



An
Bord
Pleanála

Inspector's Report ABP-302639-18

Development	Permission for demolition of existing structures and the construction of a 3-5 storey office building over basement on a 0.278 hectare site.
Location	Beech Hill Office Campus, Beech Hill Road, Dublin 4.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D18A/0657
Applicants	Layden Group Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellants	Layden Group Ltd.
Observers	1. Ericsson. 2. Smurfit Kappa.
Date of Site Inspection	5 th & 21 st December 2018.
Inspector	Dáire McDevitt.

1.0

Site Location and Description

- 1.1 The appeal site with a stated area of 0.273ha is located at the northeastern section of the Beech Hill Office Campus on the eastern side of Beech Hill Road, off Clonskeagh Road in the south Dublin suburb. There is a shared access off the Beech Hill Road with Belfield Business Park to the south. Beech Hill Road in turn is accessed off the Clonskeagh Road to the southwest. UCD Campus is located to the east of the site with the Rickview Campus to the southeast.
- 1.2 The site is currently a surface carpark and contains an ESB substation, 2 obsolete communications buildings with access to a basement carparking under Boole House. It is stated in the application documentation that 27 of the existing spaces are owned by third parties and the relevant letters of consent were submitted with the Planning Application.
- 1.3 Immediately to the south is Boole House, owned by the applicants, which is a 3 storey pitched roof office building that wraps around a courtyard area, Ericsson (observers) occupy offices in this building. To the east of the site is the Smurfit Kappa (observers) office building, consisting of a series of 2 storey interconnected hexagonal buildings. To the north is Ericsson house (observer), a 3 storey redbrick office block. To the west is Parkview House, an office building similar in style to Boole House. Belfield Business Park is located to the southeast of the site, within which is the UCD Nexus building, Paddy Power etc are located, this building ranges in height from 5 to 6 storeys and forms the southern boundary with the Smurfit Kappa lands.

1.0 Proposed Development

- 2.1 Permission is sought for the demolition of existing structures and the construction of a 3-5 storey office building over basement on a 0.273 hectare site.

Comprising of:

- The demolition of c.240sq.m of existing structures consisting of an electricity substation and communications rooms.

- The construction of an office building ranging in height from 3 no. storeys to 5 no. storeys (max height of 20.1m) over basement with a total gfa of c.3182sq.m and an office net floor area of c.2616sq.m, private open space in the form of a roof terrace at 3rd floor level of c.130sq.m. 420sq.m of green roof and c.85sq.m of solar panels.
- The proposed development incorporates a basement of c.1004sq.m gfa and will accommodate 28 no. car parking spaces, 16 no. long-stay bicycle parking spaces, a mechanical room of c.63sq.m, water tank room of c.26sq.m, electrical room of c.27sq.m and a combined welfare facilities area of c.61sq.m.
- The construction of an electricity substation of c.43sq.m.
- 26 no. surface parking spaces, 16 no. short-stay surface level bicycle parking spaces, c. 4000sq.m of public open space in the form of a landscaped courtyard and all associated site works.

2.2 The design rationale is to provide a contemporary state of the art office building, which can define its own sense of place within the context of the existing Beech Hill Office Campus and the wider environs. The mass of the proposed building has been carefully considered balancing the need for commercial floor space while providing a sympathetic response to existing buildings. The building takes a stepped approach from 3 to 5 storeys arranged around a landscaped courtyard. Adjacent to the existing Boole House the building steps down to 4 storeys to relate to the existing roof height and toward the front of the site it drops to 3 storeys.

2.3 The façade treatment comprises bright limestone cladding, anodised vertical metal fins and aluminium framed curtain walling. The limestone will assist with reflecting daylight making the courtyard, thus enhancing the amenity value of the open space.

2.4 The public realm will be enhanced at the existing basement carpark entrance; stone cladding, raised planters and steel cable planters are proposed at this location. This treatment extends to the proposed courtyard which incorporates stone seating, contrasting paving and further raised planting.

The application includes the following documentation:

- Planning Statement.
- Architectural Design Statement.
- Landscape Design Report.
- Arborist Report.
- Drainage Report.
- Travel Plan.
- Sunlight and Daylight Assessment.
- Visual Assessment and Photomontages.
- Energy Statement.
- Appropriate Assessment Screening Report.
- Draft Construction Management Report.

3.0 Planning Authority Decision

3.1 Decision

DLRCC issued a notification of decision to refuse permission for the following reason:

Having regard to the design, massing, height and location of the proposed office block in the eastern corner of the site, the lack of adequate separation distances to both Boole House and the adjoining site to the east, it is considered that the proposed development would impact negatively on the amenity of adjoining properties, would be overbearing in terms of relationship with Boole House and would limit the development potential on the adjoining site to the east. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity. The proposed development is therefore not in accordance with the proper planning and sustainable development of the area.

3.2 Planning Authority Reports

3.2.1 Planning Report (29th August 2018)

The main issues raised are summarised below:

- Reference to a third party submission outlining that the applicants had not receive consent from the owners of Beaver House, who own 30 carparking spaces in the existing basement carpark, which the applicant's seek to gain access through.
- The development description in the public notices does not refer to the removal of an existing telecommunications mast nor cabin. Revised notices would be required to address this.
- The Area Planner concluded that while it is accepted that there is redevelopment potential at this location, the scale and footprint combined with the proposed heights and massing would result in overdevelopment of the site by reason of appearing overbearing when viewed from Boole House.
- In addition the proposal has very limited separation from the adjoining site to the east (Smurfit Kappa). This lack of separation would impact on the existing planting on the adjoining site and also on the future development potential of the Smurfit kappa site, thus depreciating the value of this property.
- TPOs relate to trees along the eastern boundary to the Smurfit Kappa site only which is outside the application site boundaries. There are no TPO relating to trees within the site.
- The proposal is considered to represent overdevelopment of this corner of the existing carpark/compound area.
- Reference to the Appropriate Assessment Screening Report submitted with the application. This concluded that the project would not give rise to any significant effect on the identified Natura sites network and as such required no further assessment.

The main issues raised in the Area Planners report are reflected in the reasons for refusal. It was also noted that any future application for the site should address the issue of car parking, access, third party consents, omission of development from the public notices, drainage issues and retention of trees.

3.2.2 Other Technical Reports

3.2.3 Transportation Planning (27th August 2018) recommended that Further Information be sought in relation to the following items: visibility for pedestrians at the proposed underground carpark entrance/exit, differentiation of slab paving arrangement, clarification of current carparking spaces, justification for additional parking, details relating to disabled parking spaces/electric charging spaces/motorcycle spaces and short stay cycle parking spaces.

3.2.4 Drainage Planning (31st July 2018) recommended that Further Information be sought in relation to the following items: Green roofs, attenuation, outfall to the public sewer, surface water storage, surface water discharge, interception of surface water on the ramp.

3.2.5 Parks & Landscape Services (13th August 2018) Recommended that the following further information be sought in relation to the following items: A detailed Tree Report consisting of a detailed Tree Survey and Arboricultural Impact Assessment, this should include a Tree Survey Plan and Schedule, Tree Constraints Plan, Tree Protection Plan, Arboricultural Impact Assessment, Arboricultural Method Statement, details of Arborist and qualifications and date tree survey was carried out.

3.3 Prescribed Bodies

3.3.1 Irish Water (31st July 2018). No objection.

3.4 Third Party Observations

3.4.1 There are three observations recorded on the planning file from (1) Ericsson, (2) Smurfit Kappa and (3) Burlington Real Estate. The issues raised relate to:

- The impact of the development on existing tenants of Beaver House in terms of access to their carparking spaces.

- Health and safety concerns during the construction phase.
- Noise, dust and nuisance during the construction phase.
- Lack of consent from owners/tenants of Beaver House for the proposed development.
- No way leave agreement in place.
- Interference with an existing right of way.
- A reduction in the number of surface level of car spaces leased by Ericsson.
- No provision for the retention of steps from the escape stairs at the northwest gable of Boole House.
- Detrimental impact on the outlook from Boole House.
- Overlooking and overshadowing of Smurfit Kappa building resulting from the insufficient set back from the Smurfit Kappa building.
- The proposed development would limit the future development of the Smurfit Kappa site.
- Loss of trees.
- Loss of carparking spaces.
- Lack of detailed construction management plan.

4.0 Planning History

4.1 The applicant engaged in preplanning discussions with the Planning Authority prior to lodging the planning application: **PAC/108/18 (2018)**, **PAC/474/47 (2017)** and **Pac/153/16 (2016)**.

4.2 There are a number of Planning Applications relating to Beech Hill Office Campus

Applications by Ericsson relating to Boole House and Ericsson House:

Planning Authority Reference No. D06A/0552 (expired July 2011), **Planning Authority Reference No. D06A/1471** (expired January 2012). Both of which

referred to generators, condensers, air-conditioning units, comms room roof plant, radio base station room, and removal of car parking spaces.

Planning Authority Reference No. D11A/0642, PA. Ref. No. D06A/0552 refers to retention application relating to equipment, masts, parking, etc.

Smurfit Kappa:

There are numerous applications relating to this site. The following application is of relevance as it has been referenced by various parties:

Planning Authority Reference No. D08A/1273 (An Bord Pleanála Ref. No. PL. 06D.234933) refers to a 2010 grant of permission for 207 residential units, 2 no. 2 to 7 storey office blocks over basement, 1 no. 1 to 7 storey science & technology block over double basement, 1 no. concierge block, 1 no. 2 storey crèche, 624 car parking spaces, 474 bicycle spaces, access off Beech Hill Road and a new road off UCD campus, etc. (total gfa 50,116sq.m, a c. 18,907sq.m basement carpark). This permission has expired.

5.0 Policy Context

5.1 Development Plan

5.1.1 The operative Development Plan for the area is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**

5.1.2 The site is zoned 'E' *to provide for economic development and employment.*

Policies of particular relevance:

Policy E1 refers to lands for Employment use, it set out that sufficient serviced lands continue to be available for employment generation.

Policy E10 refers to Office Development. It is policy to facilitate significant office development in commercial and employment centres. The appropriate location for office development would generally be in Major Town Centres, District Centre and Employment Zoned areas.

Section 8.1.1.1. Urban Design Policy **UD6** refers to the Council's Building Height Strategy (Appendix 9).

Appendix 9. Building Height Strategy

Chapter 4

Section 4.8 refers to the policy for Residual Suburban Areas not included within Cumulative Areas of Control.

Refers to the accommodation of 3 to 4 storey buildings adjacent to important public transport nodes or on large redevelopment sites subject to the considerations of downward and upward modifiers.

Section 4.8.1 Upward Modifiers

In particular (a) and (b):

- (a) The development would create urban design benefits, for example:
- It would enclose public or green spaces to their benefit.
 - It would enclose a main street or mark a major cross-roads and/or transport interchange to the benefit of the legibility, appearance or character of the area.
- (b) The development would provide major planning gain such as:
- Significant improvements in public realm.

Section 4.8.2 Downward Modifiers

I have examined the 5 criteria and I note that item no 1 refers to residential accommodation, there is no reference to the amenity of commercial buildings.

- (1) The proposal would adversely affect residential living conditions through overlooking, overshadowing or excessive bulk and scale.

Section 8.2.4 Sustainable Travel and Transport.

Section 8.2.5.1 Refers to the relevant considerations that need to be taken into account in the assessment of Enterprise and Employments proposals. These range from conformity with land use zoning objectives, provision of public open space, impact of traffic movements, impact on the amenities of surrounding area, etc.

5.2 Guidelines

Urban Development and Building Heights. Guidelines for Planning Authorities (December 2018), Department of Housing, Planning and Local Government.

These Guidelines set out National policy on building heights in relation to urban areas, building from the strategic planning framework set out in Project Ireland 2040 and the National Planning Framework.

The Guidelines:

- (i) Develop policy outlined in the National Planning Framework, in particular National Policy Objective 13.
- (ii) Outline wider and strategic policy considerations and performance criteria that planning authorities are to apply alongside their statutory development plan in assessing proposals for taller buildings; and
- (iii) Support the accommodation of anticipated population growth and their development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.

5.2 Natural Heritage Designation

The site is not located within a designated Natura 2000 site.

6.0 The Appeal

6.0.1 The first party appeal requested that the Board consider the Appeal de novo and consider the information contained in the appeal together with all supporting documents included with the application to the Planning Authority.

The grounds of appeal includes:

- Details of pre-planning discussions.
- Comments on the third party submissions to the planning authority included with the appeal.
- Responses to the issues raised in the Drainage Division and Transportation Division reports.
- The appellants are of the view that the Planning Authority failed to fully assess the documentation submitted with the application, in particular the Visual Impact Assessment.

6.1. Grounds of Appeal

The first party appeal seeks to address the Planning Authority's reason for refusal. The issues raised may be summarised as follows:

6.1.1 Height

- The applicant has outlined that they engaged in extensive pre planning, the final design was formed by the advice given at these meetings.
- The application was accompanied by extensive professional reports that demonstrate through a performance-based approach that this is a well-designed development proposal that will achieve urban infill development objectives without significant impact to adjacent land uses.
- The Area Planners report does not reference to the *Draft Urban Development and Building Height Guidelines (August 2018)* which when adopted will require County Development Plans to align with new National policy. The Draft Guidelines recognise that taller buildings will deliver economic development in well-located urban areas and in parallel they can assist with improving the overall quality of urban environments.
- The development would meet the applicable performance-based criteria and the application area can support the proposed height without unduly impacting on adjacent properties. The height proposed is consistent with the recent pattern of development in the area.

6.1.1.1 Building Height Strategy

- The site is located within an area defined as ‘Residual suburban area not included within the cumulative areas of control’. A maximum height of 3-4 storeys is permitted in principle within this area, but the Plan clearly establishes that upward modifiers can be considered and up to 2 no. additional floors can be applied if a development meets more than one upward modifier (Upward Modifiers A to F set out in Appendix 9 of the Development Plan).
- The applicant is of the view that the development complies with 2 no. modifiers:

(a) The proposed development would create urban design benefits.

- The proposed development of a site that is currently underutilised incorporating surface level carpark and redundant telecommunications structures would serve to knot the site into the existing urban fabric, creating a contemporary high-spec office building.
- The integration of extensive glazing throughout the building and a roof garden at third floor level results in a building that offers active frontage.
- Good connections are established both to the buildings from the wider campus and between the Ericsson building to the northwest.
- Car parking is proposed at basement level, thus providing public realm benefits while the proposed soft landscaping to the front of the building will provide a much needed new public space for occupants of the wider campus.

(b) It would provide a planning gain through improvements to the public realm.

- The proposed rationalisation of carparking to 26 no. surface level spaces will make a positive contribution of the appearance, quality and overall function of the public realm within the business campus.
- The development includes a landscaped courtyard to the front of the office building incorporating high quality materials and soft landscaping to the front of the building that will serve all occupants of the campus. Existing access points on the northern and eastern boundaries will be

retained and upgraded to promote permeability though the site with adjacent developments.

6.1.2 Setback from boundaries

6.1.2.1 There are no stated setback distances prescribed for commercial buildings in the current Dun Laoghaire Rathdown County Development Plan. The application site with a stated area of c.0.273 hectares adjoins the Smurfit Kappa site that has a stated area of c. 3.1 hectares. Immediately adjacent to the applicant's boundary there is a surface carpark and the Smurfit Kappa building is c. 40m east of the boundary and roughly occupies a central position on the site.

6.1.1.2 The principle of a higher building in the immediate vicinity was deemed acceptable under **Planning Authority Reference No.D08A/1273 (ABP Reference No. PL.06D.243933)** which permitted development up to 6 storeys in height at the western boundary of the Smurfit Kappa site (adjacent to the application area. This was deemed acceptable by An Bord Pleanala on appeal under.

6.1.3 Glazing

6.1.3.1 The proposed glazing to the eastern elevation would not compromise the development potential of the Smurfit Kappa site.

6.1.3.2 A Visual Impact Assessment (VIA) included 7 no. photomontages of these: 2 no. views (No.4&5) are from the grounds of Smurfit Kappa looking west. The submitted photomontages clearly demonstrate that only the upper most floor of the proposed building would be visible from the Smurfit Kappa site. The glazing on the eastern elevation would not compromise the development potential of the adjacent site to the extent that it would warrant a reason for refusal.

6.1.3.3 Reference to The Amazon building/BOI building on Burlington Road (6 to 7 storeys in height) with a separation distance of c.9m between the buildings and directly opposing glazed façade.

6.1.4 Amenity.

6.1.4.1 Impact on Smurfit Kappa:

- The proposed development would not have an undue adverse impact on daylight access within buildings in the wider area surrounding the site.
- In terms of overshadowing the daylight/sunlight analysis demonstrate that shadows cast by the proposed development will result in 'imperceptible' to 'slight' overshadowing of the carpark of the Smurfit Kappa building during the afternoons and evening of the spring, summer and autumn months with shadows cast by the proposed development only extending as far as the façade of the Smurfit Kappa building (c.420m away) during the very late evening when office buildings are not typically in use.

6.1.4.2 Impact on Boole House:

- The applicant is the owner of Boole house and thus it is not in their interest to negatively impact on their own building.
- The sunlight/daylight analysis demonstrates that the impact on sunlight access to the large majority of rooms within the existing Boole House would range from 'none' to 'imperceptible.'
- Additional analysis was carried out to address the concerns raised by third parties and an addendum attached. This confirmed the findings that the potential for the proposal to result in material impacts on daylight access within the existing Boole House is limited to a very small proportion of rooms located at lower levels of accommodation and in close proximity to the proposed new structure.
- The most significant impacts of the proposal due to overshadowing will be restricted to a small number of windows immediately opposing the proposed development, many of which do not face within 90 degrees due south and, therefore, do not have a reasonable expectation of sunlight within the meaning of the BRE Guide.
- In this context and given the problems often associated with sunlight access to commercial buildings (e.g glare) overshadowing of an existing commercial building by new development, even where it results in a significant change to sunlight access, may not necessarily be considered by the occupants of the existing buildings in commercial use to result in negative impacts.

6.1.5 Other

6.1.5.1 Depreciation of property.

The proposed development would not detract from the amenities of adjoining properties or limit the development potential of the adjoining sites.

6.1.5.2 Procedural matters.

The development description references the demolition of communication rooms. While the mast is not specifically mentioned, it is contended that the structure is redundant and its removal is not considered to be significant information. The development description as submitted is considered adequate to meet the requirements of the regulations.

6.1.6 Conclusion:

Complies with Section 8.2.5.1 of the current County Development Plan as follows:

- Conforms with the land use objective 'E' and policy E1' for the site which seeks to facilitate office development in employment areas.
- Achieves the appropriate scale and density of development.
- Provision of public open space to a minimum of 10% of the site area. It delivers c.14.4% of the site).
- Positive impact on traffic movements, parking provision and a Travel Plan is submitted with the application.
- The Daylight and Sunlight analysis clearly demonstrates that the proposal would not have a detrimental impact on the amenities of the surrounding area.
- An Energy Statement has been submitted this clearly sets out to ensure the energy efficiency and overall sustainability of the building.
- Beech Hill Office Campus operates under a management Company and existing waste management facilities present on site area deemed to have adequate capacity for management of waste associated with the proposed development.

It is submitted that the proposal promotes the principles of urban consolidation, providing for an efficient use of an underutilised appropriately zoned (Objective E) and serviced plot and would deliver urgently needed office supply on a strategic edge of city employment area. Overall, it is submitted that the proposed development is entirely consistent with the principles of proper planning and sustainable development.

6.1.8 Responses to Technical Reports.

The appeal includes responses to the recommended further information sought from other technical departments within the Council.

6.1.8.1 Drainage.

In response to the further information requested recommended by the Drainage Division. An Engineers report is included that address the 6 points raised relating to Green roofs, attenuation, outfall to the public sewer, surface water storage, surface water discharge, interception of surface water on the ramp.

6.1.8.2 Transport

In response to the further information requested recommended by the Transportation Division. An Engineers report is included that address the 8 points raised relating to Visibility for pedestrians at the proposed underground carpark entrance/exit, differentiation of slab paving arrangement, clarification of current carparking spaces, justification for additional parking, details relating to disabled parking spaces/electric charging spaces/motorcycle spaces and short stay cycle parking spaces.

- To the best of their knowledge at total of 32 carparking spaces have been decommissioned to date.

A Travel Pan submitted sets out the number of carparking spaces:

- Existing number of carparking spaces within the red line boundary is 72. The proposed development will result in a reduction to 54 spaces (a 25% decrease in spaces associated with Boole House). This reduction is made up by reducing the surface carparking spaces from 72 to 26 and the provision of 28 spaces at basement level.

- 2 no. disabled spaces will be available to serve the proposed Boole House development.
- 3 no. electric vehicle charging points are included at surface level.
- 2 no. motorcycle spaces can be accommodated within the existing redline and are proposed at surface level.

The short stay cycle spaces are located at the existing external stairs to the basement. It is proposed that this area be sheltered with a glass canopy

6.2 Planning Authority Response

The Board is referred to the previous Planner's Report. It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3 Observations

There are two observations recorded on the appeal file.

1. Ericsson, Beech Hill Road, Clonskeagh, Dublin 4.
2. Smurfit Kappa, Beech Hill, Clonskeagh, Dublin 4.

And are summarised below.

6.3.1 Ericsson, Beech Hill Road, Clonskeagh, Dublin 4.

- **Car Parking.** There is no reference in the car parking assessment as to how it is proposed to replace car parking spaces that are currently used by Ericsson and that will be removed to facilitate the development. In addition, there is no indication of an alternative location for existing Ericsson car parking spaces what will be displaced during the construction stage. The proposed reduction in ground level parking spaces would have a detrimental effect on the use of the occupants of Boole House.

- Parking spaces located at the northwest corner of the site occupied by telecommunications infrastructure were omitted by reference to Planning Permission D11A/0462.
- **Escape Steps.** The proposed rearrangement of the escape steps to the north west gable of Boole House is acceptable.
- **Daylighting.** The additional information submitted showing the effect of the proposed development on the first floor of Boole House confirms the observers concerns there would be a significant reduction in daylight access and have a detrimental effect on the outlook from Boole House. The reference to mitigating effects on widows is noted. However the observer is of the view that they should have the ability to rearrange the internal fitout to provide cellular or open plan accommodation as need arises, and therefore do not consider that reliance on the windows in the open plan areas is satisfactory mitigation.
- **Construction Management Issues.** Any Construction Management Plan should include proposals to mitigate noise, dust and disruption to Boole house.
- **Ventilation Openings.** Ericsson is responsible for the maintenance of the façade, under the terms of their lease, and should be given an opportunity to review the proposed detailed design for the raised garden.

6.3.2 Smurfit Kappa, Beech Hill, Clonskeagh, Dublin 4.

- No objection in principle to the development of the application site. However, they are eager to safeguard the amenity of their property and ensure that due consideration is given to the future development potential of their lands.
- **Separation Distances.** The proposed development comprises over development of the site and fails to provide adequate separation distances to the shared boundary to the east. By limiting the development potential of the adjoining site, the proposed development would depreciate the value of the Smurfit Kappa landholding.

- The separation distance of c.16m from Boole House to the boundary with Smurfit Kappa would be reduced to c.1.2m from ground to first floor levels and c. 3.2m from third to fifth floor levels of the new building.
- **Boundary Treatment.** The proposed extent of the development on the site means the current proposal cannot accommodate a suitable landscape treatment to screen the shared boundary to the east. The development relies entirely on the existing trees within third party ownership for screening which is a further demonstration of the overdevelopment of the site.
- The protection of the trees on the eastern boundary is an important consideration. However, as the existing trees lie within the observer's landholding, they reserve the right to remove these trees and provide an alternative boundary treatment in the future as part of any proposal for development on their site.
- **Car Parking.** The Travel Plan submitted with the application is not realistic in terms of offering viable public transport options for future occupants of the development and will result in a higher proportion of the future occupants using private cars to access the development resulting uncontrolled and haphazard parking within and adjoining the site. Permission should be refused on this basis.
- The Travel Plan submitted is flawed. The current application is not well served by public transport. The nearest Dublin Bus stop is located on Clonskeagh Road, c.410m from the site, and is only served by one Dublin Bus Route (No.11). The remaining bus routes identified in the Travel Plan are accessed via Donnybrook Road/Stillorgan Road, over c.1km from the site.
- Similarly, The Travel Plan identifies the Dart and Luas as 'attractive transport options'. However, the nearest Dart station is 2km away while the nearest Luas station is c.1.4km from the site. Neither of these stations are close enough to function as viable public transport options for the future occupants of the proposed development.

7.0 Assessment

7.0.1 The Planning Authority and observers raised concerns regarding the public submitted with the application in that they fail to adequately describe the nature and extent of the development, particularly the extent of demolition.

7.0.2 Section 3.4 of the Development Management Guidelines 2007 sets out guidance regarding the public notices. It is stated:

“The purpose of the notices, that is, the newspaper notice (Article 18 of the Planning Regulations) and the site notice (Article 19), is to inform the public of the proposed development and alert them as to its nature and extent.....In recent years the amount of detail in the public notice has increased continuously to the extent that such notices frequently include every detail of the proposed development, rather than comprising a brief description the proposed development.....The public notice should therefore be drafted so as to give a brief indication as to the nature and extent of the proposed development and is not required to go into excessive detail.”

7.0.3 Having regard to this guidance, I am satisfied that the nature and content of the site and newspaper notice submitted with the application was sufficient and the extent of demolition works adequately described.

7.0.4 The applicant has requested that the appeal be assessed de novo, I do not consider this necessary. The grounds of appeal seek to address the Planning Authority's reason for refusal and also include responses to the outstanding issues raised by other Council Divisions, namely the Drainage and Transportation Division. I do not consider that the responses to these items have resulted in significant modifications that would require that the application be re-advertised. The issue of appropriate assessment and environmental impact assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Design & Height
- Other Issues

- Appropriate Assessment.
- Environmental Impact Assessment

7.1 Design & Height

7.1.1 The reason for refusal by the Planning Authority stems from the design, height and siting of the proposed office building on site and the impact on the amenities of adjacent office building, Boole House, and the adjoining site to the east in particular.

7.1.2 The Dun Laoghaire Rathdown Building Height Strategy provides that proposals with a maximum of three/four storeys for buildings in appropriate locations. However, there will be situations where a minor modification up or down in height may be considered subject to the application of the upwards and downwards modifiers set out in section 4.8.1 and 4.8.2 of the Strategy. There is a presumption that any increase or decrease in height where 'upward or Downward Modifiers' apply would normally be on floor, possibly two. The recently adopted Urban Development and Building Heights Guidelines do not prescribe heights. Building heights within the Beech Hill Office Campus and bounding the site range from between 2 and 5/6 storeys in height, of varied designed with a varied palette of finishes/materials.

7.1.3 The site is challenging due to its location within Beech Hill Office Campus. The applicant has attempted to address the constraints of the site through the use of a contemporary design solution. There is a clear distinction between the old and the new. I am satisfied that the proposal is an appropriate design intervention at this location as it adequately addresses the sensitives of the site that include a variety of architectural styles and scales within the immediate vicinity, ranging from the blocks within Beech Hill Campus which are traditional office blocks associated with the 1990s to the Smurfit Kappa building which was more contemporary in style for its time of construction. Heights range from 2 to 6 storeys in height. The variety of styles and scales within the surrounding areas and bounding the site, in my view, support the case for a modern intervention that would contribute to and add to the narrative of the area while at the same time having regard to the existing built environment.

- 7.1.4 The observations submitted raise concerns regarding the potential for the proposed development to be overbearing when viewed from the adjoining Smurfit Kappa site to the east and from within Beech Hill Office Campus, and in particular Boole House. I note that the distance from the eastern elevation of the office block to the eastern boundary with Smurfit Kappa is c.1.25m and the closest point of the Smurfit Kappa building would be c.33.8m from the proposed development. I am of the view that taking into account the proposed height and setback from the boundaries with the adjoining site to the east (Smurfit Kappa), the public realm within the scheme and the presence of a mature boundary would reasonably serve to ensure the proposals would not have an overbearing impact from the adjoining lands to the east. I consider that the proposed office building would not have a significantly overbearing impact from neighbouring properties to the east or limit the development potential of this site.
- 7.1.5 Boole House, owned by the applicant, where Ericsson occupy offices, has a setback ranging from c.1.5m to c.21m from the proposed building. The northern elevation of Boole House facing the site has a number of windows serving offices. While I acknowledge that the proposed building will have a visual impact, particularly when viewed from the adjoining Boole House to the south, given the nature of the proposed use and the times when the structure would be in use, I do not consider that the scale and height of the structure would have a detrimental impact on the amenities of this office block.
- 7.1.6 The proposed buildings would have a maximum height of 20.1m (parapet) for the eastern section and 15.6mm (parapet) for the northern section and the surrounding area is dominated by a mix of two to six storey buildings of varying designs and materials. The Council's Building Height Strategy allows for building up to 3 to 4 storeys in height at this location. Buildings higher than two-storeys in the immediate vicinity include the 3-storey Ericsson building, the 6 storey Nexus UCD building, the 3 storey Boole House/Beaver House. I am satisfied that the proposed variation in height would assist in reducing the mass and bulk of the building. Furthermore I consider the height and design appropriate for the location. The visual impact of the building should been considered in the context of the land use zoning attached to the site, the

location of the site within an established office campus and the variety of built form in the immediate vicinity.

- 7.1.7 I note that computer-generated images/models of the proposed development have been submitted showing the relationship of the proposed building with the existing built environment. A VIA was submitted with the application, The Planning Authority concluded that taking into account the height of the proposed development would be overbearing due to its limited setback from the site boundaries to the east and from Boole House to the south. While I accept that the proposed development would introduce taller building within Beech Hill Office Campus, I do not consider that the proposal would have an overbearing impact given the verity of built forms and heights in the immediate vicinity of the site. The applicant has referenced that the principle of a 7 storey building was considered acceptable on the Smurfit Kappa site to the east and while the decision by the Planning Authority and ABP relating to that application. I note that this permission has lapsed. Each application is assessed on its own merits having regard to site specific constraints, current Development Plan policies and objective and available national guidance. In this instance, notwithstanding the difference in building height of the structures immediately adjoining the site, I consider that the height and design of the development is appropriate in the context of current Development Plan policy and standards, including the relationship of the proposed building to the public realm and adjoining lands.
- 7.1.8 The building is a contemporary design with extensive glazing and breaks within the floors and elevations. Elevational finishes are uniform throughout the scheme using a palette of materials which includes bright limestone cladding, anodised vertical metal fins and aluminium framed curtain walling with green sedam roofs. The architects for the project referenced The Bank of Ireland and Amazon Ireland buildings In Burlington Road in Dublin as an example of adjoining structures where there are fully glazed directly opposing façade. I consider that the use of extensive glazing to an office building would not detract from the development potential of adjoining lands or the amenity of adjoining offices.

- 7.1.9 The Observers assert that the development would result in excessive overshadowing of neighbouring properties. The Sunlight and Daylight Assessment submitted with the application and, subsequent amendments with the appeal concluded, that the proposed development will not have any significant impact on the daylight conditions which will be available to the neighbouring offices. The biggest impact would be in the evening, when offices are not in use.
- 7.1.10 Given that the application site is at present occupied by a carpark located within an established office campus and surrounding by buildings with heights varying from 2 to 6 storeys. It is inevitable that any development of the application site will result in a material change to the shadow environment.
- 7.1.11 The recently adopted Urban Development and Building Height Guidelines refer to the requirement for the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. Reference is made to the UK BRE 'Site Layout Planning for Daylight and Sunlight' guidance.
- 7.1.12 The BRE Guide states that 'it must be borne in mind that nearly all structures will create areas of new shadow, and some degree of transient overshadowing of a space is to be expected. Neither the British Standard nor the BRE Guide provide specific guidance on what constitutes appropriate sunlighting for non-domestic buildings. The British Standard would seem to suggest that the impact of overshadowing on non domestic buildings should only be assessed in circumstances where certain rooms within such buildings are deemed to have a special requirement for sunlight'. However, the requirement for sunlight will vary according to the type of non-domestic buildings, the aims of the designer and the extent to which the occupants can control their environment.
- 7.1.13 It is noted that sunlight access to some buildings, particularly those in which occupants spend a significant portion of time working on computers or viewing presentations projected onto a screen, can be problematic as it results in glare, visual discomfort and excessive heat gain.

7.1.14 Having regard to the information available I am satisfied that the rooms within Boole House will continue to receive above standard daylight in accordance with BRE standards and that there will be no significant loss of daylight to the existing offices that would warrant a refusal in this case.

7.2 Other Issues

7.2.1 Carparking:

7.2.1.1 The Transportation Division raised a number of issues that were outstanding. These have been addressed by the applicant in the appeal documentation and includes revised drawings clearly demonstrating visibility for pedestrians at the proposed entrance/exit to the basement carpark, an accurate account of the existing car parking within the application redlines boundary (There are currently 72 spaces, the proposal would result in a reduction to 54 car parking spaces associated with Boole House. This reduction is made up by reducing the surface car parking spaces from 72 to 26 and providing an additional 28 spaces at basement level. Details of disabled, electric, motor cycle and bicycle spaces submitted and clarified. I am satisfied that the proposed development would generally accord with the provisions of the County Development Plan. The Planning Authority did not include traffic as a reason for refusal and if the Board is of a mind to grant permission, I am satisfied that outstanding requirements could be dealt with by condition.

7.2.1.2 Having regard to the information available on file together the policy objectives for the site as set out in the County Development Plan, the location of the appeal site within an established Office Campus, together with the layout of the proposed scheme. I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. While there will be a significant interruption during the demolition and construction phase I am satisfied that this will be short term.

7.2.1.3 The Planning Authority's response to the appeal did not include comments from the Transportation Division. I have examined the information contained with

the application and subsequent appeal and I consider that any outstanding issues could be addressed by condition of the Board—consider granting permission.

7.2.1.4 Concerns were raised at application stage relating to third party consent and carparking spaces. I note that this was not raised by the Observers at appeal stage. Notwithstanding I would highlight that the question of ownership is a legal matter and outside the scope of a planning permission. In this context, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'. Given the information available on file I am not in a position to ascertain that the relevant consents are in place.

7.2.2 Drainage

7.2.2.1 I refer to the Infrastructure Design Report submitted with the application and drawings and details submitted with the appeal addressing the concerns raised by the Council's Drainage Division. These include details relating to green-roof, including the build up and access arrangements, the design of the attenuation system, details of outfall to the public sewer, a breakdown of the volume of surface water storage provided for treatment, interception and attenuation storage for the entire site and methods for each, details for post development surface water discharge to be restricted to 2L/s via a hydrobrake, Details relating to the interception of surface water on the ramp.

7.2.2.2 The management of surface water for the proposed development has been designed to comply with the policies and guidelines outlined in the Greater Dublin Strategic Drainage Study (GSDSDS) and with the requirements of the Council.

7.2.2.3 The Planning Authority's response to the appeal did not include comments from the Drainage Division. I have examined the information contained with the application and subsequent appeal and I consider that any outstanding issues could be addressed by condition of the Board-consider granting permission.

7.2.3 Boundary Treatment:

7.2.3.1 The Observers have raised concerns that the proposal requires relies on the retention of mature trees within their ownership (Smurfit Kappa lands) to assist in screening the development from their lands to the east. The observer is of the view that they reserve the right to remove these trees at any future stage and therefore should not be relied on the assessment of the application.

7.2.3.2 At present these trees offer a degree of screening between the two properties and therefore are referred to when assessing the current application before the Board. Any future removal of these trees is beyond the applicant s control and the scope of the report. I consider that additional screening within the application site boundaries to augment this boundary, in particular, could be required by condition if the Board considers a grant of permission forthcoming.

7.2.4 Escape Steps:

7.2.4.1 The observers are satisfied with the rearrangement of the escape stairs from the north west gable of Boole House.

7.2.5 Ventilation Openings:

7.2.5.1 The applicant has outlined that, as the owner of Boole House, it is both their own interest and is the intention of the proposal, that the basement continues to be ventilated by the ventilation openings and that access remains for maintaining the façade and windows of the northern façade of Boole House facing the proposed development. It is envisaged that the details design of the raised garden would integrate the existing ventilation openings for the basement of Boole House and ensure that it is accessible, for both its own maintenance and the maintenance of the façade and windows of the north face of Boole House.

7.2.6 Construction Management Plan:

7.2.6.1 The Construction Management Plan would address how it is proposed to manage noise, vibration and other impacts arising at the construction phase to ensure the construction of the basement car park is undertaken in a controlled and appropriately engineered manner to minimise intrusion.

7.2.6.2 I note that the impacts associated with the construction works and construction traffic would be temporary and of a limited duration. I am satisfied that any outstanding issues could be required by condition if the Board is of a mind to grant permission.

7.3 Appropriate Assessment

7.3.1 The applicant submitted a stage 1 screening report for appropriate assessment and an ecological impact assessment. The Planning Authority also concluded that a stage 2 appropriate assessment was not required.

7.3.2 The site is a serviced suburban site, which neither lies in or near a Natura 2000 site. The nearest such sites are at a considerable distance and there are no direct connections between them and the development site. Having regard to nature and scale of the proposed development, the nature of the receiving environment and the distance to the nearest European sites, 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 a European site.

7.4 Environmental Impact Assessment

7.4.1 Having regard to the nature and scale of the proposed development comprising a the demolition of existing communications structures and the construction of an office development in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

It is recommended that permission be **granted** subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and its zoning to provide for economic development and employment to the location of the site in the established Beech Hill Office Campus and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of pedestrian and 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 submitted on the 6th day of July 2018 and by the further plans and particulars received by An Bord Pleanála on the 26th day of September, 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. Prior to 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 with, the planning authority. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals. Any proposed render finish shall be self-finish in a suitable colour and shall not require painting. Construction materials and detailing shall adhere to the principles of

sustainability and energy efficiency and high maintenance detailing shall be avoided.

Reason: In the interests of orderly development and the visual amenities of the area

3. A comprehensive landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths/steps, terraces and kerbing within the development;
- (b) proposed locations landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures, plant boxes and seating;
- (d) if required, details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

4. (a) 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.

(b) Prior to the commencement of construction the applicant shall submit full details of the proposed Green Roof and formal maintenance of same to be agreed in writing with the Planning Authority.

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

5. Access, parking and traffic management arrangements shall comply with the detailed standards for Planning Authorities for such works

Reason: In the interest of amenity and traffic safety.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. Proposals for building names and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all building signs, shall be provided in accordance with the agreed scheme. No advertisements/marketing signs relating to the name of the development shall be erected until the developer has obtained the Planning Authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

8. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

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

Reason: In the interest of sustainable waste management.

10. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, the details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

12. No additional development shall take place on the roof area, including 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 visual amenities of the area.

13. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, 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.

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

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.

Dáire McDevitt

Planning Inspector

24th December 2018.