can be achieved and refusal of permission over this issue avoided. Due to the location and the accessibility of high quality public recreational and amenity space in such close proximity, it is considered that some shortfall in the quantities of private open space provision may be reasonable. The site location has the benefit of substantial high quality recreational amenity space along the adjacent canal and at Merrion Square within five hundred metres and many other facilities within circa one thousand metres.

- 7.6.2. It would be regrettable, should favourable consideration be otherwise forthcoming, for permission to be refused on the basis of deficiencies in quantity of private open space provision if it appears the appropriate modifications and a satisfactory solution may be feasible. The balconies can be enlarged by reduction in depth of the kitchen and living room spaces which as proposed have substantial floor area at either thirty-seven square metres or forty-two square metres. It is considered that a reduced depth would result in greater access to daylight and sunlight for interior of these the kitchen/living rooms in these units. It is recommended that if permission is to be granted, that a condition be attached whereby the structure can be modified to allow for an increase to the balcony size by a reduction in the living room/kitchen space on these floors. Alternatively, the applicant could be requested by way of a section 132 notification to consider submitting proposals to address the deficiency in private open space provision.

7.7. Residential Amenities of Adjoining Properties.

- 7.7.1. Noise and Nuisance and public safety.

With appropriate screening it is considered that the use of the balconies as an integral element of the residential units provides for the residential amenities for the future occupants without detrimental impact on the amenities of the residential units in the adjoining building in terms of overlooking or disturbance through social activity. To this end it is of note that the space directly at the rear of Nos 49 and 51 is in use as a communal surface carpark. Modifications to the building omitting the top floor and setting back setback the internal kitchen/living room space at floors 1 to 3 to increase private open space provision as discussed above if sought by condition or a

section 132 notification should effectively ameliorate potential overbearing impact on the adjoining properties at Percy Close and the properties at Percy Place.

7.7.2. The plans do not include clear details of treatment along the perimeter and screening, to protect the amenities of adjoining properties or the details of the access doors from the internal accommodation in the units. These matters can be addressed by compliance with a condition.

7.7.3. It is considered that the proposed position of the vehicular entrance and its use of a roller shutter door is fully acceptable and it is not agreed that there is potential for significant adverse impact on residential amenities due to use of the entrance by occupants of the proposed building. The development if permitted comprises eight or nine apartments which would generate some traffic movements at the frontage and associated use of the entrance that would not be unduly frequent. Waiting at the entrance is well off street and use of a modern well maintained roller shutter door should not generate noise that exceeds general levels within an urban mixed use location in the city.

7.7.4. It is considered that these modifications would significantly ameliorate potential overbearing impact on the adjoining properties, especially the properties at Percy Close. There is no objection to the proposed smooth render finish facing towards the adjoining properties subject to regular maintenance.

7.7.5. Access to Daylight and Sunlight.

It is considered reasonable that the analysis and conclusions arrived at in the sunlight daylight study can be relied on as assurance that the impact on sunlight and daylight to the internal accommodation at the adjoining building would not be significantly altered by the proposed development. In addition, modifications to the height of omission of the top floor to the rear sides and to facilitate balcony enlargement at floors 1-3 should further ameliorate any concerns.

7.8. **Appropriate Assessment**

Having regard to the location of the site which is a serviced, infill site in an urban outer central city area on which there is an existing vacant dwelling, and to the residential nature and scale of the proposed development, no appropriate

assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing it is recommended that the appeals be rejected and that the planning authority decision to grant permission be upheld with inclusion of conditions with requirements for some modification.

9.0 Reasons and Considerations

Having regard to the location of the site within an outer city fully serviced location, an area subject to development objectives for Zones 1 and 2 which provide for the protection and improvement of residential amenities for sustainable residential neighbourhoods and residential conservation areas and conservation areas and for the improvement residential amenities and, to the strategic policies for the consolidation of the city and a compact and sustainable city minimising waste of urban land including small infill sites provided for in the Dublin City Development Plan, 2016-2022 it is considered that subject to compliance with the conditions set out below, the proposed development would not be seriously injurious to the amenities, fabric and integrity of the protected structures in the vicinity, would be compatible with and would complement the surrounding existing sensitive built environment within the Conservation area and the protected views on approach from Mount Street over Huband Bridge, would not be seriously injurious to the residential amenities of adjoining properties, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 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 lodged with the planning authority on 8th September, 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. The fourth floor containing apartment No 9, (inclusive of the roof garden) shall be omitted in entirety. Prior to the commencement of the development, the applicant shall submit and agree in writing with the planning authority revised elevation, section and plan drawings indicating these modifications.

Reason: In the interests of the protection of the visual amenities and sensitive historic architectural character of the area.

3. The depth of the internal space of the living room and kitchen areas on floors 1 to 3 inclusive shall be reduced by a minimum distance of three metres from the rear wall and the balconies increased in depth by a corresponding depth. Prior to the commencement of the development, the applicant shall submit and agree in writing with the planning authority revised elevation, section and plan drawings indicating these modifications.

Reason: To provide for an adequate quantity and quality of private open space provision for each dwelling.

4. Screening to a height of 1.5 metres shall be erected along the perimeter of the balconies. Prior to the commencement of the development, the applicant

shall submit and agree in writing with the planning authority revised elevation, section and plan drawings indicating these modifications inclusive of full details of the proposed materials

Reason: In the interests of the protection of the residential amenities of the adjoining properties.

- 5 No additional development shall be erected above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment including the satellite dish shown on the roof plan unless authorized by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

- 6 One car parking space and one cycle space shall be allocated to each residential unit. The car spaces shall not be sold, sublet or leased to third parties. Prior to the commencement of the development the applicant shall submit to and agree details in writing with the planning authority.

Reason: In the interests of clarity, convenience and, a satisfactory standard of development.

7. The construction stage shall be managed in accordance with a construction management and construction traffic management plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of noise management measures, dust control measures, arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of orderly development, amenity, safety and sustainable development.

- 8 Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. No surface water shall be allowed to discharge onto the public road or adjoining properties.

Reason: In the interest of orderly development and public health.

- 9 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. [The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.].

Reason: In the interests of sustainable waste management.

- 10 Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest or residential amenity.

11. Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration.

Reason: In the interest of visual and residential amenity.

- 12 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, to include use of indigenous species and screen planting along the boundaries. details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity

- 13 The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity

14. Proposals for an estate/street name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No marketing signage relating to the name of the development shall be erected unless the developer has obtained prior written agreement from the planning authority

Reason: In the interests of clarity and amenity.

- 15 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an

agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

- 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, water mains, 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.

- 16 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.

Jane Dennehy
Senior Planning Inspector
13th January, 2017.