



An
Bord
Pleanála

Inspector's Report PL29S.248921

Development	Demolition of buildings and associated structures, construction of 6 storey building for office use with car/bicycle parking spaces, vehicular entrance, footpath and all associated site works.
Location	No.'s 6 and 13 Pembroke Row, Lower Baggot St, Dublin 2
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4303/16
Applicant(s)	MKN Property Group
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Fergus Fahey
Observer(s)	Bagod Rath Management Co.
Date of Site Inspection	20 th December 2017
Inspector	Rónán O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site comprises No.'s 6 and 13 Pembroke Row. No. 6 Pembroke Row is a 2-storey building last in use as a restaurant but now vacant. No. 13 Pembroke Row is a three-storey office building.
- 1.2. To the west of the site is Kildress House, a three storey office building. There are two no. 3 storey residential dwellings further to the west, at 1 & 2 Pembroke Row. There is a current appeal relating to the redevelopment of Kildress House and 1 & 2 Pembroke Row (Ref 248831). Further to the west along Pembroke Row is the LinkedIn Headquarters which is 6 storeys in height, with the top two floors set back.
- 1.3. To the rear of the site are the Court apartments on Wilton Place, which are part-5 storeys in height, part-6 storeys in height. To the south and south-east of the site are Nos. 1 to 6 Wilton Place, which are Protected Structures. To the east of the appeal site is a two-storey office building with a mansard roof extension. This is set back from the street frontage. Further to the east and north-east of the site is William Beckett House, a part four, part five, part-six storey residential building.
- 1.4. To the immediate north of the site is a four storey over basement office block with frontage onto Baggot Street Lower (84-87 Baggot Street Lower) and a three-storey apartment building (Baggot Bridge Court). To the north-west is a 4 storey residential apartment building (Bagod Rath).

2.0 Proposed Development

- 2.1. Demolition of buildings and associated structures, construction of 6 storey building for office use with car/bicycle parking spaces, vehicular entrance, footpath and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission subject to 17 conditions. Conditions of note include:
 - Condition 3: Setback at fourth and fifth floor shall be increased to 5.4m from Pembroke Row and align with adjoining site to the west.

- Condition 4: The fifth floor shall be used for media associated uses.
- Condition 5: No element shall oversail the red line boundary - revised drawings in relation to the design of the feature window at first, second and third floor levels.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Concerns in relation to compliance with zoning.
- No objection to the principle of the redevelopment of the site and creating greater site coverage and plot ratio.
- Concern in relation to the height, scale and mass.
- Development is encroaching into DCC air space.

3.2.2. Additional information was requested in relation to the following (i) clarity in relation to the compliance with the Z1 and Z6 zoning objectives for the site (ii) revised drawings showing reduction in height, scale and mass, and revised shadowing analysis (iii) revised design showing greater variance in design between this proposal and the proposal for Kildress House to the west, and revised design for the rear elevation (iv) inclusion of red line boundary on all floor plans (v) clarify if translucent interlayer is to be provided on all elevations.

3.2.3. Following receipt of Significant Further Information, it was recommended that planning permission be granted.

Other Technical Reports

Roads – no objection subject to conditions.

Drainage – no objection subject to conditions.

Waste Management – no objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. None

3.4. **Third Party Observations**

- 3.4.1. Submissions were received on the original submission, and on the Further Information submission. The issues raised are covered within the Grounds of Appeal.

4.0 **Planning History**

Appeal Site (relates to 13 Pembroke Row only)

- 4.1.1. 2364/08 – Grant – 6 storey office building. Condition 2 omitted the fourth and fifth floors from the development.

Other Relevant History

Kildress House

- 4.1.2. 248831 (4153/16) Current appeal following a grant by the LPA – 6 storey office building.

12 Pembroke Row (to the north-west of the appeal site)

- 4.1.3. 2043/15 – Grant 5 storey mixed-use building and consisting of an art gallery, cafe and 4 no. residential units.

5/5A Lad Lane to rear of Hagan's Court, Dublin 2 (to the north-west of appeal site)

- 4.1.4. 2952/17– Grant - Demolition of buildings and construction of 6 storey building consisting of 25 apartments, restaurant and cafe, outdoor terrace parking and access.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The relevant Development Plan is the Dublin City Development Plan 2016-2022.
- 5.1.2. The appeal site is subject to two different land use zonings. No. 13 Pembroke Row is zoned Z6 'To provide for the creation and protection of enterprise and facilities opportunities for employment creation' and No. 6 Pembroke Row is zoned Z1 'To

protect, provide and improve residential amenities' under the Dublin City Development Plan 2016-2022.

5.1.3. The subject site also adjoins Z1 zoned areas to the south and east. As such the site is considered a Transitional Zone Area.

5.1.4. The site is located within a Conservation Area.

5.1.5. Relevant provisions of the Development Plan include:

- Policy CEE11: To promote and facilitate the supply of commercial space/facilitating re-development of obsolete office stock.
- Policy SC25: promotes high quality design.
- Policy CHC1: seeks the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- Policy CHC2/4 seeks to ensure the protection of the special interest of Protected Structures, and the special interest and character of all Conservation Areas is protected.
- Section 14.7 Transitional Zone Areas states it is important to avoid abrupt transitions in scale and use zones.
- Section 16.2: Design, Principles and Standards.
- Section 16.5/6/7: Plot Ratio/Site Coverage/Building Height.

5.2. **Natural Heritage Designations**

5.2.1. None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The Grounds of Appeal, as submitted by the Third Party Appellant, are as follows:

- Proposal would be a material contravention of the Development Plan.

- Office is not a 'Permissible Use' or 'Open for Consideration' under Z1 – Media Associated uses are listed as 'Open for Consideration'.
- Does not agree with the position of the LPA – Office is not permitted in principle within a Z1 zone irrespective of what the existing use of the site may be.
- There are no circumstances in this case where zoning restrictions may be relaxed.
- Precedents cited by the applicants are not applicable here.
- Residential zoning of this site, and of the 2 blocks to the east, was re-affirmed when the new CDP was adopted in 2016.
- Is a 'Transitional Zone Area' as defined in the CDP.
- Separation distance will be reduced from 19.5m to 17.1m - overall height will be increased by 22.4m (3 floors higher than the existing building).
- 24 windows on the first to third floors and the 4th and 5th floors will be fully glazed.
- Material change to the setting of the Court Apartments.
- Impact on residential amenity as a result of excessive overlooking and visual overbearing.
- Traditional standard of separation between first floor windows at the rear of 2 storey dwellings is 22m as referred to in the CDP.
- Screening measures confirm that overlooking is a legitimate matter of concern.
- Screening measures are inadequate.
- Separation distance is inadequate – Court Apartments are in an area where the CDP gives priority to the protection of amenities of residential development.
- Will result in visual overbearing - proposed development by reason of its height/mass and scale and undue proximity to the Court Apartment site will totally dominate the yard area within the Court Apartments to the rear - constitutes a legitimate reason for refusal.
- Over-development of the site.

- Plot ratio is 4.95 – indicative plot ratio for Zone Z6 is 2.0-3.0.
- No actual consideration in the Planning Report of the issue of plot ratio.
- None of the exceptional circumstances for increased plot ratio are applicable in this instance.
- LinkedIn development is in a strategic cornerside location – does not set a precedent for a development of the same height and scale.
- Excessive plot ratio constitutes a reason for refusal.
- Proposed site coverage is 90% is higher than the indicative site coverage of 60% for Z6 areas and 45%-60% within Z1 areas – none of the exceptional circumstances apply in this instance.
- Planning reference 2364/08 – related to the development of a six storey office block on this site – is relevant.
- The fourth and fifth floors of this proposal were omitted.
- These considerations also apply in this instance - height will be excessive – should be refused on this ground.
- No provision for public open space - New footpath does not constitute public open space – should be refused on this ground.
- Design.
- Proposal represents a visually obtrusive and dominant form of development on Pembroke Row which is not reconcilable with its designation as a Conservation Area in the Development Plan – this constitutes a further reason for refusal.

6.2. Applicant Response

6.2.1. A response to the Third Party Appeal has been submitted on behalf of the applicant.

- Refers to recent planning history in the surrounding area.
- Evident that Pembroke Row as well as the surrounding area is experiencing significant redevelopment that will change and improve the character of Pembroke Row and the surrounding area.

- Permission previously granted for redevelopment of site but was not implemented.
- Proposal is for a modern office and media associated development.
- Top two floors setback – reduces bulk and scale of the development.
- Scale as reduced and design was amended as part of the request for Further Information.
- Will not have an overbearing effect on the surrounding buildings.
- Scale of the development was further amended as a result of conditions - including setback of the 4th and 5th floors – concern in relation to impact on circulation space available – will cut off lift access.
- Have submitted two additional options to address this issue – Option A is the preferable option.
- Proposal successfully represents a continuation of the redevelopment of Pembroke Row.
- Steady and continuous demand for additional office space in Dublin.
- Vacancy rate is 3.7% in the city centre.
- 16,000 office jobs created in Dublin alone in the last year.
- Existing office building is dated - No. 6 has failed to operate or trade commercially in a significant period of time.
- Proposal does not seek a relaxation of zoning restrictions.
- Was requested that the Planning Authority consider the site to constitute one single planning unit, with a horizontal differentiation between the land uses, as opposed to vertical differentiation – is in accordance with Section 14.1 of the CDP
- Has been deemed to be acceptable on other commercial developments within Dublin City – including at the former Veterinary College in Ballsbridge (Reg. Ref. 4798/07; ABP Ref PL29S.228224).
- No office space will be provided within the Z6 zoning – rather the main circulation space only.

- Uses will not give rise to any negative impacts on third party properties
- Recent approval for residential near the site/site does not lend itself to residential development due to the many constraints.
- No 6 Pembroke Row has been in commercial use since the mid 1980's.
- In relation to the Transitional Zoning, office use has co-existing with residential uses for over 30 years.
- Was also considered acceptable by ABP when considering appeal ref 240278.
- Design amendments reduce impacts on neighbouring properties.
- Desks are not placed at windows/structural design results in large support columns close to the windows.
- New development is smaller than LinkedIn Headquarters and the IDA building on Wilton Place.
- In relation to Plot Ratio - the site is located within major public transport corridors/will facilitate the continued redevelopment of Pembroke Row/brownfield site within the city centre/higher plot ration previously accepted on this appeal site.
- CDP does not require that all criteria as set out in S16.5 of CDP need to be met.
- Plot ratio reduced to 3.95 (excluding basement) as a result of the amendments.
- Plot ratio of LinkedIn headquarters is 4.5 – has previously been accepted by ABP Inspector.
- Site coverage is justified as per plot ratio.
- Site coverage of development on opposite side of the road (2043/15) is 100%.
- In relation to height, proposal is lower than LinkedIn Building.
- LPA have granted a 6 storey building at Kildress House.
- ABP should take reference to the current context of Pembroke Row and not a previous application from 2008 that was never implemented.
- Court apartments is in fact a 6 storey building due to the change in ground levels at the front and rear of Wilton Place.

- In relation to Public Open Space a new footpath is being provided/within walking distance to a number of existing areas of public open space.
- The development will be situated at the centre of modern buildings with the redevelopment of the former Bord Fáilte buildings at 74-75 Baggot Street to the south, Kildress House and LinkedIn to the west and new developments at the corner of Lad Lane and Pembroke Row to the north-west.
- Key design measures provide setbacks and variation to the proposed building.
- The 'language' of angled metal framing and trimming elements to separate the subject proposal from Kildress House has been extended as part of the Further Information request.
- While the site is located within a Conservation Area, none of the buildings are designated Protected Structures.
- Proposal is contemporary yet respectful to the surrounding area.
- Examples of other recent developments (including photographs/photomontages) submitted.

6.3. **Planning Authority Response**

6.3.1. None.

6.4. **Observations**

6.4.1. One observation has been received from Michael B. Doyle Architects on behalf of Bagod Rath Management Company Ltd. This is summarised as follows:

- Will have a serious impact on residential amenity.
- Development at Kildress House and this development seek to be treated separately – this is not an appropriate approach.
- Presents a massive and insensitive intrusion into the street.
- 100 residential units within 30m of the subject site.
- Site is located in a substantially if not predominantly a residential area.

- Scale massing and presentation of the building not appropriate for narrow former mews lane.
- Existing building employ materials consistent with the local environment.
- Proposed street elevation could not be more opposite to the existing context.
- Current CDP promotes city centre living.
- Overlooking of properties to the front of site.
- Double skin façade would provide indirect daylighting without direct overlooking.
- Step backs would break up the monolithic massing and provide opportunities for natural lighting from a courtyard or lightwell/rooflight.
- Possible arrangement of desks does not mitigate against potential overlooking
- Light pollution.
- Loss of architectural diversity.

6.5. Further Responses

6.5.1. The appellant has responded to the First Party Submission and this is summarised as follows:

- Note that the applicants seeks to amend condition 3 (relating to setback) and question if this is acceptable during this appeal process – have not appealed against Condition No. 3.
- The uses proposed at No. 13 Pembroke Row are acceptable in principle – however, in relation to No. 6 (Zoned Z1) the Development Plan makes it clear that uses not listed as ‘permissible’ or ‘open for consideration’ are generally deemed not to be permissible.
- Stair core etc form an integral part of the office component.
- No provision in this instance for a relaxation of the zoning constraints.
- Section 14.1 of the Development Plan does not permit non-conforming uses.
- Precedent cited by the applicants is not applicable here as context is different.

- Z1 zoning was re-affirmed when the new City Development Plan was adopted/Would have been included in the calculation of the development capacity of residential zoned land.
- Concerns primarily relate to the scale and design of the proposed development and the adverse impacts on residential amenities.
- Measures proposed are inadequate to prevent overlooking.
- Development is not acceptable in a Transition Zone.
- Proposed development will dominate the aspect from Court Apartments.
- Proposal does not satisfy criteria in which a higher plot ratio or a higher site coverage is allowable.
- Planning precedent (2364/08) on this site is still relevant i.e. the residential developments referred to still exist, the zoning objectives were the same and permission for development similar to the linked in development existing on that site at the time – the application at Kildress House is under appeal.
- The change in circumstances are therefore limited - proposed height is still unacceptable.
- Does not provide any meaningful areas of public open space.
- LinkedIn building has significant setbacks from building line - helps moderate the impact of this building – proposed development, and the adjacent development, do not have any significant variation of this type.
- Development is not reconcilable with the area's designation as a Conservation Area.

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions and also encapsulates my *de novo* consideration of the application. The main issues in the assessment of the proposed development are as follows:

- Principle of Development
- Neighbouring Amenity

- Conservation and Design/Impact on Protected Structures
- Other Matters
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The appeal site is subject to two different land use zonings. No. 13 Pembroke Row is zoned Z6 'To provide for the creation and protection of enterprise and facilities opportunities for employment creation' and No. 6 Pembroke Row is zoned Z1 'To protect, provide and improve residential amenities'. The uses proposed in this instance are office uses on the ground to fourth floors, and media associated uses on the fifth floor. I note that office is not a 'permissible' use nor 'open for consideration' within the Z1 zoning and the Development Plan states that within certain land use zonings, including Z1 zoned lands, those uses not listed a 'permissible' nor 'open for consideration' are generally deemed 'not permissible in principle'. Media associated uses are not 'permissible' nor 'open for consideration' within the Z6 zoning although the Development Plan states that such uses will be dealt with in accordance with the overall policies and objectives of the plan.
- 7.2.2. The appellants have argued that the proposal is a material contravention of the development plan, given the proposed office use within the Z1 zoned plot. The applicants argue that the two plots should be considered as one planning unit, with a horizontal differentiation between land uses.
- 7.2.3. The substantive issue is whether the office use proposed would materially contravene the zoning objective of the Z1 zoned plot, that is, 'to protect, provide for and improve residential amenities'.
- 7.2.4. I have had regard to Section 14.1 of the CDP, which allows for a horizontal differentiation in land uses in urban areas, resulting in areas of greater diversity.
- 7.2.5. However, I do not accept the applicant's interpretation of Section 14.1, and, in my view, this wording does not necessarily allow for the development as proposed here, with the two uses spread horizontally over the two different zonings.
- 7.2.6. However, I have had regard to the limited extent of the Z1 zoned plot which limits its potential for development for residential uses, and therefore its potential to contribute to the overall housing stock is subsequently limited. Furthermore, I do not consider

the proposal would adversely impact the surrounding residential amenities (see also detailed consideration of residential amenity below). As such, while I recognise that office is not generally permissible on Z1 zoned lands, I am of the view that the proposed development does not materially contravene the zoning objective for the Z1 zoned plot, having regard to those considerations above,⁵

7.2.7. I consider the provision of media associated uses across both plots to be acceptable. While not listed as 'permissible' nor 'open for consideration' within Z6 zoned land, such a use is employment generating and has many similarities with a general office use, and as such, is acceptable in my view.

7.3. **Impact on Amenity**

7.3.1. There are existing residential uses directly opposite the site at Baggot Bridge Court. Further to the north-west is Bagod Rath, a four storey residential development. To the rear there are residential units at Wilton Court.

7.3.2. In terms of potential overlooking, I note that Baggot Bridge Court is a minimum of 12m from the proposed building at its closest point. Baggot Bridge Court is a 3 storey building with windows angled away the proposed development. Bagod Rath is a 4 storey building with windows that face away from the appeal site. To the rear Wilton Court has windows that face towards the appeal site with a separation distance of approximately 17.1m.

7.3.3. There are no minimum distances set out the CDP for residential windows that are opposite office uses. I note that there are existing windows on the front façade of the existing building that face towards the residential units. The proposal will result in a larger 6 storey structure with larger areas of glazing facing towards the residential units. The upper two floors are set back by 3.8m from the front façade.

7.3.4. The proposal incorporates design measures to reduce actual and perceived overlooking. These include the introduction of a translucent layer to the front elevation which is designed to mitigate against overlooking from the office occupants when sitting at a desk. I consider that this is sufficient to overcome actual and perceived overlooking. If the Board is minded to approve the proposal, I recommend that a condition be imposed requiring applied manifestation up to 1.35m above FFL on the windows of Pembroke Row elevation. In my view this would only be

necessary on the ground, first, second and third floors, given the setback of the upper floors.

- 7.3.5. I note that the Wilton Court apartments are located to the rear of the site and there is a minimum of 17.1m window-to-window distance. I consider that a similar mitigation measure as at the front can be applied here and this would overcome any actual or perceived overlooking from the proposed development.
- 7.3.6. In terms of the creation of a sense of enclosure or the perception of an overbearing structure opposite the existing residential units on Pembroke Row, I note there is at least a 3.8m setback at fourth and fifth floor level floor level. I concur with the view of the LPA that this setback should be increased to 5.4m in line with the site next door (currently under appeal), and in line with the LinkedIn building to the north-west. This increased setback results in a significant reduction in the perceived bulk and scale of the building and, in my view, overcomes any potential to result in a sense of enclosure for those residential units on Pembroke Row. There is sufficient distance from Wilton Court so as to ensure that there is no sense enclosure created for these units.
- 7.3.7. In relation to the previous permission on part of this site (relates to 13 Pembroke Row only – Planning Reference 2364/08), I note that the application was for a six storey building, with the top two floors set back by a min of 2m and a maximum of 4.5m. The planning officer recommended that the top two floors be removed as it was felt that the proposal would be visually overbearing and lead to a loss of residential amenity for those units at Baggot Bridge Court and Bagot Rath. Condition 2(as) of the decision notice required the removal of the top two floors.
- 7.3.8. However, it is my view that a 5.4m setback at fourth and fifth floor level is sufficient to ensure the proposal will not be visually overbearing or result in loss of residential amenity.
- 7.3.9. I note that the applicants have raised concern over the impacts of the increased setback, as required by condition No. 3, which results in the lifts becoming inaccessible. Two options have been submitted which address this issue. While the applicants have expressed preference for Option A, it is my view that Option B is preferable, given that it allows for both a sufficient setback at 4th and 5th floor levels, and for continued access to the lifts. I note that this condition was not formally

appealed. However, I do not consider that the slightly revised floor plan as presented under Option B is injurious to any parties, and does not have a material impact on the overall appearance of the proposed development. As such, should the Board be minded to grant, it is my recommendation that a condition be imposed required the setback of 5.4m, save for the area that is facilitating lift access, as shown in Option B.

- 7.3.10. In terms of light pollution I note the existing building would result in level of light impact. While there are larger areas of glazing associated with this proposal, I consider that with the applied manifestation in place on the Pembroke Row elevation, and well having regard to the usual hours of occupation of office buildings, the impact resulting from light pollution would not be significant in my view.
- 7.3.11. In terms of loss of daylight and sunlight, a revised Sunlight and Daylight Analysis report was been submitted with the application, as part of the Further Information submission. This concludes that while there will be some slight to moderate impacts on daylight and sunlight levels to the residential units opposite, in particular the Annual Probable Sunlight Hours (APSH) received by the ground floor windows of Baggot Bridge Court (Zone 03 and Zone 08), with these windows falling slightly below the BRE target (Standard is 5 % - with the proposed development in place is 3%). In relation to the impact on William Beckett House to the east, the impacts stated within the report as ranging from none to moderate, and restricted to the evenings.
- 7.3.12. Having considered the findings of the report, and from my observations on site, I concur with the conclusions contained therein and I do not consider that there would be a significant impact as a result of loss of daylight and sunlight. I do not consider that the impact on the ground floor windows of Baggot Bridge Court is so adverse as to warrant a refusal of permission in this instance, given the inner urban nature of the site where some impacts on daylight and sunlight are expected with redevelopment of brownfield sites.
- 7.3.13. I note the site lies within a Transitional Zone Area where particular attention must be paid to the use, scale, density and design of development proposals and to screening proposals in order to protect the amenities of residential properties. In this instance, subject to a condition requiring a setback of 5.4m from the front elevation,

I consider that the proposed scale, density and design have had due regard to the adjoining Z1 zoned areas. In addition, the screening proposed will overcome any actual and perceived overlooking.

7.4. Design and Conservation/Impact on Protected Structures

- 7.4.1. Policy CHC1 seeks to preserve the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city. Policy CHC4 seeks to protect the special interest and character of all Dublin's Conservation Areas.
- 7.4.2. The proposed building is a 6 storey building with the fourth and fifth floors set back from the Pembroke Row elevation. To the Pembroke Row elevation façade materials will be satin anodised metal, limestone cladding and toggle fixed glazing to the ground, first, second and third floor levels with glazing at fourth and fifth floor levels. The rear facade incorporates a light coloured brick façade at ground to third floor levels with glazing at fourth and fifth floor levels. I consider the palette of materials to be appropriate in this instance, given the evolving context of the site.
- 7.4.3. In terms of Plot Ratio, the CDP sets out Indicative Plot Ratio standard for Z6 zoned areas is 2.0-3.0. The Indicative Plot Ratio for Z1 and Z2 is 0.5 -2.0. The plot ratio as proposed is 3.95. As such the standard is exceeded in this instance. The site coverage for Z6 areas is 60%. The proposed redevelopment is 95% site coverage which exceeds the standard.
- 7.4.4. A higher plot ratio and site coverage may be permitted where the site adjoins a major public transport termini, where an appropriate mix of residential and commercial uses are proposed, to facilitate comprehensive re-development in areas in need of urban renewal and to maintain existing streetscape profiles.
- 7.4.5. In this instance, given the redevelopment of the area in progress and the streetscape profile provided by the LinkedIn Building to the west of the site, I would consider that a higher plot ratio and site coverage is appropriate on this site.
- 7.4.6. The height of the proposed building will be 22.4m. The top two floors will be set back by 3.8m from the Pembroke Row elevation. In terms of the building's relationship with surrounding development, I note that the proposed building is lower than LinkedIn building to the west and is the same as the recently permitted scheme at Kildress House (currently under appeal – Ref 248831).

- 7.4.7. Subject to the top two floors being set back by 5.4m, I consider that the bulk, scale and massing of the proposal is appropriate.
- 7.4.8. In relation to the previous permission on part of this site (relates to 13 Pembroke Row only – Planning Reference 2364/08), it my view that the context of the site has changed significantly in light of the completion of the LinkedIn building, which is a six storey building with a significant setback at fourth and fifth floor levels. A similar setback on this site is considered to be appropriate given the context within which the site now lies.
- 7.4.9. The site is partially zoned Z6 which constitute an important land bank for employment use in the city. The CDP notes that any redevelopment proposals should ensure that the employment element on the site should be in excesses of that on site prior to re-development in terms of numbers employed and/or floor space. As such it is expected that the redevelopment of this site would result in an increase in the scale of structures on the site.
- 7.4.10. In relation to the impact on the Protected Structures to the south and south-east of the site, at No's 1-6 Wilton Court, I note that the proposal can only be seen in glimpses from Wilton Court, and therefore the impact on the setting of these Protected Structures is subsequently limited and does not result in any adverse impact, in my view.

7.5. **Other Matters**

- 7.5.1. In relation to transport issues, I note that basement car parking is proposed, with an associated car lift. The planning authority have imposed a condition relating to the use of the car lift, with priority to be given to cars entering the site at peak hours, in order to minimise impacts on the surrounding road network. This condition is reasonable and should be imposed on any decision to grant.

7.6. **Appropriate Assessment**

- 7.6.1. The site is neither in nor near to a Natura 2000 site. The closest SPA to the site is South Dublin Bay and River Tolka SPA which is 2.3km to the east of the site. The closest SAC is the South Dublin Bay SAC which is 2.3km to the east of the site.
- 7.6.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, a serviced inner-urban location, and the proximity to the

nearest European Site, no Appropriate Assessment issues arise and it is not considered the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016 to 2022, including the zoning objective for the area, and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not detract from the streetscape or the visual amenities of the area and would not result in significant impacts on the residential amenity of residential property in the vicinity. 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 submitted on the 23rd day of May 2017, and by the further plans and particulars received by An Bord Pleanála on the 24th day of August, 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The setback at fourth and fifth floors shall be increase to 5.4m from the red site boundary on Pembroke Row, save for the area that accommodates lift access. In this regard, revised drawings should be as per 4th and 5th Floor Plans - Option B as submitted to An Bord Pleanála on the 24th Day August 2017.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity

3. The fifth floor shall be used for media associated uses only.

Reason: In the interest of clarity.

4. The glazing at ground, first, second and third floors of the front elevation, and at first, second and third floors of the rear elevation, shall be fitted with a translucent layer/obscured glazing or an applied manifestation up to a height of 1.35m above finished floor level (FFL).

Reason: To prevent overlooking of adjoining residential property.

5. No element of the proposed design shall oversail the red line site boundary. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of proper planning and development.

6. The developer shall comply with the following:

- (i) The sequencing of the car lifts should give priority to vehicles entering the site at peak hours.

- (ii) The applicant shall undertake to implement the measures outlined in the Travel Plan submitted in conjunction with the application and ensure that future tenants of the proposed development comply with this strategy. A Mobility Manager for the overall scheme shall be appointed to oversee and

co-ordinate the preparation of individual plans.

(iii) Details of materials proposed in public areas and Pembroke Row are required and should be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division. All works on the public road shall be subject to the written agreement of DCC and at the applicant's expense.

(iv) Cycle parking shall be secure, conveniently located, sheltered and well lit. Key/Fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.

(v) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: To ensure a satisfactory standard of development.

7. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing, by the planning authority.

A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals. Any proposed render finish to be self-finish in a suitable colour and shall not require painting.

Reason: In the interest of visual amenity.

8. Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of orderly development.

9. The site development and construction works shall be carried out such a

manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity

10. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

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

11. The site works and building works required to implement the development shall only be carried out between 07.00 hours and 18.00 hours, Monday to Friday and between 08.00 hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of the surrounding area.

12. Notwithstanding the provisions of the Planning & Development Regulations 2001 (As Amended), no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting element, shall be displayed or erected on the building or within the curtilage, or attached to the glazing, without the prior grant of planning permission.

Reason: In the interests of visual amenity.

13. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

14. Prior to commencement of development, the developer shall lodge with the

planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision satisfactory completion and maintenance until taken in charge by the local authority of services required in connection with the proposed development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion and maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement shall be referred to an Bord Pleanála for agreement.

Reason: To ensure the satisfactory completion of the development.

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

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

Rónán O'Connor
Planning Inspector

23rd January 2018

