



An
Bord
Pleanála

Inspector's Report PL29S.247572

Development	Demolition of existing building and construction of a 4-6 storey over part basement building consisting of retail and office use.
Location	Nos. 23-25 Baggot Street Upper, Durrow Mews and Flemings Place, Dublin 4.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3277/16
Applicant(s)	Durrow House Partnership
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First (against Condition No.16) and Third Party
Appellant(s)	Curust Holdings Limited Durrow House Partnership
Observers	The Pembroke Road Association J. O'Reilly for Raglan Road Residents

Date of Site Inspection

9th February, 2017

Inspector

Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Baggot Street Upper. To the south the site adjoins Fleming House which is a 7 storey office over ground floor retail development. To the north west, the site adjoins a four storey Georgian building which has retail use at ground floor level.
- 1.2. The site has frontage to the south onto Flemings Place to the rear where there is a three storey mews building, Durrow Mews.
- 1.3. The existing buildings on the appeal site comprise an office building to the front facing Baggot Street and a three storey mews building to the rear over an undercroft parking area. The office building fronting onto Baggot Street Upper (Durrow House) comprises a seven storey over basement level office building that has additional height in the form of a lift shaft at roof level. The seventh floor is set back on the Baggot Street frontage and the current overall height to parapet level of the seventh floor is 21.36 metres and c. 24.9 metres overall.
- 1.4. The existing residential mews building to the rear is separated by approximately 15 metres from Durrow House and comprises a three storey structure above an undercroft parking level. This parking level corresponds to the basement level of the main building fronting Baggot Street Upper with the ground level on Fleming Place being approximately 2.7 metres lower than that on Baggot Street Upper.

The floor area of the existing development on site is 1,723 sq. metres, of which the office component is c. 1,192 sq. metres and the residential element c. 531 sq. metres.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of all existing structures on the site and the construction of a new mixed use 4 to 6 storey building with part retail on the ground floor and office accommodation at upper levels. The block is proposed to extend to virtually the full depth of the site at ground to third floor levels. The fourth and fifth floors are proposed to be set back by approximately 12.75 metres at the rear (Fleming Place) and the fifth floor is also proposed to be set back from the front building line by c. 3.3 metres.

- 2.2. The ground floor is proposed to incorporate a retail unit of 120 sq. metres with the balance of the floor as office. The basement comprises a mixture of retail storage (35 sq. metres), office storage (71 sq. metres), plant areas and, at the rear of the floorplan, 6 no. car parking spaces plus shower and toilet facilities.
- 2.3. The entirety of the upper floors from first to fifth are proposed to be office accommodation. The main service core for the development is proposed to be on the north west side of the floorplan. Two light wells of c. 12.5 sq. metres are proposed on the south east side of the floor plan. The full width of the site is proposed to be used with development extending right up to the boundary with the existing four storey protected structure to the north west (No.21 Baggot Street Upper) and to the boundary with the recently redeveloped Fleming House to the south east. The Fleming House development would be separated by a distance of between c. 5.2 and 8.5 metres from the south east facing elevation of the proposed development.
- 2.4. The total proposed floor area of the development is 3,122 sq. metres including a total of 120 sq. metres of retail floorspace plus 40 sq. metres storage. The plot ratio of the proposed development is stated to be 5.0 and the site coverage is stated to be 80 percent.
- 2.5. The elevation is proposed to comprise a mixture of aluminium curtain walling, glazing and metal mesh screening. The elevation to Baggot Street incorporates a number of setbacks to the north east and north west facing elevations at fourth and fifth floor levels behind the proposed metal mesh screen which is proposed to be set back slightly from the building line on both elevations.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 16 conditions, the most significant of which are considered to be the following:

Condition No. 3 requires that details of all external finishes shall be submitted for written agreement of the planning authority prior to the commencement of development.

Condition No. 7 relates to archaeology and requires that an archaeologist be retained to undertake licenced monitoring of all demolition and sub surface works. A method statement shall be prepared and agreed with the City Archaeologist prior to the commencement of development. In the event of features being discovered then the archaeologist shall be facilitated in the recording of such features.

Condition No.8 requires the submission of a construction and demolition management plan.

Condition No.9 sets out requirements for bin storage areas within the development and access to same.

Condition Nos. 12 – 14 relate to signage and shopfront details.

Condition No. 16 requires that the proposed second floor be omitted from the development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer raises some concerns with regard to the height of the proposed development (particularly to the rear of the site) and its compliance with the development plan policy. Concerns are also raised regarding the bulk of the development and impact on the adjoining protected structure and site to the south east and also the compatibility of the proposed redevelopment with the Objective Z4 zoning and restrictions on office floorspace. Following receipt of responses to further information requests a decision consistent with the Notification of Decision to Grant Permission issued is recommended.

3.2.2. Other Technical Reports

Drainage Division – No objection subject to conditions.

Waste Management Section – No objection subject to standard conditions.

Roads and Traffic Planning – No objection subject to conditions.

3.3. Further Information

3.3.1. Prior to the issuing of a Notification of Decision to Grant Permission the planning authority requested further information on the following issues:

1. Comment on how the proposal has regard to the height policy in the development plan and particularly justification for the proposed height at the rear of the site when the existing height is confined to a limited area to the front.
2. Response to the concerns of the planning authority regarding the quantum of office space proposed and compatibility with the Objective Z4 land use zoning objective.
3. Response to the concerns of the planning authority with regard to the scale and bulk of the proposed development and its impact on the adjoining protected structure and on the conservation area.
4. Samples of the proposed finishes to be submitted.

In response, the applicant did not propose any amendments to the design or layout.

The main points in the response submission can be summarised as follows:

- The principle of the scale of development proposed was discussed at pre application stage and was not objected to in principle.
- That the new Dublin City Development Plan provides for prevailing local height and context to be taken into account in the assessment of the proposed development.
- That regard needs to be had to the permission granted at Ref. 2657/08 (ABP Ref. PL29S.230026) which was for the demolition of Nos. 27-33 Baggot Street (Fleming House) and Durrow Mews and the development of a building

ranging from 5-8 storeys. The development to the rear on Durrow Mews was permitted at 6 storeys and was assessed separately as it was zoned Z4. There is therefore precedent for this scale of development fronting Flemings Place.

- That the proposed development will mean that the building will not be the tallest on the street fronting Baggot Street. The rear of the site fronting Flemings Place will be 4 storey over basement / undercroft car parking.
- That there would be no new impact on the adjoining protected structure as this site already has 100 percent site coverage.
- That the office development floorspace issue was considered in the case of ref. PL29S.230026 where it was recognised that the 600 sq. metre threshold would be exceeded but that the development would not be prejudicial to the broader objectives of the Z4 zoning.
- That the existing office floor area is 1,192 sq. metres and the new development will be 2,018 sq. metres. The increase of 826 sq. metres is within the parameters set out in the development plan, (note 2,018 sq. metres figure would appear not to be correct).
- That previous assessments treated the Durrow mews aspect of the development as a separate entity from the Baggot Street building. The open for consideration office floorspace of 1,200 sq. metres should therefore be doubled to 2,400 sq. metres and the proposed floorspace is below this limit.
- That the Conservation area designation only encompasses the frontage and does not extend into the site.
- That the shadow projection diagrams indicate that there is significant existing impact on the site of the adjoining protected structure and that the proposed development would not be significant or permanent.
- Stated that the sunlight availability significantly exceeds the BRE guidance level at the equinox especially in a commercial context.

3.4. Third Party Observations

Four objections to the proposed development were made to the Planning Authority and the issues raised in these submissions can be summarised as follows:

- Concern at height, bulk and scale and impact on adjoining sites.
- Lack of a model
- Negative impact on adjoining protected structure and conservation area.
- That more detail on construction management issues required.
- Potential impact on access to neighbours at 23-25 Baggot Street Upper. Development drawings do not show permitted development at this adjoining site.
- Overshadowing of adjoining sites,
- Impact of external plant proposed in terms of noise, shadowing and visual impact.
- Metal façade treatment inappropriate.

4.0 Planning History

The following planning history relates to the adjoining sites to the south east of the appeal site and is of relevance to the assessment of this appeal:

Dublin City Council Ref. 2657/08; ABP Ref. PL29S.230026 – Permission granted by the Planning Authority and decision upheld by the Board for the demolition of Nos. 27-33 Baggot Street Upper (Fleming House) and Durrow Mews and the development of a building ranging in height from 5 storeys on Baggot Street to 8 storeys at the rear. The site comprises the recently redeveloped Fleming House site to the south east of the current appeal site and that part of the current appeal site that is located to the rear of the existing main 7 storey building fronting Baggot Street (Durrow House).

Dublin City Council Ref. 2901/14; ABP Ref. PL29S.243945 – Permission granted by the planning authority and granted on appeal by the Board for development at Nos.

27-33 Baggot Street Upper (site bounded by numbers 23-25 Baggot Street Upper and Durrow Mews to the west and Saint Martin's House to the east) comprising an increase in the overall gross floor area of the existing building from circa 11,654 square metres to circa 17,136 square metres, excluding undercroft car parking areas, with works comprising: extensions to Blocks A, B and C; the replacement of all existing building facades; the redesign of the existing ground floor entrance at Baggot Street Upper and the existing lower ground floor entrance at Fleming Place to create new double height entrances, which will each connect via a new triple height internal 'link gallery' atrium (circa 294 square metres gross floor area) along the eastern flank of Block B that forms part of the proposed building extension at this location; and all associated site development works including: internal refurbishment and reconfiguration of the existing office building as exempted development (circa 11,654 square metres gross floor area); reconfiguration of lower ground and ground floor car parking areas resulting in a reduction of existing car parking spaces from 200 no. spaces to 91.

Dublin City Council Ref. 4067/15; ABP Ref. PL29S.246161 – Permission granted by the Planning Authority and granted on appeal for development at St Martin's House, Upper Baggot Street, and Waterloo Road, Dublin 2.comprising external alterations and extension to include: (a) Removal of part east ground floor façade, (Waterloo Road) and entire northern ground floor façade, (Baggot Street) and replacement with new shop fronts with full height powder coat aluminium framed glazed units (13 no units). (b) Removal of main entrance and stair core and facade on east elevation (Waterloo Road from ground to fourth floor) to provide reconfigured stair core and lobby with protecting curtail wall glazing system and revolving door with retention of wall mounted ATM (c) Public realm improvements on Waterloo Road frontage to include new hard and soft landscaping and new steps disabled access ramp to front door and replacement of bollards with stainless steel bollards and, (d) a single storey detached shower room at ground floor at rear/west side and staff facilities.

5.0 Policy Context

5.1. Development Plan

It is noted that the application the subject of this appeal was assessed by the Planning Authority under the provisions of the Dublin City Development Plan, 2011-2017. Since the decision of the Planning Authority the new Dublin City Development Plan, 2016-2021 has come into effect.

The appeal site is located on lands that are zoned Objective Z4 under the provisions of the Dublin City Development Plan, 2016-2021. The stated objective for Z4 lands is *'to provide for and improve mixed service facilities'*.

Office use is a permissible use on lands that are zoned Objective Z4 up to a limit of 600 sq. metres and are Open for Consideration up to 1,200 sq. metres.

The indicative plot ratio standard for Objective Z4 lands is 2 and the indicative site coverage standard is 80 percent. There is provision in the plan for the relaxation of these standards in areas where, inter alia, the site adjoins a major public transport termini or corridor, to maintain existing streetscape profile or where there is already a higher site coverage / plot ratio on the site.

The adjoining developments to the south east of the site are zoned Objective Z6 (To provide for the creation and protection of enterprise and facilitate opportunities for employment creation).

The site is located such that Baggot Street is designated as a conservation area. The adjoining property to the north west (No.21) is a protected structure as are the buildings to the north west as far as the canal and those on the opposite side of Baggot Street Lower

6.0 The Appeal

6.1. First Party Grounds of Appeal

The following is a summary of the main issues raised in the first party appeal submitted:

- That Condition No.16 requiring the omission of a floor from the development has not been justified by the Planning Authority. The reason cited for the condition is not informative and is contrary to the development management guidelines for planning authorities.
- That the decision to require the omission of a floor is not reflective of the pre application discussions held and the feedback received.
- That the existing Durrow House contributes very little to the street and the existing building is the tallest on the street.
- That there is planning precedent (Ref. 2657/08 / ABP PL29S.230026) for 6 storey development to the rear of the site.
- That the fundamental policies that guided previous decisions remain in place in the current City Development Plan.
- That the effect of condition No.16 is the reduction in height of the development by c. 9 metres from its existing maximum height which is equal to two commercial floors.
- That the second floor proposed to be omitted is the most efficient floorplate and there is no justification in the development plan for its omission.
- That the fact that the previous permission for the rear of the site has expired however in the meantime the scale of the surrounding context has been permitted to change significantly.
- That the issues identified in the request for further information were addressed including overshadowing impact and also impact on protected structures.
- The omission of a floor as proposed would have an adverse impact on the design of the development and on views from Baggot Street bridge.
- Two modifications to the design are proposed by the first party. These would reduce the area of the penthouse level and set the front façade back in line with the recently redeveloped building at Nos 27-33 and secondly to reduce the height of the bronze screens to the upper level.

6.2. Third Party Grounds of Appeal

The following is a summary of the main issues raised in the third party appeal submission:

- That the proposed development represents over development of the site which contravenes provisions of the development plan relating to site coverage and plot ratio.
- That the location of the site is such that it cannot be considered to be adjoining a major public transport termini or corridor.
- That the existing plot ratio does not justify redevelopment to the scale proposed.
- That the proposed development will dominate and overbearing impact on the adjoining protected structure at No.21.
- That there are many references by the first party to the existing height of development on the site and the fact that the proposed development will be lower. This ignores the fact that the depth of the building is proposed to increase from 16 metres to 46 metres.
- That the proposed development would have a material negative impact on the future development potential of the appellant's property.
- That the response to FI regarding daylight and sunlight refers to the appellant's property as a jeweller and that there is a need for security and lack of windows. This is not correct.
- That inadequate information regarding construction management has been submitted with the application.

6.3. First Party Response to Third Party Grounds of Appeal

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- The first party states that there was no requirement or invitation to reduce the scale of the proposed development and the omission of the second floor is not warranted. It is submitted that it was clear from the report of the Planning Officer that the proposal represented over development of the site.
- Considered that the key planning indicators of over development of the site are plot ratio and site coverage. The current proposal significantly exceeds the plot ratio level set out in the development plan.
- Given the plot ratio proposed it is considered that the Planning Authority had little alternative but to significantly reduce the scale of development by way of condition.
- That the references to there being an established context for 6 storey development at the rear of the site relates only to development on one side of the site and not to the appellant's property at No.21.
- The proposed amendments to the design are noted however these revisions relate only to the design and visual appearance from Baggot Street and would not have any impact on the development.
- Not considered that the inclusion of Condition No.16 is the correct approach to the protection of the amenity of the appellant's property or correct the excessive scale of development proposed. It is requested that permission be refused.

6.4. Third Party Response to First Party Grounds of Appeal

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the aerial views of the site show that the existing building on the appeal site are taller and deeper in section and dominates the adjoining Georgian property at No.21.
- It should be noted that a higher plot ratio than the development plan standard already exists on the appeal site and also on the appellants site.

- That a case has previously been accepted by the planning authority and Board for the redevelopment of the mews site at the rear.
- That the infill will not be out of scale with what exists in the vicinity and will have no further impact on the amenities of No.21 than what already exists.
- No significant shadowing impact will be generated by the proposed development and the appeal has not explained how amenity would be impacted when the use of the upper floors of No.21 is office.
- It is not considered likely that the extent of light reduction to the upper floors of the rear return of No.21.
- Regarding the impact on the character of the protected structure, the proposed development has to be seen in the context of the existing building which relates poorly to the street and to the adjoining protected structure.
- It is not evident how the proposed development would compromise the future development potential of the appellant's property as stated. Rather it would have a potentially beneficial effect.
- That there is no objection to the inclusion of a condition that requires the submission of a construction management plan.

6.5. Response of Planning Authority to Grounds of Appeal

There is no response from the Planning Authority to the grounds of appeal.

6.6. Observers to Appeal

The following is a summary of the main points raised in the two observations on the appeal:

- That the comments of the planning officer regarding the height of the proposed development are supported.
- While there is an existing height the time has come for a greater sense of balance on the street.

- The proposed reduction in scale by condition No.16 is supported. The scale as originally proposed is oppressive.
- That the scale has to have regard to the protected structures that are located between the site and Baggot Street Bridge. The scale of the proposed development is way in excess of the traditional scale of development on this side of the street as evidenced by the chimney line as indicated in the submitted photomontages of the development.
- That the materials to be used could be considered by the provision of a mock-up of the proposed finishes.
- That the vicinity of the site is characterised by a unique and varied streetscape. The current proposal would result in an anonymous and standard standalone premises that contributes nothing to the streetscape and neighbourhood.
- The proposed development would be contrary to 16.1.4 of the City Development Plan.
- That the Eaton Building at 30 Pembroke Road is an example of a successful development that respects the traditional scale and proportion of the streetscape.

6.6 Other Referrals

The application was referred by the Board to The Heritage Council, The Development Applications Unit of the Department of Arts Heritage, Regional, Rural and Gaeltacht Affairs, An Taisce, An Chomhairle Ealaíon and Fáilte Ireland for comment. No response was received within the period specified in these s.131 notices.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development (Zoning, Height, and Plot Ratio)
- Design, Elevation to Baggot Street Upper and Impact on Conservation Area
- Impact on Adjoining Structures
- First Party Appeal – Condition No.16 (Omission of Second Floor)
- Other Issues
- Conclusions

7.2. Principle of Development (Zoning, Height and Plot Ratio)

- 7.2.1. The appeal site is located on lands that are zoned Objective Z4 ‘*to provide for and improve mixed services facilities*’ under the provisions of the 2016-2022 Dublin City Development Plan. This zoning was the same under the previous Dublin City Development Plan, under which the assessment of the proposed development was undertaken by the Planning Authority.
- 7.2.2. On lands that are zoned Objective Z4, ‘*Office*’ up to a maximum of 600 sq. metres is identified as a Permissible Use and ‘*Office*’ up to a maximum of 1200 sq. metres is stated to be Open for Consideration. Retail use is a Permissible Use on lands that are zoned Objective Z4.
- 7.2.3. The third party appellants make reference to the fact that the **office component** of the proposed development significantly exceeds the 1,200 sq. metres which is open for consideration under the development plan. This is clearly the case as the floor area of the proposed development is 3,112 sq. metres, of which approximately 2,950 sq. metres is office accommodation. The office floor space proposed in the development is therefore approximately two and a half times the maximum that is open for consideration on lands zoned Objective Z4.
- 7.2.4. The issue of the **extent of the office floor space** proposed and compatibility with the land use zoning objective was raised by the planning authority in the request for further information that issued. In their response to this further information request,

the first party contend that previous applications on sites to the south east of the current appeal site have permitted office floorspace in excess of the maximum specified in the development plan and also that in the case of Ref. 2657/08; ABP Ref. PL29S.230026, that the development fronting onto Fleming Place and that fronting Baggot Street Upper were assessed separately in terms of the level of office space proposed and compatibility with the land use zoning objective. Specifically, it is contended that under Ref. PL29S.230026 it was recognised that the 600 sq. metre threshold would be exceeded but that the development would not be prejudicial to the broader objectives of the Z4 zoning. It is further contended in the further information response submission that the open for consideration office floorspace of 1,200 sq. metres should be doubled to 2,400 sq. metres in recognition of the separate parts of the site and that the proposed floorspace is below this limit.

7.2.5. There are in my opinion a number of issues to note in consideration of the compatibility of the scale of office accommodation proposed with the land use zoning objective. Firstly, the office component of the existing development on the appeal site has a floor area of c. 1,192 sq. metres and is therefore within the 1,200 sq. metres maximum specified as being open for consideration on lands zoned Objective Z4. There is not therefore a case that the 1,200 sq. metres should be exceeded on the basis of what is already on the site.

7.2.6. Secondly, in terms of planning history, the first party makes specific reference to Ref. PL29S.230026 in both the response to further information submission and also the first party appeal, contending that under this application the front and rear part of the sites were considered separately. What has to be noted about Ref. PL29S.230026, however, is the fact that the site in that case encompassed the part of the current appeal site to the rear of the existing 7 storey Durrow House building fronting Baggot Street as well as the entirety of the adjoining site to the south east (Fleming House). These two sites are, however characterised by different land use zoning objectives with that part of the site that overlaps with the current appeal site being zoned Objective Z4 whereas the Fleming House site at Nos. 27-33 Baggot Street was and still is zoned Objective Z6. Given these separate land use zonings, and the fact that the restriction on the permissible quantum of Office floorspace only applied to the Objective Z4 part of the site, it made sense that the assessment considered the development at the rear of the current appeal site separately from the rest of the site.

- 7.2.7. The current proposal is for the demolition of the existing development on the site and its complete redevelopment with the entirety of the site being zoned Objective Z4. In these circumstances, and having regard to the scale of existing office development on the site I do not consider that there is a clear basis for the scale of Office accommodation proposed on this Objective Z4 zoned site. In order to be acceptable it is therefore my opinion that some reduction in the extent of Office floorspace is required. In view of the transitional zone location of the site on the boundary of old and new development forms and at the boundary of Objective Z4 and Z6 zonings it is my opinion that such a reduction does not necessarily have to meet the 1, 200 sq metres maximum, however the currently proposed 2.5 times the maximum floorspace is, in my opinion, excessive for what is a mixed services / district centre zoning.
- 7.2.8. The argument of the first party that previous development (Ref. PL29S.230026) was assessed in the context of the broader objectives of the Objective Z4 zoning is noted however I note that since the time of that decision in 2008 / 2009, the Z4 zoning (district centre / mixed services) has been changed to provide for a category of Key Development Centre (KDC). The appeal site is not, however identified as a KDC.
- 7.2.9. The third party appellants have also raised concerns with regard to the proposed **plot ratio** and contend that the plot ratio proposed is significantly in excess of the indicative level set out in the development plan and is reflective of a development that is excessively large for the site. The indicative plot ratio figure for lands zoned Objective Z4 is 2.0 and it is noted that the current development on the site has a plot ratio of approximately 2.7. There is therefore a precedent for additional level of development on the site over and above the 2.0 figure set out at 16.5 of the development plan, which is itself an indicative figure. The scale of the proposed development is such that the plot ratio is 5.0, or two and a half times the indicative figure set out in the plan and almost twice that of the existing development on site. The first party justifies the plot ratio figure on the basis of the permitted scale of development at the rear of the site under Ref. PL29S.230026, which it is stated was six storeys.
- 7.2.10. I would note a number of issues relevant to a comparison with the development permitted under Ref. PL29S.230026. The scale of development proposed was significant, however it did not extend to the north west boundary with No.21 Baggot

Street and came within 3.3 metres at the closest point. There was also a separation between the proposed new build and the rear of the retained building at Nos. 23-25 Baggot Street of up to c. 10.85 metres. From the information available it is not possible to state what is the plot ratio of the portion of the development permitted on the appeal site under ref. PL29S.230026 however the layout on the site is such that the potential impact of the development on the adjoining properties to the north west and the overall scale of development on what is the current appeal site was materially different to that which would result from the current proposal. There is reference by the first party to the precedent established by Ref. PL29S.230026 at the rear / Fleming Place side of the site and that 6 no. storeys was previously permitted in this location. I note, however, that this was in 208 / 2009 and was therefore under the provisions of the 2005-2011 Dublin City Development Plan. Unlike the current plan, this 2005-2011 document did not have a specific height policy for the appeal site. The first party contend in their appeal that the fundamental policies that guided previous decisions remain in place in the current City Development Plan, however as highlighted above I do not consider that this is the case with regard to building height.

- 7.2.11. I do not agree with the first party that there is a clear basis for the plot ratio figure in the proposed development and in principle I consider that the scale of development proposed is excessive. Sections 7.3 and 7.4 below address the potential impact of the scale and bulk of development in terms of visual impact and impact on the amenity of adjoining structures in more detail.
- 7.2.12. With further regard to **building height**, the first party makes several references in their submissions to the fact that the proposed development would result in a reduction in the overall height of development relative to that which is currently on site. This reduction in height largely derives from the fact that the existing development has a lift motor room / plant room at roof level which results in the existing building having a maximum height of c. 24.85 metres above ground level. The general maximum height of the existing development on site to penthouse level is c. 22.44 metres. The existing development on site is therefore of a significant scale and is such that the development, and particularly the plant room element, constitutes a very prominent form in the street scape.

7.2.13. The scale of existing development is also such that it significantly exceeds the general height for this location as set out at paragraph 16.7.2 of the development plan which is a maximum of 16 metres. Paragraph 16.7.2 of the Plan references low rise areas such as the appeal site where there is a pre-existing height and this provides that a building of the same number of storeys may be permitted '...subject to assessment against the standards set out elsewhere in the plan (emphasis added) and the submission of an urban design statement'. The first party refers to the fact that what is proposed for the site is lower than the existing scale of development and also results in a reduced number of floors. This is correct, however as set out above, a significant element of the reduction in height is the omission of the rooftop plant area. The other significant difference between what is existing and the proposed development is the extent of the site over which the pre-existing height is proposed to extend. As noted by the third party appellants, the depth of the existing building at Nos. 23-25 Baggot Street is c. 16 metres. What is proposed in the current application is that the height of 22.44 metres would extend c. 32 metres back into the site before stepping down to a height of c. 17 metres above the level of Fleming Place and an overall depth of development of c. 46 metres. This scale and bulk is reflected in the plot ratio figures as set out above. This extension of the pre-existing height over a significantly increased part of the site was also noted by the Planning Officer and is reflected in Item No.1 of the further information request issued. I also note that acceptance of the pre existing height is subject in the development plan to other relevant plan standards being complied with. As set out above, the proposed development does not meet the relevant standards for plot ratio or the maximum office space element permitted in the zoning objective, (1,200 sq. metres).

7.2.14. Overall therefore in terms of the principle of development, I note the fact that the proposed office component at c. 2,952 sq. metres very significantly exceeds the 1,200 sq. metres maximum that is open for consideration on lands that are zoned Objective Z4 and that there is no precedent for this scale of office accommodation on the basis of the existing c. 1,192 sq. metres on site. I note the comments of the first party with regard to the precedent of other planning decisions, notably Ref. PL29S.230026, however given the site layout, Objective Z4 zoning and nature of the proposed site clearance and redevelopment, I do not consider that there is a basis

for the treatment of the Baggot Street and Fleming Place parts of the site as separate entities for the calculation of permissible office floorspace. The proposal is therefore in my opinion clearly in contravention of the zoning objective for the site. This scale of office floorspace is also reflected in the significant extension of the pre-existing height, in exceedance of the maximum of 16 metres specified in the development plan, over a wider part of the site and the very significant exceedance of the indicative plot ratio figure for Objective Z4 lands.

7.3. Design, Elevation to Baggot Street and Impact on Conservation Area

- 7.3.1. The design of the proposed elevation to Baggot Street comprises five storeys with a setback fifth floor level. The basic design approach is set out in the design statement submitted with the application and this document sets out how the intention is to reinstate the two distinct plots on the site in the new frontage and to recreate a vertical emphasis. The frontage comprises glazing with glass spandrel panels separating the floors horizontally. The ground floor treatment comprises a set back entrance to the office with an aluminium surround on the eastern side and a new glazed shopfront on the side closest to No.21. The elevation on the side closest to No.21 is proposed to be covered with a bronze coloured random mesh metal screen and this treatment is proposed to wrap around the north west corner and north west facing elevation of the building extending back a distance of c. 16 metres along the side elevation.
- 7.3.2. The principle of the sub division of the elevation, the creation of a vertical emphasis and the use of the metal mesh screen is in my opinion acceptable in this location and creates a connection between the modern office development to the south east and the Georgian development to the north west. I do, however note that the elevation drawings and photomontages indicate the metal screen being set back from the front and side (north west facing) elevations at the upper levels with the change in alignment reflecting the parapet height of the adjoining protected structure at No.21 Baggot Street. I consider that this element works well in connecting the new development with the existing development to the north west. It would appear that the set back of the screen on the front elevation is not reflected on the floorplans as submitted with the application.

7.3.3. Baggot Street Upper in this location is designated as a Conservation Area (red hatching) in the Dublin City Development Plan 2016-2022 and this designation takes in the frontage of the appeal site. The site is particularly visually sensitive given its prominence when viewed from the north in the vicinity of Baggot Street bridge and the fact that the southern side of the street on which the site is located is slightly curved. The existing appearance of the site is poor with the rooftop plant / lift room particularly visually prominent in views from Baggot Street bridge. The proposed development is an improvement in visual terms relative to the existing building in that the overall height of development is reduced slightly and the rooftop plant area is removed. The views of the proposed development from the north on Baggot Street are however notable for the fact that the parapet height of the building is now higher than the redeveloped Fleming House to the south east (see View 2 in submitted Photomontage Views dated June 2016). I also note the prominence of the metal screen to the side elevation and the fact that this is higher than the existing brick side elevation of Durrow House and the visual prominence of the glazed penthouse level of the development, particularly relative to that on the redeveloped Fleming House. The proposed setbacks to the metal mesh screen could be considered to result in an overly complicated form however as set out above I consider that it is an appropriate means of integrating with the protected structure at No.21.

7.3.4. The **first party appeal relates to Condition No.16** which requires the omission of the second floor of the proposed development. Solely from the perspective of the impact that the omission of the second floor would have on the elevational treatment I do not consider that it is an appropriate approach. In my opinion, the proportions of the building as well as the relationship with the adjoining terrace to the north west and the protected structure at No.21 would be negatively impacted by a requirement that the second floor would be omitted. In my opinion a better solution in terms of the impact on the streetscape would be for the omission of the top penthouse floor. This would result in the visual bulk of the building from the north on Baggot Street and the Baggot Street Bridge area being significantly reduced with the lowering of the metal mesh to the side elevation and the omission of the glazed top floor. It would also assist in the reduction of the bulk and height of the overall development and assist in the office floorspace and plot ratio figures being more in line with development plan standards.

- 7.3.5. I note that as part of the first party appeal it is proposed as an option that the penthouse level would be set further back such that it would be in line with that on the adjoining Fleming House to the south east. Notwithstanding the recommendation above that the penthouse level should be omitted, I consider that the increased set back of the penthouse level would be appropriate in visual terms and in the event that the Board consider it appropriate that the penthouse level remain then it is recommended that the increased set back of this level would be required by way of condition. I also note the second potential amendment contained in the first party appeal submission which proposes a reduction in the height of the metal mesh screen to match the height of the parapet on the adjoining part of the building. I consider that this would also be an improvement in visual terms and, in the event of a grant of permission, should be required by way of condition.
- 7.3.6. Overall therefore in terms of the impact of the proposed development on the conservation area and compatibility with Policy CHC 4 of the Dublin City Development Plan, 2016-2022 it is my opinion that the basic design approach proposed in the development is acceptable and consistent with good quality design which is in harmony with the conservation area. In terms of enhancement opportunities as set out in Policy CHC4 it is also my opinion that the redevelopment would result in the replacement of an existing building which detracts from the character of the conservation area. As set out above, I do have concerns with regard to the increased bulk and depth to the north west corner of the site which would be visible and prominent above the existing terrace of protected structures to the north west of the site. Notwithstanding the improved design relative to the existing building, and the potential loss of the particularly visually prominent and incongruous rooftop plant, I consider that the proposed development still has the potential to constitute a visually obtrusive and dominant form contrary to Policy CHC4. Having regard to this and to the very significant exceedance of development plan standards regarding office floorspace and plot ratio it is recommended that revisions in the form of the omission of the top penthouse level are required.

7.4. Impact on Adjoining Structures

- 7.4.1. The basis of the appeal submitted by the third party appellant who is the owner of the adjoining property at No.21 Baggot Street Upper is that the scale and bulk of the proposed development is such that it would have an adverse impact on the amenity of their property by virtue of overshadowing and loss of sunlight and also that it would constitute a visually obtrusive and dominant form of development. It is also contended that the proposed development would compromise the future development potential of No.21. In response, the first party note the results of a shadow projection study undertaken which, it is stated, indicates that the impact on the windows at the rear of No.21 would be limited. In terms of impact, the office use of the upper floors of No.21 is noted as is the current 100 percent site coverage. The concerns regarding future development potential are disputed and it is submitted that the proposed development would assist in the future redevelopment of No.21 by providing a backdrop for future large scale development.
- 7.4.2. The planning application is accompanied by shadow projection diagrams and the analysis submitted was prepared for the current scenario, a situation where there was no development on the appeal site and with the proposed development in place. The first party contend that the appellant's property at No.21 is already significant impacted by the existing development to the south east of the appeal site (Fleming House and the adjoining St. Martin's House) and that the effect of the proposed development would be limited, is not new and would not be permanent (i.e. all day).
- 7.4.3. I would agree that there is a significant shadowing impact resulting from the existing development to the south east of the appeal site and from existing development on the appeal site in the early part of the day and also that the proposed development is located such that the mid to late afternoon period would not be impacted. There would however clearly be a significant impact around midday from the scale of development proposed and this is reflected in the shadow projection diagrams submitted. In addition to a loss of sunlight, it is clear that the proposed development would result in a significant loss of daylight to the appeal site, both the rear of the existing building and the balance of the site. The first party state in the response to further information that the BRE Guidelines standards are exceeded in the proposed development however the impact on daylight is not quantified in the information submitted with the application. The FI response submitted states that there would be

no new impact on the adjoining protected structure as this site already has 100 percent site coverage. It is correct to state that the appellant's property at No.21 currently has 100 percent site coverage however the development to the rear of the main building is a single storey that is in retail use as a hardware store and not a secure jewellers premises as stated in the first party appeal. It is reasonable to assume that some form of redevelopment of this rear part of the site would be envisaged as some stage and I do not consider that the first party has given due regard to the potential impact that the proposed development would have on shadowing and amenity of the balance of the appellant's property to the rear of the main building.

- 7.4.4. Of as much or greater concern in my opinion is the impact that the proposed development would have on the outlook from the property at No.21 and the impact that development of the scale proposed would have on the setting of this protected structure. The scale of the proposed development relative to the existing protected structure at No.21 is indicated on Drg. AT-201 which is a drawing of the north west elevation of the proposed development. A similar section drawing is included in the third party appeal to support their contention that the proposed development is over scaled and would have an adverse impact on the setting and character of the protected structure. Drg. AT-201 clearly shows the overwhelming scale of the proposed development relative to the existing building at No.21 and the treatment of the bulk of this north west facing elevation that would be on the boundary with the appellant's property as aluminium cladding. In summary, I would agree with the case made by the third party appellant that the scale of the proposed development in terms of its height, depth and proximity to the site boundary is such that it would result in an overly dominating and oppressive development that would have a serious adverse impact on the amenity of occupants of No.21 and on the setting of this protected structure. In order to be acceptable it is my opinion that the proposed development needs to be significantly reduced in scale in the area to the rear of the existing rear building line of Durrow House.

7.5. First Party Appeal – Condition No.16 (Omission of Second Floor)

7.5.1. The first party appeal seeks the omission of Condition No.16 attached to the Notification of Decision to Grant Permission on the basis that the Planning Authority has not justified the basis for the omission of this floorspace in terms of its impact on the amenity of the adjoining properties. As set out in the sections above however I consider that the scale of development as proposed is clearly contrary to the Objective Z4 land use zoning objective, that as currently proposed it would have a negative impact on the amenity and setting of the adjoining properties to the north east and on the streetscape and character of the conservation area, and that the development would constitute over development of the site as evidenced by its exceedance of the plot ratio and height limits for the site as set out in the development plan.

7.6. Other Issues

- 7.6.1. With regard to traffic parking and access, the current level of parking on the site is 10 no. spaces and this is proposed to be reduced to 6. The location of the site is such that the maximum parking standard is 1 no. space per 200 sq. metres of office gross floor area which in the case of the proposed development would equate to approximately 15 no. spaces. The Roads and Traffic Planning Division of the council had no objection to the level of parking provision proposed and I consider that the amount of on site parking proposed is acceptable in this central location.
- 7.6.2. Access to the proposed car parking spaces is via an entrance off Fleming Place and an access within the site boundary. The access route and vehicle access point proposed is the same as that which currently serves the 10 no. parking spaces on site and is considered to be acceptable. Service deliveries to the retail unit are proposed to be via the front entrance and given the existing on street set down provision and the limited scale of the unit this arrangement is considered to be acceptable.
- 7.6.3. The application is not accompanied by a screening for appropriate assessment. Having regard to the nature and scale of the proposed development, the proposed office use, the omission of any permanent residential element and the scale of additional floorspace proposed and its location relative to Natura 2000 sites, no

appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

- 7.6.4. The third party appellants have raised concerns regarding the lack of a detailed construction management plan. Given the scale of demolition and new build proposed, and the proximity to protected structures concerns regarding construction management are in my opinion valid however it is an issue which can be addressed satisfactorily by way of a requirement for a detailed construction and demolition management plan in the event that permission is granted.

7.7. **Conclusion**

- 7.7.1. In conclusion, I have significant concerns regarding the scale of development proposed on the site and the potential impact of this development on the streetscape and more particularly on the amenity of the adjoining property at No.21 Baggot Street Upper and on the setting of this protected structure. As set out in 7.2 above, the extent of office accommodation proposed significantly exceeds that open for consideration on lands zoned Objective Z4 in the development plan. In addition, the scale of development proposed is significantly higher than the indicative plot ratio figure in the plan and the height of additional development to the rear takes its lead from the existing height of the Durrow House building on the site and adjoining development on Objective Z6 zoned lands rather than having regard to the maximum building height of 16 metres set out in the development plan.
- 7.7.2. As stated in 7.2 above, it has to be recognised that the appeal site is in a transitional location between the established higher scale commercial area to the south east (Fleming House and St. Martins House) and the lower scale more sensitive area to the north west characterised by three and four storey Georgian buildings which are included on the record of protected structures. Regard also has to be had to the visually prominent location of the site, including from the canal and its location within a conservation area. The transitional zone nature of the site is reflected by the fact that while it has been the subject of relatively modern redevelopment it is zoned Objective Z4 (Mixed Services / District Centre) rather than Objective Z6 (employment / enterprise) as is the case with the Fleming House and St Martin House sites to the

south east. This transitional zone location together with the scale of existing development on the site in the form of Durrow House means that some flexibility in terms of plot ratio and office floorspace standards set out in the development plan are in my opinion appropriate.

- 7.7.3. In considering possible amendments to the layout that would mitigate the potential impact of the proposal on the streetscape and adjoining views I considered the option of the omission of the top penthouse level by way of condition which, as set out at 7.3 above would reduce the visual prominence of the development in the streetscape and would in my opinion be more appropriate than the omission of the second floor as required by the Planning Authority. The omission of the penthouse level would result in a reduction of approximately 226 sq. metres GFA of office accommodation. To the rear, it is my opinion to mitigate the potential impacts identified and to comply with the height policy in the plan that the scale of development needs to be reduced to a maximum of 16 metres above ground level which equates to third floor level which is 16 metres above the ground level at Fleming Place. To be acceptable it is also my opinion that height above 16 metres should not be permitted further back in the site than the existing rear building line of Durrow House which equates to approximately grid line 3 on the submitted plans. Compliance with these requirements would by my estimation reduce the floor area to c. 2,535 sq. metres which would equate to a plot ratio of approximately 4.
- 7.7.4. The revisions as proposed would however raise issues regarding the service core for the building and access to the fourth floor as the lift core is located beyond (to the rear of) grid line 3. In addition, were a reduction in scale considered appropriate it may be that further consideration of the elevational treatment to Baggot Street would be desirable. For these reasons therefore it is considered that the most appropriate recommendation is for refusal of permission on the basis of excessive height bulk and scale being contrary to the Objective Z4 land use zoning objective for the site and such that it would have an adverse impact on the amenity of occupants of the adjoining Georgian properties to the north west, particularly No.21, and to the character and setting of these protected structures and the conservation area designation.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission be refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the Objective Z4 zoning objective for the area where the maximum quantum of office accommodation which is open for consideration is 1,200 sq. metres, to the height of development proposed and the extent of site area over which this height extends and the proximity of the proposed development to site boundaries it is considered that, notwithstanding the existing scale of development on the site and its transitional zone location, the proposed development would represent over development of the site and a scale of development that would have a significant negative impact on the amenity of occupants of adjoining sites to the north west, in particular No.21 Baggot Street, by virtue of loss of light and overbearing visual impact. The proposed development would therefore be contrary to the Objective Z4 land use zoning objective, would seriously injure the amenities of adjoining properties and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the scale of the proposed development relative to existing development on the site, to the proximity of the site to protected structures to the north west and the location of the site within a conservation area it is considered that the proposed development would have an adverse impact on the setting and character of adjoining protected structures and would constitute an excessively visually dominant form within this designated conservation area. The proposed development would therefore be contrary to Policy CHC 4 of the Dublin City Development Plan 2016-2022 which seeks to protect the special interest and character of conservation areas and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector