



An
Bord
Pleanála

Inspector's Report ABP-300976-18

Development	Demolition of 2 houses and the construction of an aparthotel, alterations to vehicular access and all associated works.
Location	10, Pembroke Place, and Nos. 36 and 38 Herbert Park Road, Ballsbridge, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3970/17
Applicant(s)	Lordglen Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	<ol style="list-style-type: none">1. Raglan Road Residents Association.2. Dr Christopher Lynn.3. The Pembroke Road Association.
Observer(s)	<ol style="list-style-type: none">1. Upper Lesson Street Area

Residents Association.

Date of Site Inspection

04th of July 2018.

Inspector

Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site is located at Pembroke Place, on the southern side of the junction of Pembroke Place and Ballsbridge Terrace at Ballsbridge Village, Dublin 4. The overall development site links two adjoining sites, where the western site occupies two large detached dwellings and the eastern side includes a 4 storey, 43 no. suite aparthotel currently under construction (Reg Ref 3391/15).
- 1.2. The two large detached dwellings, No. 36 & 38 Herbert Park, set within their own grounds which are accessed directly off the main road, Herbert Park Road, which runs between Ballsbridge and Donnybrook. The two dwellings are part of three similar dwellings, No. 40 Herbert Park is located to the north of the site. Herbert Park is located along the south west of the site.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:

Apart-hotel

- Construction of a fifth floor extension onto the existing aparthotel to accommodate an additional 15 no. suites which will result in 58 no. aparthotel suites and an additional floor area (c. 898m²).
- Vehicular access via the permitted basement ramp at the existing 10 Pembroke Place to the aparthotel car parking spaces.

Apartments

- Demolition of 2 houses.
- Construction of 2 no. 4-storey residential buildings to accommodate 18 no. apartment units including a gym, studio, changing rooms/ WCs, media room, recreational space and meeting room, including car park extension.
- Closure of existing vehicular site entrance to No. 36 and No 38 Herbert Park and new entrance along Herbert Park Road.

- All associated site works.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 19 no. conditions of which the following are of note:

C 11- Archaeological Monitoring

C 12- Restriction on the use for hotel and no long-term residence in the aparthotel.

C 16- Submission of a management scheme.

C 18- Section 96 agreement (Part V).

C 19- Linked to the original permission PL29S.246002 & 2051/17.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information as summarised below:

1. Submission of a plan detailing the extent of public and communal open space.
2. Concerns in relation to the treatment of windows and balconies on the apartment development.
3. Submission of a revised second floor plan detailing the apartment layouts.
4. Location of the majority of cycle parking on the lower ground level and provision of visitor cycle parking on the ground floor.
5. Details of communal facilities within the apartment development and indication of long term sustainability and management issues.

The report of the area planner also referenced the policies of the development plan and the following documents which accompanied the application:

- Planning Report
- Traffic & Transport Assessment Report

- Conservation Report
- Bat Survey Report
- Appropriate Assessment Screening Report
- Archaeological Assessment
- Waste Management Plan
- Engineering Planning Report
- Flood Risk Assessment
- Visual Impact Assessment
- Sunlight and Daylight Access Analysis
- Material and Sustainability Statement
- A Housing Quality Assessment
- Landscape Drawings

3.2.2. Other Technical Reports

Roads & Traffic Planning Report- No objection subject to conditions.

City Archaeologist- No objection subject to conditions.

Drainage Division- No objection subject to conditions.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

6 no. third party submissions were received and the issues raised have all been summarised in the grounds of appeal.

4.0 **Planning History**

Reg Ref 2051/17

Permission granted for an extension (c. 38m²) at lower ground floor on the southern elevation of the aparthotel building permitted under Reg. Ref. 3391/15, with an external terrace above at upper ground floor level; associated amendments to the private courtyard area.

Condition No 3- Linked the permission to the terms and conditions of Reg Ref 3391/15

Reg Ref 3391/15 (PL29S.246002 was withdrawn)

Permission granted for the demolition of the existing 2-storey vacant office building (c. 1.654m²) and the construction of a mixed use scheme (c.4,720m² gross floor area excluding basement car parking) to include: a new 4-storey over basement office building (c.2,752m² gfa); a new 4-storey over basement aparthotel building (c. 1,968m² gfa), accommodating 43no. Aparthotels studio units.

Condition No 16 - The proposed Apart Hotel Rooms shall not be sold or sublet independent of the operator

Condition No 17 - The maximum occupancy period for the 43 no. Apart Hotel rooms shall be two months only.

5.0 Policy Context

5.1. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

Urban Design Manual, A Best Practice (DOEHLG, 2009)

5.2. Sustainable Urban Housing: Design Standards for New Apartments. Guidelines for Planning Authorities.

5.3. The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

5.4. Dublin City Development Plan 2016-2022

The site is located on lands which are zoned as Z1, Sustainable Residential Neighbourhoods, where it is an objective *“To protect, provide and improve residential amenities”*

Residential is a permissible use.

Restaurant, pub, hotel, and hostel are open for consideration.

The proposal connects to a mixed use development currently under construction and includes a fifth floor extension. This aparthotel is located on lands partially zoned as Z4, District centre, where it is an objective *“To provide for and improve mixed service facilities”*

Site development standards

Section 16.5 Plot ratio/ Section 16.6 Site Coverage

Z1 Outer City

Site coverage: 45% – 60%

Plot ratio: 0.5 – 2.0

Z 4 District Centre

Site coverage: 80%

Plot ratio: 2.0

Section 16.7 Building Height:

Outer City up to 16m (commercial and residential)

Rail Hubs Up to 24m (commercial and residential) within 500m of a Luas, DART and Metro station.

Standards for Apartments- Section 16.10.1

Minimum standards for residential accommodation apartments and the need for compliance with the national guidelines.

Apart-hotels (Appendix 16)

- Accommodation can range from apartment suites containing a number of bedrooms, to open plan studio-style units.
- Aparthotels cannot be used or occupied by permanent households.
- Should include a fully-serviced reception desk, administration facilities, concierge, security, housekeeping facilities and related entertainment and café uses.

- The design and layout should enable the amalgamation of individual units to cater for the needs of visitors especially families.
- A range of different unit styles and sizes to cater for the needs of visitors.
- The over-provision of single-bed units will be resisted and a mix of unit sizes and styles will be required.
- The maximum occupancy period shall be two months.
- Cannot be used for the provision of student accommodation.
- Compliance with residential development standards for any future change of use to permanent accommodation.

Demolition of housing

QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

Section 16.10.17- Retention and re-use of older buildings.

- The re-use of older buildings in relation to conservation and built heritage can be important to the city.
- In assessing applications to demolish the planning authority will actively seek to retain buildings which make a positive contribution to the character or identify of the streetscape.
- Where demolition is permitted a written and photographic inventory will be required.

Section 8.5.6 Car parking & bicycle parking

Policy MT14- To minimise loss of on street parking, whilst recognising that some loss of spaces is required for, or in relation to sustainable transport provision, access to new developments or public realm improvement.

Section 16.38.9 - On street parking:

There is a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas.

Table 16.1 – Maximum Car parking Standards

The site is located in Zone 2 Map J where the following standards shall not be exceeded.

- Hotels and Guest Houses- 1 per 3 rooms
- Residential- 1 per dwelling

Table 16.2 – Cycle Parking

- Hotels- Over 50 bedrooms 1 per 10 bedrooms (min of 10 cycle spaces).
- Residential- 1 per unit.

The site is located close to the Zone of **Archaeological Constraint** for the Recoded Monuments DU018-060/ 022 082 (the Donnybrook/ Ballsbridge settlement), therefore the following polices apply:

11.1.5.13 Preservation of Zones of Archaeological Interest and Industrial Heritage

CHC9: To protect and preserve National Monuments.

5.5. Natural Heritage Designations

The site is located 1.6km to the west of the South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC.

6.0 The Appeal

6.1. Grounds of Appeal

Three appeals have been submitted, two from residents associations and one from a resident in the vicinity of the site. I have assessed each appeal and have summarised the issues in headings as below:

Principle of development

- The proposal does not comply with the development plan.
- The proposed scheme is overdevelopment and 130% increase in the size of the permission granted in 2015 and plans to expand from the original granted permission are deceptive.
- The design principles in Section 16.2.1 of the development plan have not been respected, setbacks have not been adhered to, skylines etc.
- The scale and massing of the development does not respect the character of the surrounding area.
- The profile and finish fails to enhance or compliment the area.
- The development will devalue Herbert Park and does nothing to support the park.
- The aparthotel does little to add to the residential amenities of the area.
- The recent Board decision on a Strategic housing application for UCD is of importance as the proposal had an impact on the residential amenities and protected structures, similar to this proposal.

Visual Impact

- The proposal has a negative impact on adjacent protected structures, Roebuck Castle and Rosebuck Glebe.
- The proposed development will remove trees and foliage and have a negative impact on Herbert Park and links between Ballsbridge and Donnybrook and impact the vistas.
- The existing two dwellings, in association with the remaining No 40, have historical influence to the area.
- If the Herbert Park were used for long term rental, the facade would prove more attractive through the use of balcony furniture
- The submitted visual impact assessment fails to have regard to the proper impact as it attempts to show the development in a favourable light.

Traffic Hazard

- The access into the site and increase in traffic will cause a hazard to those using Herbert Park, in particular small children.
- 38 habitable units have no caraprking spaces and there is no spare capacity in the vicinity for any overspill.
- There is no set-down area and an apart-hotel should have a greater ratio of required parking spaces than a hotel.
- There will be additional pressure on the Ballsbridge Terrace and Pembroke Place for servicing of the additional development.
- Sightlines and access are poor.

Built Heritage

- The Pembroke Estate has a significant amount of heritage dating back to the eighteenth and nineteenth century and the houses are pre-war.
- The dwellings add to the enhancement of the area.
- Members of the 1916 rising lived in Herbert Park.
- The removal of No 36 and 38 Herbert Park will have a deleterious impact on the Edwardian fabric of the area.
- The conservation report does not refer to the context of No 38 and 36 and does not make any reference to the current development plan.
- Herbert Park was gifted to the City Council by the Pembroke estate.
- The proposed development is in the middle of a residential conservation area.
- The domino effect will cause the removal of No 40 also.

6.2. Applicant Response

A submission from the applicant was received on the three appeals and the issues raised are summarised below:

- The council had due regard to all those issues raised in the third party submissions.

- The dwellings are Victorian style red bricked houses and are not included as protected structures or located within an Architectural Conservation Area.
- The dwellings do not front onto Herbert Park and do not form a relationship with the park.
- The report of the planner deemed the proposed development to be acceptable in principle, accepted the photomontages submitted and the open space provision is acceptable.
- In relation to the residential impact, the overall design of the residential buildings seeks to retain the existing orientation and link as transition. The visual impact assessment illustrates the careful consideration of the design.
- No 40, and any historical significant of the site, is not affected by the proposed development.
- The application site is not within a residential conservation area as it is zoned Z1, sustainable residential.
- The closest protected structures to the site is Ballsbridge Terrace and will not be affected by scale or massing of the proposed development.
- Having regard to the associated landscaping and the upgrade of the boundary, the proposed development will have a positive impact on Herbert Park and provide surveillance.
- The proposed development is not “deceptive” rather it may be described as incremental.
- The demolition of the dwellings is in line with Section 16.10.17 of the development plan and further information request where minor in detail.
- The existing height of the aparthotel, over ground level, is 16.3m. It is argued that the proposed development is compliant with the development plan (24m for sites within 500m of rail hubs)
- The sunlight and daylight analysis to indicate no significant impact on surrounding area.
- The proposal has taken cognisance of the building line in the vicinity.

- The development has been designed so as not have a negative impact on No 40.
- The proposed development does not rely solely on the park for open space provision as it complies with Section 16.1.1 of the development plan.
- The previous determination of the Board that residential development requires permission for short-term letting, there are controls over the use for Airbnb.
- The residential basement carparking is separate to the apart-hotel and the location of the development is well served by public transport.
- The proposed vehicular entrance will replace two existing entrances and the Roads Department where satisfied with the proposal.
- A Traffic Impact Assessment was submitted with the proposal to state that the aparthotel element will be served by the existing access for the commercial development and the assessment concluded that the proposed development would have a negligible impact on the existing traffic.
- There will be no precedence set by the proposed development as there are no identical sites in the vicinity.
- The recent Board decision in UCD was for a Strategic Housing Site and of no relevance to this application.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

One observation was received from a residents association which is summarised below:

- The demolition of two Edwardian houses will alter and materially and adversely affect the visual amenity and character of the area.
- In arriving at their decision, the planning authority did not adequately justify the demolition of these dwellings.

- Policy FC26 is of importance as it requires the conservation of the character for future generations and FC27 seeks to preserve the built heritage of the city.
- The proposed development will further erode the suburban/parkland setting

6.5. Further Responses

Further responses from two of the appellants were received in relation to observations and appeals recirculated for correspondence and the issues raised are summarised below;

- The original submissions are reiterated.
- The impact on Herbert Park will still remain a cause of concern, in particular those children who will use the park.
- Other submissions have been made on relevant planning decisions such as 06D.TA001 (UCD Strategic Housing Division). The reasons and considerations from the refusal of this application have been applied to the proposed development.
- The policies and objectives in the development plan relating to the built heritage and development standards have not been met.
- Herbert Park is the lungs of the City.
- Ardoyne House is a perfect example of bad planning decision similar to the proposed development.

Further responses were received from the appellants in relation to the submission from the applicant and the issues raised are summarised below:

- The initial submissions are reiterated.
- It is questioned as to the reason behind the survey of the dwellings in the Irish Architectural Archive, if they had no such merit and it is surprising they failed to be protected.
- There are significant new issues raised by the applicant, notably the response to the UCD Strategic Housing Decision. This decision is similar as it was

refused on the impact the proposed development had on the character and setting of the surrounding area. In addition, an appeal is submitted from a resident of a protected structure, Ballsbridge Terrace.

- Extracts from historic reference on Dublin are submitted relating to dwellings along Pembroke Road.
- The planner report is based on developer sponsored reports to justify the plans which are actually poor planning, over-extension and over saturation of the site.
- The applicant has failed to respond to the issue of the public space of Herbert Park.
- The proposed development will not enhance the area in the same manner as the existing buildings.

7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Development Plan Compliance
- Impact on the Residential and Visual Amenity
- Access and Parking
- Other
- Appropriate Assessment

Principle of development

7.2. The proposed development may be divided into two parts, the first includes the demolition of two dwellings and construction of two apartment blocks with 18 no. units and associated facilities, the second the extension of an existing aparthotel to increase the number of suites from 43 no. units to 58 no. units. The site is located on lands partially zoned Z1, Sustainable Residential and the existing aparthotel is on lands zoned Z4, District Centre. The grounds of appeal argue that the development of an aparthotel is not permitted within the Z1 zoning therefore the principle of

development is not acceptable. The principle of the different aspects of the proposal are addressed separately below.

- 7.3. Extension and alteration of existing aparthotel: The existing aparthotel was granted permission under Reg Ref 3391/15 within a mixed use development scheme which included a 4 storey office building and 4 storey over basement aparthotel building (c. 1,968m²) to accommodate 43 no. studio units. Subsequent amendments to the aparthotel, for an external terrace, was granted under Reg Ref 2051/17. The proposed development includes the extension of this aparthotel, currently under construction, and includes an additional fifth floor and extension along the west for 15no. studio apartments (c. 898m²). The existing aparthotel is located on lands zoned Z4, district centre where it is an objective *“To provide for and improve mixed service facilities”* and the western extension is located on lands zoned Z1, residential where it is an objective *“To protect, provide and improve residential amenities”*. Hotels and hostels are permitted within the Z4 land use zoning, whilst they are open for consideration within the Z1, residential land use zoning.
- 7.4. Demolition of two dwellings and apartment development: The proposal includes the demolition of two dwellings along the west of the site, No 36 & 38 Herbert Park Road, to accommodate two apartment blocks, (18 no. units) and ancillary facilities. Policy QH23 of the development plan states that the demolition of a habitable house is discouraged unless the streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to make efficient use of scarce urban land. The impact of the proposal on the streetscape, environment and amenity are assessed separately below. As stated above, the lands along the west of the site are located on lands zoned Z1, where it is an objective to support sustainable residential developments, therefore an increase in the amount of units on the site within a city centre location is considered acceptable.
- 7.5. Having regard to the location of the site, the land use zoning and the policies and objectives of the development plan, I consider the extension of the existing aparthotel, the demolition of two dwellings and the construction of two apartment blocks is acceptable in principle subject to complying with other planning requirements as addressed in the following sections

Development Plan Compliance

- 7.6. The appropriate development standards for aparthotels and apartments are included within development plan and the national guidance, respectively. The grounds of appeal are concerned the proposal will cause overdevelopment and is inappropriate development for the subject site. I have detailed these separately below.
- 7.7. Aparthotel- Guidance for aparthotels is listed in Appendix 16 of the development plan and includes the need for shared services, provision of family units and requirement for short –term leasing. The existing aparthotels granted under Reg Ref 3391/15 included conditions restricting the occupation of the units to 2 months and restriction on the sale or sublet of units independent of the operator, which I consider reasonable to comply with guidance on the appropriate operation of aparthotels. The parent permission includes a reception desk to the rear of the office building, in the centre of the site, as per the requirements of Appendix 16. The majority of the 43 no units previously permitted are c. 33m² in size and of the 15 units proposed 14 of these are also c. 33m² in size. Appendix 16 requires a range of different unit styles and sizes to cater for visitors and restricts the over-provision of single bed units, which I consider reasonable. I consider that a condition could be included requiring the provision of 5% of the units for family accommodation so that a range of unit sizes are provided.
- 7.8. The aparthotel is located on lands zoned as both Z1 (proposed extension to the west) and Z4 (existing and fifth floor extension). The site coverage for Z1 lands is up to 60% whilst it is 80% for Z4 lands. The plot ratio for both Z1 and Z4 lands can range up to 2.0. The plot ratio and site coverage for both the apartments and aparthotel are 1.27 and 56% respectively. The height of the aparthotel will increase by 2.5m to facilitate an additional fifth floor (total c. 19m) on the existing aparthotel and 18m for the western extension beside the dwellings. Section 16.7, guidelines for building heights, of the development plan permits up to 16m for both commercial and residential in outer city and 24m at rail hubs. The site is located c. 500m from a DART Line and c. 800m from the closest station at Lansdowne Road. Stepped heights and clustering of tall buildings are promoted in the development plan, particularly in transition zones and it is of note the existing mixed use development directly along the east of the site is c. 5m higher. Having regard to the location of the existing aparthotel within designated district centre and beside a mixed use

development and distance from a major transport corridor I consider the additional fifth floor is acceptable and complies with the development plan standards.

- 7.9. Apartment- The proposal includes 18 no. apartments located in two blocks each 9.4m in height. The ground floor of each block includes communal facilities where the block to the south contains a media room, meeting room and recreational lounge whilst the block to the north has a gymnasium. In response to further information the applicant stated that these mixed use facilities would be controlled by a management company associated with the apartment development, independent of the aparthotel complex. Section 16.10.1 Residential standards for apartment developments are set out in the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018). A schedule of accommodation and a Housing Quality Assessment was submitted with the application and the proposal includes 14 no. 2 bed (78%), 2 no. 2 bed (11%) and 2 no. 1 bed units (11%) and range in size from c. 50m² to c. 115m². I have assessed the size of the apartment development against the criteria in Appendix 1 of the national guidelines and I note those standards comply plus 10% over the minimum required. In response to a further information request obscure glazing was used along the north and east of each apartment block with privacy screens at certain balconies to prevent overlooking onto other balconies. The balcony sizes range from c. 5m² to c. 38m² and communal open space is c. 514m² which comply with Appendix 1 of the national guidelines and Section 16.10.3 of the development plan.
- 7.10. Having regard to the location of the existing aparthotel and proposed fifth floor on lands zoned Z4, district centre, the pattern of development in the immediate vicinity, the policies and objectives in the development plan and the national guidelines for apartment development, I consider the proposed development complies with the appropriate criteria for development.

Impact on Residential and Visual Amenity

- 7.11. The proposed development includes the removal of two dwellings which are to the south of a similar style dwelling, No 40, which will remain on the site. The grounds of appeal consider the proposal will have a negative impact on the setting of No 40 and argue the removal of the dwellings and replacement with an apartment block will have a negative impact on the character and setting of Herbert Park. In addition, the

grounds of appeal argue the existing dwellings have historical links to the area and merit retention.

- 7.12. No 40 Herbert Park Road- Section 16.10 of the development plan include standards for residential accommodation in relation to aspect, natural lighting, sunlight, layout and private open space. No 40 is located 10m to the north of No 38 and the proposed apartment development will be 10m from the edge of No 40. The height of the existing dwellings are c. 10m and the height of the closest apartment building is 9.4m in height. Shadow analysis drawings accompanied the proposal and illustrate some additional overshadowing to the rear of the No 40 during mid-day in the Spring Equinox. The orientation of the windows along the north façade of the building are such that they do not directly face No 40 to the north. Having regard to the height of the apartment block relative to the existing dwelling, the distance from No 40 and the overall design I do not consider the proposed should have a significant negative impact on the residential amenity of the occupants.
- 7.13. Visual Impact and Built Heritage- The existing dwellings along Herbert Park Road are large detached properties set back from the side of road behind mature hedging which is c. 2m in height. The grounds of appeal refer to the existing development on the site and consider the proposal will have a negative visual impact on the surrounding area. The proposed dwellings are not included on the list of protected structures nor are they located within a conservation area. The submitted Conservation Report details the history, architecture and age of the dwellings around the early 20th century and concludes that the dwellings are not unique, which I consider reasonable. The submitted Design Statement details and illustrates the existing and proposed streetscape along Herbert Park Road and photomontage drawings accompanying the application illustrate the proposed development in conjunction with the existing permitted scheme, Reg Ref 3391/15. As stated above, Policy QH23 of the development plan states that the demolition of a habitable house is discouraged unless the streetscape, environmental and amenity considerations are satisfied. The streetscape is currently characterised by mature trees and hedging leading into and focused on Herbert Park, which adjoins the site along the south. Whilst the existing dwellings are visible from Herbert Park Road, it is of note the existing aparthotel and mixed use development, currently under construction, dominates the rear of the site and defines the setting of these dwellings. The national

Urban Design Manual list 12 criteria as indicators for good urban design, in particular the evolution of the development naturally as part of the surroundings, appropriate increases in density respecting the buildings and landscapes around the sites edges and positive contribution to the character and identity of the area. The footprint and height of the apartment blocks are similar to the existing dwellings although the building line is set forward towards the road, similar to the front building line of No 40 to the north. The hedging along the front boundary is to be retained and enhanced at locations where the vehicle accesses are to be removed, which I consider will add to the streetscape. An arborist and landscape plan submitted with the application includes proposed enhancements to the scheme including the removal of an existing block wall along Herbert Park and replacement with hedge planting, minimal impact on existing trees and detailed communal landscape with play areas. Having regard to national guidance for best practice urban design and the overall design of the apartment which is similar to the existing aparthotel at the rear of the site, I consider the proposed apartments would respect the existing character in the vicinity and would not have negative impact on the built heritage or visual amenity of the surrounding area.

- 7.14. I consider the overall design of the proposed aparthotel extension is in keeping with the character of the existing mixed use development along the east of the site which presently dominates the entire frontage along the north of the Herbert Park and having regard to the expanse of mature trees and planting within the park I do not consider the existing development has a negative impact on the character or amenity of the park, nor do I consider the extension of the aparthotel would have a negative impact.
- 7.15. Therefore, having regard to the overall design of the proposal including the retention of the footprint and building line of the existing two dwellings along Herbert Park Road, the orientation and treatment of the proposed buildings along Herbert Park, the existing and proposed landscaping and the pattern of development in the vicinity, I do not consider the proposed development will have a negative impact on the built heritage or visual amenities of the surrounding area.
- 7.16. Residential use- The two apartment blocks proposed will replace two existing dwellings. The site will be interconnected to the adjoining No 10 Pembroke Place mixed use development, via external walkways, with proposed works along the west

to the aparthotel extended into the rear gardens of the existing dwellings on lands zoned, Z1, Sustainable residential. Section 5.1 the development plan refers to the need to match housing supply with demand and having regard to the links into the commercial activity on the adjoining site I consider it necessary to protect the provision of the residential units as part of the housing supply and long-term rental stock, restricting the use of the apartments for short-term leasing is not permitted, for example internet based tourist accommodation.

7.17. The overall development includes communal facilities on the ground floor which the applicant states will be maintained by the apartment management company. Section 6.11 of the national guidelines for apartments, refers to the need to include management companies for long term management of apartment developments. In the interest of proper planning and compliance with the Z1 zoning on the site, I consider it reasonable the communal uses are retained for the exclusive use of the residents of the apartments.

7.18. Therefore, having regard to the characteristics of the existing environment, the extensive landscaping on the site to be retained and enhanced and overall design of the proposed development, I do not consider the proposal would have a significant negative impact on the residential amenity on the site or the surrounding area nor would it have a negative impact on the built heritage in the vicinity.

Access and Parking

7.19. The proposed development includes the removal of two existing vehicular entrances along Hebert Park Road and the construction of one new vehicular entrance point into the apartment development. Access into the aparthotel development will be via the existing permitted access for No 10 Pembroke Place. The grounds of appeal are concerned the increase in traffic will cause a traffic hazard for those users of Herbert Park, will lead to the loss of on-street parking and the provision of caraprking on site is not sufficient to service the proposed development. The proposal was accompanied by a Traffic & Transport Assessment Report which included TRICS generated data, for both the residential units and the aparthotel, and a Preliminary Mobility Management Plan.

7.20. Apartment development: The existing dwellings have separate vehicular access from the main Herbert Park Road. The proposed development includes the closure of

these entrances and the construction of a new vehicular entrance to the north of the site. Section 16.38.9 of the development plan refers to the need to protect on-street parking and minimise any loss. The proposal requires the reconfiguration of the existing on – street parking, where the spaces at the existing entrance will be filled and the new opening will require the removal of existing spaces. The proposal will not remove the amount of spaces along the side of Herbert Park Road (c. 12m) therefore the number of on-street spaces will remain the same. The residential development includes the provision of 21 no. additional off-street parking spaces at basement level which complies with Table 16.1 of the development plan standards (Max 1 space per unit). In response to a further information request a revised lower ground floor plan included 24 no. cycle parking spaces at the lower ground level and 6 no. visitor cycle spaces at the ground floor level. I note the report of the Roads Department has no objection to the proposal subject to internal directional signage, location of cycle parking on the lower ground level and allocation of permanent spaces for the residential units, which I consider reasonable.

- 7.21. Aparthotel: The current aparthotel is accessed from Ballsbridge Terrace and Pembroke Place, permitted under Reg Ref 3391/15, and the proposal utilises this access for the aparthotel. Condition No 4 of this parent permission required the submission of a Parking Management Plan to indicate the management and segregation of the 20 parking spaces where 14 were to be retained for the office development leaving 6 for the aparthotel. 38 no. cycle spaces were provided at basement and 4 no. at ground floor for visitors. Table 16.1 and 16.2 of the development plan provides a list of the car and cycle parking space where the car parking is at a maximum of 1 per 3 bedrooms and the cycle spaces is at a minimum of 1 per 10 bedrooms. There are no additional car or cycle spaces proposed. The preliminary Mobility Management Plan, submitted with the application form, referred to the location of the proposed development beside major transport routes and the incorporation of mobility management measures into the aparthotel operators plan. I consider the provision of car and cycle spaces in the parent permission, Reg Ref 3391/15, reasonable to accommodate an additional 15 no. studio rooms and the inclusion of a condition to link any grant of permission to the terms of the parent permission acceptable to ensure compliance with a Mobility Management Plan.

7.22. I note the Report of the Roads Department had no objection to the proposed development subject to conditions. Condition No 9 required the permanent allocation of 1 space per apartment unit, which I consider reasonable. Therefore, having regard to the closure of two existing vehicular access points, the location of the new vehicular access points and the terms of the previous permission (Reg Ref 3391/15), I do not consider the overall proposal would have a negative impact on the traffic and access in the vicinity.

Other

7.23. Archaeology: There are no recorded monuments on the site however it lies within a zone of archaeological potential for historic settlements of Ballsbridge and Donnybrook (DU018-060) and in the proximity to the site of an earlier bridge over the Dodder at Ballsbridge (DU018-059). An Archaeological assessment was submitted as part of the planning application which included details of the previous works undertaken on the adjoining site as part of Reg Ref 3391/15 and the author noted nothing of archaeological significant was recovered. The report recommended archaeological monitoring for any further ground works which, having regard to the location of the site, I consider reasonable.

7.24. Flood Risk Assessment- A Flood Risk Impact Assessment accompanied the applicant which states that the proposed works are limited in scale. An in-depth Dodder CFRAM study and future climate change scenario indicate No 38 Herbert Park Road within Flood Zone A and the rest of the site in Flood Zone B, the source of flooding being the overtopping of the River Dodder. The proposal complies with the Justification test in Table 4.2 if the flood guidelines. Mitigation measures in place include attenuation tanks and appropriate storm water system, a basement floor drainage plan, flood protection doorways and compatible usage on the lower ground and ground floors. The report of the Drainage Division has no objection to the proposal subject to the implementation of the mitigation measures set out in the Flood risk Assessment, which I consider reasonable.

Appropriate Assessment

7.25. A Screening for Appropriate Assessment has been submitted with the application which lists the Natura 2000 sites within a 15km radius and rules out any significant likely impact on all the European Sites, which I have assessed and consider

reasonable. Therefore, having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the Z4 District Centre and the Z1 Sustainable Residential zoning in the Dublin City Development Plan, 2016-2022 and the policies and objectives, in particular Appendix 16 Aparthotels, the national guidelines , Sustainable Urban Housing: Design Standards for New Apartments and the accompanying Urban Design Manual, the location of the existing dwellings and the scale and pattern of development in the vicinity it is considered that the proposed development would not seriously injure the residential or visual amenity of the area and would not endanger public safety by way of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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

Reason: In the interest of clarity

2. a) The proposed communal entertainment on the ground floors shall be used for purposes and functions connected with the apartment development only, and shall not be used, sold, let or leased for events and functions independent of the apartment use.
- b) The residential apartments shall not be used for any short-term letting such as internet based tourist accommodation.
- c) The management and maintenance of the apartment development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The apart-hotel units shall only be occupied for short-term letting periods of no more than two months and shall operate within the definition of aparthotel as set out in Appendix 16 of the Dublin City Development Plan, 2016-2022 and within the terms and conditions of Reg Ref 3391/15. The aparthotel shall be managed by a reception facility on the ground floor with 24hr reception and security facilities. The aparthotel units shall not be used as independent self-contained permanent residential units or student accommodation.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan, 2016-2022 and the proper planning and sustainable development of the area.

4. The development shall be amended as follows:

- There shall be 5% of the units provided for family accommodation.

Revised plans shall be submitted for the written agreement of the planning authority before development commences.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan, 2016-2022 and the proper planning and sustainable development of the area.

5. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park, allocation and location of car parking and cycle spaces, shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety

6. The landscaping scheme as submitted on the plans and details to the planning authority and shall be carried out within the first planting season following substantial completion of external construction works and before occupation of the units.

The areas of public open space shown on the lodged plans shall be reserved for such use and shall be [levelled] [contoured], soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority

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

Reason: In the interest of residential and visual amenity and to ensure the satisfactory development of the public open space areas, and their continued use for this purpose

7. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site

8. 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.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

11. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the

planning authority for such works and services.

Reason: In the interest of public health

13. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

14. 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

Karen Hamilton
Planning Inspector

25th of July 2018