



An
Bord
Pleanála

Inspector's Report ABP-302020-18

Development	Demolition of building, construction of 7 no story over basement mixed use development, parking and associated site works
Location	Shelbourne House, Shelbourne Road, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2758/18
Applicant(s)	Stephen Tennant
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Stephen Tennant
Observer(s)	Copper Bridge C 2015 ICAV
Date of Site Inspection	10 th October 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Shelbourne Road and on the site is a seven storey building set back from Shelbourne Road. The building consists of two elements, the main building and the 'link' building, which have separate accesses. The ground floor of the main building has a reception area with An Post delivery office/collection point occupying much of this floor. First to fifth floors are office uses with three residential units at top (sixth) floor level) which have access to external terraces. The fifth floor office space and the two residential units I gained access into were vacant at the time of the site visit. The third, fourth and fifth floors of the 'link' building are occupied by the Embassy of Malaysia.
- 1.2. There is car parking to the front and side of the building and pedestrian and vehicular access is off the Shelbourne Road.
- 1.3. The surrounding area is undergoing significant redevelopment, with relatively large scale mixed-use, office and residential developments currently undergoing construction or have been recently completed. There are residential properties opposite the site across Shelbourne Road, as well as commercial and residential uses accessed off Crampton Avenue.

2.0 Proposed Development

- 2.1. The proposed development comprises of the following:
 - Demolition of the existing 7 storey commercial/residential building and replacement with a 7 storey over basement commercial/residential building.
 - 8 no. residential units (7 no. duplex units and 1 no. single level unit).
 - Increase of floor area from 7,068 sq. m. (6,373 sq. m. office and 3 no. residential units) to 10,567 sq. m. comprising of approximately 8,874 sq. m. of office use and 1,693 sq. m. residential development.
 - 38 car parking and 106 no. cycle parking spaces at basement level.
 - 508 sq. m. residents communal open space at 2nd floor level.
- 2.2. The application is accompanied by the following:

- Planning Report
- Infrastructure Report
- Waste Management Plan
- Sustainability Report/Energy Statement
- Screening Report for Appropriate Assessment
- Daylight Analysis Report and Shadow Study
- Photomontages
- Planning Application Design Report

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason relating to the redevelopment of the site with a predominant non-conforming use which would be contrary to the Z1 zoning objective.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Limited natural light and aspect to the office accommodation at ground floor level due to proximity to boundaries.
- Notes daylight and sunlight impacts.
- Concern regarding the principle of having the external terrace area overlooked by office accommodation.
- Residential units comply with minimum standards.
- Main issue is the principle of allowing for the complete demolition of an existing office/residential block which is a non-conforming use and its redevelopment with an even greater quantum of office accommodation.

- Given the scale of demolition and quantum of redevelopment the proposal is not considered reasonable and that to allow for a non-conforming use on such a large scale would be contrary to Z1 zoning objectives.
- Recommendation to refuse permission.

3.2.2. Other Technical Reports

Drainage – Seek additional information.

Roads & Traffic Planning – Seek additional information

Water Management – Standard conditions recommended.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. One submission was received from Copper Bridge C 2015 (Landowner of Lansdowne Place – also an observer on the appeal) which states that the amenity of the residential units granted should be considered when considering the redevelopment of this site.

4.0 Planning History

2259/01 – Grant – 3 no residential units on roof of existing office building.

3157/00 – Grant – 3 bed apartment on roof of existing building.

0711/00 – Grant – 5 storey over car park extension - 5 Apartments to the side of Shelbourne House and associated site works.

3824/99 – Grant – Substation.

0519/99 – Grant – Six-storey extension/single storey extension, elevation treatment.

Adjoining Sites

D4 Hotels site/Former Jury's Hotel (Lansdowne Place)

237454 (4015/09) – Grant – 535 residential units (as modified by further information) hotel, restaurants, bars, café, childcare facilities, healthcare facilities, non-retail services and ancillary uses. Construction of 12 blocks varying in height from 6 to 9 storeys.

5.0 Policy Context

5.1. Project Ireland 2040: National Planning Framework

5.1.1. From 16th February 2018, the National Planning Framework has replaced the National Spatial Strategy (NSS) and now represents the overarching national planning policy document. The National Planning Framework sets a new course for planning and development in Ireland, to achieve a shared set of goals for every community across the country, focused on ten National Strategic Outcomes. Chapters of particular relevance to this appeal include chapters 1 (The Vision), 2 (A New Way Forward), 4 (Making Stronger Urban Places), 6 (People, Homes and Communities), 9 (Realising Our Sustainable Future), 10 (Implementing the National Planning Framework) and 11 (Assessing Environmental Impact).

5.2. Section 28 Guidelines

5.2.1. The following is a list of Section 28 Ministerial Guidelines considered of relevance to the proposed development.

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)

5.3. Dublin City Development Plan

5.3.1. The subject site is zoned objective Z1 – ‘To protect, provide and improve residential amenities’ under the Dublin City Development Plan 2016-2022. The zoning objective seeks to provide residential development within easy reach of services, open space and facilities and where public transport allows for good access to employment.

5.3.2. Relevant provisions of the Development Plan include:

- Chapter 2 Vision and Core Strategy – s.2.2 Core
- Chapter 4 Shape and Structure of the City – SC13 (concerning promotion of sustainable densities); Policy SC16 (concerning building heights); Policy SC19 (concerning safe streets and encouraging walking);
- Chapter 5 Quality Housing – QH6 (mixed-use neighbourhoods), QH7 (concerning promotion of sustainable densities).
- Chapter 6 City Economy and Enterprise including S.6.5.3 (provision of office space) – CEE1 (economy/competitiveness), CEE2 (economic impact), CEE3 (sustainability), CEE4 (innovation/promote Dublin internationally), CEE6 (equality/diversity), CEE7 (clean/green/safe), CEE11 (supply of office space).
- Policy SC25: promotes high quality design
- Chapter 8 Movement and Transport.
- Chapter 9 Sustainable Infrastructure.
- Chapter 11 Built Heritage and Culture – Policy CHC1 (concerning preservation of built heritage); Policy CHC4 and sections 11.1.5.4 to 11.1.5.6 refer to Conservation Areas. The site is opposite a residential conservation area;
- Chapter 16 Development Standards: Design, Layout, Mix of Uses and Sustainable Design - s.16.2.1 Design Principles; s.16.2.1.2 Sustainable Design; s.16.2.1.3 Inclusive Design; s.16.3 Landscaping; s.16.4 Density Standards; s.16.5/6 Plot Ratio/Site Coverage s.16.7.2 Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development; s.16.8 Access for All, s.16.10 Standards for Residential Accommodation; s.16.10.17 Retention and Re-Use of Older Buildings of Significance which are not Protected;
- Appendix 4 Transport Assessments, Mobility Management and Travel Plans
- Appendix 10 Guidelines for Waste Storage Facilities
- Appendix 14 Safety and Security Design Guidelines
- Appendix 15 Access for all

5.4. Natural Heritage Designations

5.4.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The First Party Grounds of Appeal, as submitted on behalf of the appellants, are as follows:

General

- Was not stated in the reason for refusal or the planner's report that the proposed development was a material contravention of the Development Plan.

Use

- Longstanding office use on this site.
- Predominant and appropriate use in the area is office.
- Office use is consistent with the existing land use pattern – existing office building on the adjoining site/beyond that a new office building (One Ballsbridge) - both sites are Z1.
- Zoning objectives of the Development Plan are not consistent with the established and recent land use of the site and immediate neighbour to the south.
- Existing building is not commercially viable.
- Building has little street presence/Proposal contributes to the streetscape.
- Increase in the number of residential units from 3 to 8/increase in 14 bedspaces to 35 bedspaces.
- Increase in the overall portion of residential accommodation on site.
- The proposed development does not present a new use on site.
- Existing office and commercial use is extended and upgraded to provide for a higher quality of accommodation in line with the new buildings surrounding the subject site.

- Proposal is to upgrade and extend a non-conforming use – improves amenity to neighbours by setting built form further back from surrounding development/improves streetscape - is therefore in compliance with Section 14.6 of the Development Plan.
- Without the proposed development the existing building will remain mostly vacant until such time redevelopment for an office building can be provided/planning benefits will not be realised.
- A residential development on the site would not be feasible as any development would have to be set back significantly from the boundaries to protect neighbouring amenities – would result in a low density scheme.

Planning Precedent

- Precedent examples where office development has been granted on Z1 zoned lands by Dublin City Council and upheld by An Bord Pleanála including:
- 228224 (4798/07) Former Veterinary College Site – mixed used scheme including office, retail, residential and cultural/office accommodation located on the Z1 zoned lands, residential on the Z6/quantum of office allowed greatly exceeds the proportion of Z6 zoned lands within the site boundary/amendment application (2821/15) granted a change of use from cultural to office, also located within Z1 zoned lands.
- New Development Plan has been adopted since – however the overall objective for Z1 zoned lands remains the same.
- Proposed office development will not impact on the residential amenity of the area.

Compliance with National Policy Guidance

- National Planning Framework - Compliant with the National Planning Framework including National Policy Objective 11 – presumption in favour of development that provides jobs.
- Regional Planning Guidelines for the Greater Dublin Area (2010 – 2022) – Compliant especially in relation to consolidation of the urban area and promotion

of commercial and residential development close to existing services and transport links.

- Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities 2017 – located within a highly accessible area well serviced by public transport and services in accordance with the guidelines.
- Smarter Travel – A Sustainable Transport Future – will encourage sustainable travel and increased development adjacent to quality public transport facilities.
- Greater Dublin Area Transport Strategy – is close to Dart and high frequency bus routes.

Other Matters

- A revised Infrastructure Report (dated 05/07/2018) has been submitted with the appeal which considers Drainage and SUDs issues, Flood Risk, Waste Management, Traffic and Transport (access into basement).
- 5 No. Drawings have been submitted with the appeal (Basement, Ground, and Roof Drainage Plans, Entrance Layout/Signalised Control, Bin Lorry Autotrack).

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. One observation has been received on behalf of the landowners at Lansdowne Place, Copper Bridge C2015 ICAV. This is summarised below:

General

- Client owns the site to the north of the appeal site.
- Extant permission on this site (4015/09).
- Residential amenity of exiting and permitted units on this site should be taken into consideration by the Board.
- Urge the Board to uphold the decision of Dublin City Council.

Established Office Use

- Section 14.6 of the Development Plan does not indicate that the council is bound to allow new development that does not conform to land use zoning objectives.
- Second element of Section 14.6 refers to the extension and upgrade of *premises* rather than the extension and upgrade of the *use* of the site.
- Proposal is a new building with a non-conforming use – therefore consider the proposed development should not be considered under section 14.6 of the Development Plan.
- Planning Authority have described the proposed development as seriously injuring the amenity of other properties in the vicinity.
- Proposal would not meet the required standards for a non-conforming use.
- Development Plan makes no provision for new permissions being granted for non-conforming uses on Z1 zoned lands.

Precedent

- In relation to the precedent cited at No. 1 Ballsbridge, this is not transferable to the present appeal – was split over two zoning objectives.
- Office use does not appear in the Z1 zoning matrix.

National Guidelines

- Number of national guidelines that support the increased delivery of residential development.
- Rebuilding Ireland and Planning Circular PL08/2016 – specifies the need to build more homes.
- National Planning Framework – National Policy 11 in fact promotes residential neighbourhoods. Other national policy objectives within this document promote residential development inside the footprint of Dublin City.
- Development management decisions should support the provision of residential development on residentially zoned lands.

- Dublin Economic Monitor Report (August 2018) – rents are too high/property prices are too high/housing completions are too low/housing commencements have declined.

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:

- Use/Principle of Development
- Impact on Surrounding Amenity
- Other Issues
- Appropriate Assessment
- Environment Impact Assessment

7.2. **Principle of Development**

- 7.2.1. The proposal is in line with principles as outlined within the National Planning Framework, including those relating to compact growth and making better use of under-utilised land with higher housing and job densities, as is the case in this instance. In particular, National Policy Objective 11 states that there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, subject development meeting appropriate standards.
- 7.2.2. The site is in an area zoned Z1 'To protect, provide and improve residential amenities' under the Dublin City Development Plan 2016-2022. Office use is neither a 'permissible use' nor 'open for consideration' within Z1 zoned areas.
- 7.2.3. Section 14.6 'Non-Conforming Uses' of the Development Plan states that when extensions to or improvements of premises accommodating such uses are proposed, each shall be considered on their merits, and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity and does not prejudice the proper planning and sustainable development of the area.

- 7.2.4. The existing floorspace on site consists of 6,373 sq. m. of office floorspace and 695 sq. m of residential floorspace (3 no. residential units). The proposed development will result in 8,874 sq. m. of office floorspace and 1,693 sq. m. of residential floorspace (8 no. residential unit). The proportion of residential to office floorspace will increase from 10 % to 16%.
- 7.2.5. A material consideration in this instance is the established uses on the site, which is predominantly office use with an element of residential. The office use is a non-conforming use, as it lies within Z1 zoned land, where office is neither a permissible use, nor it is open for consideration. The development plan states that extensions or improvements to premises accommodating such uses will be considered on their merits, and providing surrounding amenities are not adversely impacted upon.
- 7.2.6. The observer on the appeal considers that the proposal does not result in the extension or improvement of 'premises', rather it is a new build and that therefore, the proposal cannot be considered under Section 14.6 'Non-conforming uses'. The main concern of the planning authority is the principle of allowing for the complete demolition of an existing office/residential block, where the office element is a non-conforming use, and its redevelopment with an even greater quantum of office accommodation. However, the planning authority have not stated that the proposal is a material contravention of the development plan.
- 7.2.7. My view is that, if an extension to this existing office/residential premises was proposed, according to Section 14.6, it would be considered on its merits. It is logical, in my view, that the current proposal should also be considered on its merits, as there is an increase the amount of non-conforming floorspace in both instances, and the same principle applies in both instances. It is both reasonable and logical to assess the proposal having regard to Section 14.6 of the Development Plan. If this was not the case the planning authority had the opportunity to declare the proposal a material contravention of the zoning objective for the site, which they did not do.
- 7.2.8. I have considered the precedent detailed by the appellants, Appeal Ref 228224 (4798/07) Former Veterinary College in which office accommodation was allowed on Z1 zoned lands, with residential on the adjacent Z6 lands. However the acceptability of the office accommodation in this instance appears to be related to the specific

characteristics of the site, and I do not consider that the same principles apply in this instance.

- 7.2.9. Notwithstanding this, and having regard to the detailed considerations above, I consider that the principle of development is acceptable and the proposal should be considered on its merits, as per Section 14.6 of the Development Plan.
- 7.2.10. Of material consequence in this appeal is the increase in the quantity of residential floorspace, an increase in the number of units and an increase in the proportion of residential to office use that results from the proposed development. At present there are three large 'penthouse' apartments at roof level, with an overall floor area of 695 sq. m. The proposed development results in a total of 8 residential units, resulting in a floor area of 1,693 sq. m, and an increased proportion of residential to office floorspace overall (from 10% to 16%). This goes some way towards achieving the zoning objective for the site, which is to provide residential units in highly accessible locations with easy access to sustainable transport services.
- 7.2.11. The appellant also contends that the constraints of the site limit the opportunity for a wholesale residential scheme, as any residential block would need to be set in off the boundaries, resulting in a low density scheme, and an inefficient use of the site. I concur to some degree with this contention, as the site is relatively constrained with residential development in relatively close proximity to the north and the built form of No. 23 Shelbourne Road to the south would provide further limitations for the development of the site for a wholesale residential development.
- 7.2.12. In conclusion, having regard to the principles and objectives of the National Planning Framework, in particular National Policy Objective 11, to the established non-conforming office use on the site, the increase in both the number of residential units and the increase in the proportion of office to residential floorspace, to the highly accessible nature of the site, and having regards to the constraints of the site, I consider that the proposed development is acceptable in principle, subject to the detailed considerations below.

7.3. Impact on surrounding residential amenity

- 7.3.1. I note that the appeal site is to the south of the permitted mixed use development at Lansdowne Place, with partially constructed residential units facing towards the appeal site.

- 7.3.2. The observer on the appeal states that impacts on the amenity of neighbouring sites should be considered when assessing the proposal. The planning authority did not consider that adverse impacts on surrounding residential amenity resulted from the proposal and this issue did not form a reason for refusal.
- 7.3.3. In relation to daylight and sunlight impacts, and overshadowing, a Daylight Analysis Report and Shadow Study has been submitted with the application. This considers the impact on the permitted residential units at Lansdowne Place (Blocks 6 and 7), as well as the courtyard amenity space associated with these units.
- 7.3.4. A total of 38 windows were tested and all of these windows meet the BRE Guidelines for APSH save for two windows serving the living room of Unit 29 (windows 34 and 35). This living room is also served by other windows (windows 36, 37, and 38) which all meet BRE Guidelines for APSH. In relation to VSC all windows, save for three living room windows serving unit 29 (windows 35, 35, 36) meet the BRE Standards. The remaining two windows serving this living room meet the BRE standards for VSC. The living room of Unit 29 was given further consideration and the ADF was calculated. This room meets the BRE Standards for ADF.
- 7.3.5. In relation to the courtyard area, it is concluded that the proposal would have an imperceptible improvement on this amenity space.
- 7.3.6. Overall I am satisfied that there will be no material impacts on the amenity of the residential units at Lansdowne Place, having regard to daylight, sunlight and overshadowing impacts.
- 7.3.7. In relation to any potential overlooking, the closest windows serving the office floorspace are set back 21.1m from the south-eastern elevation of the under construction Lansdowne Place building. This is sufficient to ensure that no overlooking of residential units results from the office floorspace.
- 7.3.8. In relation to overlooking from the proposed residential units, I note that at fifth and sixth floor levels, bedrooms 1, 2 and 3 serving apartment 8 all have windows which face towards the living/kitchen areas of the units at Lansdowne Place, and are set back a distance of approximately 5 m these windows. Bedroom 3 is also served by windows facing east so there is scope to require the secondary windows to be obscure glazed. In relation to Bedrooms 1 and 2, I consider that angling of the windows so that there is no direct overlooking, should be sufficient in this instance and

these amendments can be required by way of condition, should be Board be minded to grant the proposal.

7.3.9. Apartment 8 is also served by a balcony, which could result in overlooking of the units to the north at Lansdowne Place. However screening measures can ensure that this overlooking is prevented and this can be ensured by way of condition.

7.3.10. In relation to loss of outlook and impact on visual amenity, the proposed development will be relatively close to those windows closest to the appeal site boundary at Lansdowne Place. However, the rooms that these windows serve are also served by east and west facing windows, so sufficient outlook will remain and visual amenity will be preserved. The remainder of the Lansdowne Place development is sufficiently set back to ensure that no loss of outlook or loss of visual amenity would result.

7.3.11. In conclusion I do not consider that the proposed development would have an adverse impact on the residential amenity of adjoining sites.

7.4. Design and Visual Appearance

7.4.1. The planning authority has not raised concerns in relation the appearance and the visual impact of the proposal, nor has this issue been raised as concern in the observation on the appeal.

7.4.2. A Design Report and Photomontages have been submitted at application stage and I have had regard to same.

7.4.3. The existing building does not contribute to the streetscape, by virtue of the significant setback from the road frontage. It is rather dated in appearance does not contribute to the visual amenity of the area, which is undergoing significant redevelopment.

7.4.4. The proposed development brings built form to the street frontage, providing definition to the street and contributing the visual amenity of the area. The bulk, scale and massing of the proposal are appropriate for the site, as is the detailed design and materials palette, and is in keeping with the scale and appearance of development in the surrounding area.

7.5. Transport Issues

- 7.5.1. The site lies within Zone 2 as identified on Map J of the Development Plan. For office use the maximum standard is 1 space per 200 sq. m. resulting in a maximum provision allowable of 44 car parking spaces. There are 38 no. car parking proposed at basement level. The overall reduction in the number of car parking spaces on site (reduced from 49), is welcomed, given the need to encourage more sustainable forms of transport and reduced reliance on the private car.
- 7.5.2. The revised Civil Engineering Infrastructure Report (dated 05/07/2018) clarifies the allocation of the car parking. Each of the residential units is dedicated 1 space, so there are 30 no. car parking spaces (including 3 accessible spaces) for the office accommodation, which is well below the maximum provision and is appropriate for such a highly accessible location. 1 no. car parking space for each of the 8 residential units is appropriate for this location.
- 7.5.3. A total of 106 cycle parking spaces are provided which is in line with Development Plan standards.
- 7.5.4. In terms of the impact on the surrounding road network, it is of note that, while the total office floorspace is increased on the site, and the number of residential units is also increased, the overall car parking provision is lower, which will reduce the number of trips to and from the site by private car. Details of priority signalling to incoming vehicles have been submitted at appeal stage. Servicing requirements will be greater than existing. However I do not consider that the additional service vehicles to and from the site will have a material impact on the capacity of the surrounding road network (see also discussion on waste collection vehicles below).

7.6. **Other Issues**

- 7.6.1. Residential Standards - The proposal complies with the standards relating to minimum floor areas, private open space standards and communal open space. I note the planning officer raised concerns in relation to the potential overlooking of the residential communal space at second floor level by the users of the office space. I do not consider that this would result in a diminution in value of this space as an amenity for the residents. It is likely that such a space would be utilised most intensively in the evenings and weekends, at which time the office space would be least intensively used.

- 7.6.2. Surface Water/Foul Water – A revised Civil Engineering Infrastructure Report (dated 05/07/2018) as well as additional drawings have been submitted with the appeal and I have regard to same. This report and drawings detail the proposed infrastructure for the development and how it connects to the existing public service infrastructure serving the area. Surface water is proposed to be attenuated prior to discharge to the public combined sewer. SUDs principles are applied through interception storage (green roofs and rainwater harvesting) and attenuation storage. Foul will eventually connect to the existing combined sewer.
- 7.6.3. Flooding – The revised Civil Engineering Infrastructure Report (dated 05/07/2018) details flood risk and mitigation. Information on Floodinfo.ie¹ indicates the site is within the 1 in 100 year flood event (Medium Risk) as relates to Fluvial Flooding (from the River Dodder). The submitted report indicates the site is also subject to Pluvial flooding. Mitigation including minimum site/floor levels are proposed.
- 7.6.4. Waste – A Waste Management Plan has been submitted with the application which details the generation, storage and removal of demolition and site preparation waste, waste from construction activities and waste generated through the life cycle phase. General waste and recycling waste collection vehicles will access the site from Shelbourne Road and collect bins from the temporary storage area, as detailed on the ‘Bin Lorry Autotrack’ drawing (No. C1060), as submitted with the First Party appeal. The arrangements detailed in the application are acceptable, subject to appropriate conditions.

7.7. **Appropriate Assessment**

- 7.7.1. A screening report for Appropriate Assessment has been submitted with the application and this concludes that which concludes that significant effects are not likely to arise either alone or in combination with other projects that would result in significant effects to any SPA or SAC.
- 7.7.2. The site is neither in nor near to a Natura 2000 site. The closest sites are the South Dublin Bay and River Tolka SPA and South Dublin Bay SAC which are 1.5km to the east of the site. I do not consider that the River Dodder, located c180m to the south-east of the appeal site, provides an obvious pathway to these sites, given the

¹ Accessed 1st November 2018

distance from the appeal site. There are no other apparent pathways exist to the above sites, nor to other Natura 2000 sites.

- 7.7.3. I note the urban location of the site, the lack of direct connections with regard to the source-pathway-receptor model and the nature of the development. It is reasonable to conclude on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.8. Environment Impact Assessment

- 7.8.1. The nearest sensitive location is the Grand Canal pNHA, located c735m to the north-west of the appeal site. 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 sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below.

9.0 Reasons and Considerations

Having regard to the provisions of the National Planning Framework, and having regard to the provisions of the Dublin City Development Plan 2016 to 2022, including Section 14.6 'Non-Conforming Uses', and having regard to the existing established office use on the site, the uplift in the extent of employment and residential floorspace on a site well served by public transport and well served by other services and amenities, and having regard to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following

conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have an adverse impact on the visual amenity or character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 9th day of July, 2018, 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 proposal shall be amended as follows:
 - (i) The windows on the northern elevation serving bedrooms 1 and 2 of Apartment 8 at fifth and sixth floor level shall be angled so as to face away from the windows of the residential units at Lansdowne Place.
 - (ii) The window on the northern elevation serving bedroom 3 of apartment 8 at sixth floor level shall be obscure glazed.
 - (iii) Appropriate screening measures shall be put on the northern extent of the balcony area serving Apartment 8 at sixth floor level so as to prevent overlooking of residential properties at Lansdowne Place.

Details of the above measures shall be submitted for approval in writing to the planning authority prior to the commencement of development.

Reason: In the interest of surrounding residential amenity.

3. 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.

Reason: In the interest of visual amenity.

4. The landscaping scheme shall be carried out within the first planting season following substantial completion of external construction works. 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.

5. 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 as 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.

6. 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.

7. All mitigation measures as set out in the revised 'Civil Engineering Infrastructure Report for Planning' dated 05/07/2018 shall be implemented.

Reason: To minimise flood risk.

8. 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.

9. 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.

10. 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.

11. 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.

12. The following requirements shall be complied with:

(i) Prior to the commencement of development details of the allocation of car parking spaces, including an annotated plan indicating the location of the spaces, shall be submitted to the planning authority for agreement in writing. A maximum of 8 No. car parking spaces shall be permanently allocated to the proposed residential units (A maximum of 1 car parking space per unit). All car parking spaces shall be permanently allocated to

the proposed uses and shall not be sold, rented or otherwise sub-let or leased to other parties.

(ii) Cycle parking shall be secure, conveniently located, sheltered and well lit. Shower and changing facilities shall also be provided as part of the development. Key/fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.

Reason: In the interest of the proper planning and sustainable development of the area.

13. 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

14. Prior to the commencement of development, the applicant shall delineate on a map those areas which are to be taken in charge for written agreement of the Planning Authority. In relation to those areas not taken in charge a Management Company shall be set up. The Management Company shall provide adequate measures for the future maintenance and repair in a satisfactory manner of private open spaces, roads, footpaths, car park and all services, together with soft and hard landscaping areas, where not otherwise taken in charge by the Local Authority.

Reason: In the interests of the future maintenance of this private development, in the interests of residential amenity and the adequate provision of community facilities.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision 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.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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

02nd November 2018