



An
Bord
Pleanála

Inspector's Report ABP-303178-18

Development	Partial demolition of car park structure & construction of office building ranging between 1 and 5 storeys above basement level.
Location	Site to the rear of Waterloo Exchange at the corner of Waterloo Road and Fleming's Place, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3272/18
Applicant(s)	Davy Target Investment
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Antony Harrison, Upper Leeson Street Area Residents Association
Observer(s)	Jazz Pharmaceuticals The Pembroke Road Association.

Date of Site Inspection

05th March 2019.

Inspector

Sarah Lynch

1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of Waterloo Road and Fleming Place and is currently utilised as a car park at ground and first floor which forms part of the Waterloo Exchange building. This building comprises a six-storey office block with mixed use units at ground floor which includes café, estate agent, retail and restaurant uses. The building wraps around the corner plot with facades onto Baggot Street Upper and Waterloo Road. The existing car park which accommodates 153 spaces wraps around this building to the south and west and is accessed directly off Fleming's Place.
- 1.2. Adjoining the appeal site to the west along Fleming's Place is the recently constructed 7 storey Baggot Plaza office development. Fleming's Place is a narrow lane off Waterloo Road that defines the southern boundary of the appeal site. The southern boundary of the appeal site is delineated by a c.1.2 metre brick wall and block iron railings at ground floor and at first floor is delineated by a low concrete wall and railing.
- 1.3. To the south of the appeal site along Waterloo Road there is a Georgian terrace which fronts onto Waterloo Road and extends to Waterloo Lane to the rear. The terraced dwelling located directly to the south of the appeal site is bounded by a 1.5-2m stone wall which incorporates a two-storey modest detached dwelling and garage access. The grounds of these structures are mature and contain a number of mature trees.
- 1.4. To the west of this dwelling is the Burlington Plaza building which extends to 7 floors. Waterloo Lane is also a narrow street with a pedestrian footpath along the southern side. The area is characterised by the presence of both residential development and modern commercial office space.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Partial demolition of car park structure and,
 - Construction of office building ranging between 1 and 5 storeys above basement level.

3.0 Planning Authority Decision

3.1. Decision

Permission granted with standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report is consistent with the planning authority decision.

3.2.2. Other Technical Reports

- Archaeology – Site is located near to the zone of Archaeological Constraint for the Recorded Monument DU018-05 (Castle-tower house). A condition for archaeological monitoring is recommended.
- Drainage – No objections
- Road and Traffic Planning Division – Further information was requested as outlined in Section 3.2.1 above. The roads division were satisfied with the responses provided in relation to the further information request. No objections were raised subject to conditions.

3.3. Prescribed Bodies

- An Taisce – The proposed development would have a negative impact on the character and setting of Protected Structures in the environs of the site.

3.4. Third Party Observations

A number of submissions were received from local residents, two residents' associations, the owner of the Baggot Plaza and a company located within the Waterloo Exchange building. The issues raised can be summarised as follows:

- Design, scale, form and location of the proposed development will affect the character of the adjoining area.
- Impact on residential amenity.

- Overlooking & overshadowing.
- Loss of privacy.
- Increased pressure for on street parking.
- Increased traffic movements causing road safety issues.
- Inadequate drawings.
- Drainage and flooding – inadequate foul and surface water capacity to cater for the development.
- History of flooding in neighbouring properties.
- Impact on eastern elevation of Baggot Plaza in terms of overshadowing on existing Baggot Plaza atrium.
- Loss of light to southern and south western elevations of Waterloo Exchange.
- Misinterpretation of separation distances.
- Noise impacts from rooftop plant.
- Impacts for deliveries to Baggot Plaza if on-street parking is removed.
- Request for construction management plan.
- Existing weeping willow tree provides green buffer between housing and existing commercial development on Waterloo Road.

4.0 Planning History

There is no recent planning history recorded for the appeal site. A number of planning applications have been permitted in relation to the Waterloo Exchange, many of which include changes of use for the ground floor units. The following is of relevance:

4067/15 Permission was granted for the refurbishment of Waterloo Exchange building, new façade and access arrangements.

Adjoining site – Baggot Plaza

PL.29S.243945 – Permission was granted for the refurbishment and extension of existing commercial building.

5.0 Policy and Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

The appeal site is located within an area subject to the Z6 zoning objective which seeks to provide for the creation and protection of enterprise and facilitate opportunities for employment creation. The site directly abuts lands to the south and east which are subject to the Z2 zoning objective which seeks to protect and/or improve the amenities of residential conservation areas.

- Section 16.3.3 Trees

5.2. Natural Heritage Designations

None

5.3. EIA Screening

There is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The development has been appealed by both a local resident and the Upper Leeson Street Residents Association. The issues raised can be summarised as follows:

- Waterloo Exchange is a dominant building, the open space to the rear is of vital importance to the protection of the integrity of the conservation area.
- Appeal site is located in a transitional zone, additional consideration should be given to the scale, design and density of buildings in order to protect the amenities of residential properties.
- Concerns raised in relation to height of building.
- Development would result in overlooking to neighbouring dwellings.

- Light pollution from glass façade would have a negative impact on residential properties.
- Existing trees are of environmental importance and should be protected.
- Impact on conservation area will cause permanent and irreparable damage.
- Overconcentration of office space in the area and overdevelopment of the site.
- The continual development of office accommodation in this area adversely affects the viability of Baggot Street as a main street.
- Inadequate capacity within the surface water and foul drainage infrastructure to cater for the proposed development.
- The proposal will exacerbate flooding in the area.

6.2. Applicant Response

Declan Brassil has submitted a response on behalf of the applicant to the issues raised within the grounds of appeal which can be summarised as follows:

- The site is zoned Z6 and the proposed development is consistent with the requirements of this objective.
- The current use is an inefficient and unsustainable use of brownfield land.
- The proposed development is fully cognisant of and consistent with the National Planning Framework, draft RSES and national guidelines in relation to height.
- Area is characterised by a mix of uses.
- Proposed use is a more sustainable use.
- The proposed use will support local businesses such as retail units and cafes.
- Proposed development has been designed in a manner which has regard to the context of the site and character of the area.
- The varied height ensures a legible and coherent transition in the scale of development.

- Comparative views provided illustrate the positive contribution the building will make towards the streetscape.
- The established mass and scale of the existing buildings are sufficient to effectively absorb the visual presence of the proposed building.
- The proposed building would therefore not affect the visual amenities of the area and will not have any significant impact on the setting of the Protected Structures on Waterloo Road.
- It is proposed to locate the central staircore within the southern elevation of the development in order to mitigate any overlooking issues to dwellings along Waterloo Road.
- The development will not have any significant impact on daylight or skylight levels available to adjacent residential properties.
- Revised parking layout results in a reduction from 153 spaces to 91 spaces to serve both the existing and proposed developments.
- The reduction in car parking spaces will result in a reduction in trip thus improving the operational capacity of the surrounding road network.
- The proposed development will comply with SUDS in relation to drainage and will improve the current situation in this regard.
- There are no flood events recorded on the OPW Flood Hazard Website.
- Arboricultural assessment submitted indicated the willow tree to be of fair condition. This tree is not indigenous and makes minimal contribution to biodiversity.
- New trees are proposed along Waterloo Road.
- The proposal will provide a significant improvement to the streetscape by providing an attractive landscaped plaza along Waterloo Road.

6.3. Planning Authority Response

- None

6.4. Observations

- Jazz - state their satisfaction with the development as permitted by Dublin City Council
- Pembroke Residents Association – no new issues to those raised within the grounds of appeal.

6.5. Further Responses

- Jazz Pharmaceuticals have submitted a response in relation to the applicants' response to the grounds of appeal which was prepared by Declan Brassil Company Ltd's. This document refers to the provision of 91 spaces to serve both the existing and proposed development. Jazz Pharmaceuticals under their current contract with the applicant have the use of 90 spaces and are concerned that the proposed development would impact upon this agreement.
- Upper Leeson Street Area Residents Association have submitted a response to the applicants' response to the grounds of appeal. No new issues arise from those detailed within the grounds of appeal.
- The Pembroke Road Association have also submitted a response to the applicants' response to the grounds of appeal as submitted by Declan Brassil Company Ltd. No new issues arise from those detailed within the observations and grounds of appeal.

6.6. Applicants Response to Further Response

- 97 spaces will be available, 91 of which will be available to Jazz Pharmaceuticals and 6 of which will be available to the new tenants of the proposed development.

7.0 Assessment

- 7.1. The appeal site is located in an area subject to the Z6 zoning objective which seeks to provide for the creation and protection of enterprise and facilitate opportunities for employment creation. The principle of the proposed office development is in

accordance with the zoning objective for the site. I consider the issues for consideration before the Board are as follows:

- Visual Impact & Overlooking.
- Car Parking
- Impact of offices on viability of surrounding area.
- Flooding
- Trees
- Appropriate Assessment

Visual Impact & Overlooking

- 7.2. It is contended by the appellants' that the proposed development by virtue of its scale, massing, inappropriate design and height would have a serious negative impact upon the integrity of the conservation area and the setting of the Protected Structures along Waterloo Road.
- 7.3. The proposed development, as mentioned above, is located in an area subject to the Z6 zoning objective, in which the development of office accommodation is acceptable in principle. Lands directly abutting the appeal site to the south are subject to the Z2 zoning objective which seeks to protect and/or improve the amenities of residential conservation areas. Sites located at the edge of a zone directly adjacent to a different zone are identified within the Dublin City Development Plan 2016-2022 as Transition Zones. Section 14.7 of the said Plan sets out the considerations for development within these zones and seeks to avoid abrupt transitions in scale and use at these locations. Development in these transitional zones must be developed in a sensitive manner which protects the amenities of residential properties.
- 7.4. In relation to the appeal site it is important to note that the Z6 lands within the vicinity of the site have been extensively redeveloped in recent years. Older buildings have been refurbished and extended to accommodate new corporate office buildings of modern and high-quality design. Whilst I acknowledge the status and importance of the existing Protected Structures adjacent to these buildings, I also acknowledge that the locality provides for a diverse mix of uses and is located within the inner suburbs

of the city in which property and land are at a premium. It is of vital importance therefore to utilise lands in the most appropriate manner which provides for sustainable communities and reduces the need for travel. In this context I had particular regard at the time of site inspection to the relationship of the existing commercial development in this area with the residential uses present and the juxtaposition between the existing historic Protected Structures directly adjacent to the recently refurbished and extended commercial developments located at Waterloo Road and Fleming Place.

7.5. I considered at the time of site inspection that the current mix of old and new commercial and residential buildings coalesce cohesively at this location and as such any new development should assimilate into the area in a similar manner.

7.6. I acknowledge the appellants' concerns regarding the massing of the building and have considered this in my assessment of the development. I note that the proposed design has provided for a building of various heights and setbacks which seeks to minimise the overall massing and height impact of this building. I consider that the designer has been successful in achieving a reduced perception of mass and has addressed concerns relating to impacts occurring from the height of the structure. This has been achieved through a number of means as follows:

- Sunken lower ground floor at the corner of Waterloo Road whilst providing for a four storey building at this point, results in a reduction in height of this Section of the building which largely reflects the height of the existing Edwardian Terrace to the south along Waterloo Road of which no. 1 Waterloo Road is the first. By sinking the building at this point and utilising the natural separation provided for by the public road, the designer successfully provides for an appropriate transition from a tall commercial structure to a three-storey residential dwelling. In accordance with Section 14.7 of the Dublin City Development Plan the proposed development will result in a subtle transition from one use to another.
- The provision of a terraced area at the third-floor level at the southern gable of the Waterloo Exchange building ensures views and adequate daylight availability are maintained to the upper floor gable windows of the existing

Waterloo Exchange building and also provide a perception of increased set back when viewed in conjunction with the properties along Waterloo Road.

- The proposed building line along Fleming Place, in response to a further information request, has been set back in line with the existing established building line of Baggot Plaza. This amendment, coupled with the reduced height of the corner element of the building and the single storey recessed façade along this boundary at the vehicle entrance, will ensure that the building does not appear overly dominant within the existing street scene and will reduce any sense of overlooking or overshadowing to no. 1 Waterloo Road.
- The office circulation / service core block provides a break in the façade between the four storey and five storey element of the building which also contributes to the minimisation of mass.

7.7. The proposed use of materials and glazing are pivotal to the sensitive integration of this building within this residential conservation area and to preventing any sense of overlooking to neighbouring residential properties. It is proposed to insert a solid element within the return from Waterloo Road to Fleming Place in order to limit the level of clear glazing facing no. 1 Waterloo Road and therefore reduce the sense of overlooking to this property. Copper is proposed to be utilised within this solid panel and at junctions with existing buildings. It is further proposed by the applicant to utilise copper within the façade fin elements. I consider the use of copper in this manner to be acceptable. Finishing the building in glazing and light weight reflective materials will provide for a lightweight transition between the existing office buildings and the established residential buildings and Protected Structures in the immediate vicinity. The use of stone at ground floor along Fleming Place will reflect the existing stone wall to the south of Fleming Place which bounds no. 1 Waterloo Road and will provide a seamless integration of the new building within the existing streetscape at this location.

7.8. Overall having regard to the foregoing, the details provided within the applicants Architectural Design Statement and the character and form of existing established development in the area I consider the design approach to be acceptable. The designer has successfully considered all aspects of the appeal site and based on the

information submitted has designed a building of minimised massing which marries existing development in the vicinity in a cohesive manner. I do not therefore, consider the mass, scale, design or height of the proposed development to be inappropriate and based on the foregoing I do not consider that the proposed development will have any negative impacts upon the integrity, setting or character of the existing Protected Structures along Waterloo Road.

Parking

- 7.9. It is contended within the grounds of appeal that the loss of 80 no. spaces from the existing car park coupled with the additional demand generated from the proposed development will place significant pressure on on-street parking and the additional trips will exacerbate traffic congestion in the area. The existing Waterloo Exchange has a stated floor area of 5,063sqm and the proposed development will provide for a 2,281 sqm net floor area. The Dublin City Development Plan requires a maximum of 1 parking space per 200sqm of office space to be provided. Based on these requirements a total of 37 carparking spaces would be required to cater for both the existing Waterloo Exchange building and the proposed development.
- 7.10. 153 spaces are currently available to the Waterloo Exchange building. The proposed development will result in a total of 97 car parking spaces to cater for both the proposed development and the Waterloo Exchange which exceeds the Development Plan requirements by 60 spaces.
- 7.11. The development site, as mentioned above is located within the inner suburbs of the city and is highly accessible by a frequent bus service and in walking distance of the city centre and Landsdowne Train Station. The provision of car parking at this location should therefore be kept to a minimum. I note from the observations received that the terms of lease relating to the Waterloo Exchange include the use of 91 spaces which would leave 6 spaces available for use by the proposed development.
- 7.12. The Dublin City Development Plan requires a maximum of 11 spaces to be provided for the proposed development. Having regard to the location of the development and accessibility of the site via multiple modes I consider the quantum of parking (i.e 6 spaces) available to the proposed office to be sufficient. Whilst the availability of 90 spaces to the Waterloo Exchange is significantly in excess of the Development Plan

standards for such development, this is an existing established development and the facilities available to it are not subject to scrutiny under this appeal.

- 7.13. Furthermore, whilst I acknowledge the concerns raised within the grounds of appeal in relation to car parking and traffic congestion, it is important to note that a reduction in parking spaces will ultimately reduce the number of trips and thus have a positive effect on traffic congestion in the area. Reductions in car parking are necessary in such inner suburban locations in order to enhance the attractiveness of sustainable transport modes and reduce the reliance on the car. Should the Board be of a mind to grant permission it is recommended that a mobility management plan is required by way of condition.
- 7.14. It is of note that the applicant submitted a Traffic Statement with the planning application in which it is outlined how cars will queue within the building whilst waiting to use the car lift. 24 parking spaces are proposed within the basement level and 2 lifts will be in operation at the same time during peak hours. It is anticipated, based on the limited number of spaces requiring the use of the lift that only 4 cars will be queuing at any one time, these cars can be accommodated within the building and will therefore not result in queuing along the surrounding public roads. I consider the mitigation measures proposed to be adequate and I do not consider, based on the foregoing, that the proposed development will result in any unacceptable levels of queuing on Fleming Place and the surrounding roads.

Impact of offices on viability of surrounding area.

- 7.15. It is of note that concerns were raised within the grounds of appeal that the proposed development would have a negative impact on the viability of Baggot Street to operate as a main street given the concentration of offices within this area. I acknowledge the appellants concerns, however the introduction of additional office space to this area will inevitably bring employees to the area whom will avail of the existing retail provision and services within Baggot Street. I therefore consider that the introduction of additional office space at this location can only have a positive effect upon the viability of Baggot Street, and as such, I consider the proposed use to be acceptable in this regard.

Flooding

- 7.16. It is contended by the appellants' that there is insufficient capacity within the foul and surface water infrastructure to cater for the proposed development. The appellants are therefore concerned that the proposed development will exacerbate flooding in the area.
- 7.17. The applicants submitted an Engineering report prepared by Punch Consulting Engineers with the planning application in which it is stated that the water drainage system has been designed in accordance with the 'Irish Water Code of Practice for Wastewater Infrastructure' and 'Greater Dublin Regional Code of Practice for Drainage Works'. Of relevance to the grounds of appeal are details pertaining to the foul water and surface water drainage arrangements. It is stated that foul water from the development will be routed via gravity to a pumping station in the basement. A storage tank capacity of 7,650 litres will be provided for within the development in order to cater for any pumping failures. Storage of surface water to cater for a 1:100yr event will also be provided for within the building and will mitigate any potential flooding.
- 7.18. I have consulted the OPW Flood Hazard Maps and the Dublin City Development Plan Strategic Flood Risk Assessment 2016-2022 in this regard. No incidents of flooding are recorded and the area has not been identified within the SFRA as an area at risk of flood.
- 7.19. It is important to note at this juncture, that the proposed development will be required to be constructed in accordance with SuDS and I acknowledge the SuDS solutions such as green roofs outlined within the Punch engineering report.
- 7.20. It is also important to note that the Drainage Division of the Council had no objections to the development subject to compliance with standard conditions.
- 7.21. In conclusion, having regard to the foregoing and based on the information submitted I do not consider the proposed development to be either at risk of flood or to represent a catalyst for future flooding in the immediate vicinity.

Trees

- 7.22. The appellants are concerned about the removal of the substantial willow tree at the corner of Fleming Place and Waterloo Road and have raised this issue within the grounds of appeal. An arboricultural report was submitted with the application in which it was stated that the existing willow tree was of fair condition and makes a

minimal contribution to the biodiversity of the area. Its main contribution to the area is ornamental. It is proposed within the application to provide a mix of soft and hard landscaping which will include the planting of trees. I consider the landscaping proposed to be acceptable within this inner suburban site.

Appropriate Assessment

- 7.23. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission is granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the Z6 zoning objective, the existing pattern of development in the area, and the nature and scale 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 or the integrity of the adjacent Protected Structures. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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

to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area

3. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

4. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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

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

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

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

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

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

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

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

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

Reason: In the interests of public safety and residential amenity

8. 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.

Sarah Lynch
Planning Inspector

14th March 2019