



Development

- (A) Demolition of existing buildings on site rising to 7-storeys in height and the construction of 7-storey mixed use development with a total gross floor area (excluding basement) of 50,930 square metres.
- (B) Alterations to the existing layout and access arrangements of Wilton Park and the provision of a café/tea room pavilion within the park.
- (C) Environmental Improvement works on adjacent public streets, including Wilton Place, Wilton Terrace, Cumberland road and Lad Lane.

Location

Lands at Wilton Park House, Gardner House, Cumberland Road, Lad Lane, Wilton Place, Wilton Terrace and Wilton Park.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

4421/18.

Applicant	IPUT Plc.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellants	<ul style="list-style-type: none"> (i) Aidan Murphy, (ii) Camille O'Sullivan, (iii) An Taisce, (iv) Zuleika Rodgers and Others, (v) Pembroke Road Residents Association, (vi) Fergus Fahy, (vii) Patricia Hodgins (viii) Catherine Walsh.
Observers	<ul style="list-style-type: none"> (i) Transport Infrastructure Ireland, (ii) Richview Residents Association, (iii) Patrick Wallace.
Date of Site Inspection	13 th May, 2019.
Inspector	Paul Caprani.

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1.0 Introduction

ABP303706-19 relates to 8 no. third party appeals against the decision of Dublin City Council to issue notification to demolish existing buildings (containing office and residential uses) at a site at Wilton Park House and Gardner House at Cumberland Road, Dublin 2 and to construct a 7-storey mixed use office development in its place. Numerous third-party appeals were submitted expressing concerns that the proposed development is contrary to many policy statements contained in the development plan particularly in relation to conservation and architectural heritage. Concerns are expressed that the proposed redevelopment of Wilton Park is inappropriate and will adversely impact on the recreational amenities available for residents in the area. The grounds of appeal also suggest that the proposal constitutes an overdevelopment of the subject site, fails to incorporate any residential element in the redevelopment proposals and will give rise to parking and traffic issues. Finally, a number of appeals argue that Dublin City Council should have sought more advice from inhouse conservation and architectural experts within the City Council prior to issuing a decision on the application. A number of observations were also submitted supporting the issues raised in the grounds of appeal.

2.0 Site Location and Description

- 2.1. The appeal site is located at Wilton Place and Wilton Terrace on the northern side of the Grand Canal between Leeson Street Lower and Baggot Street Lower. The site comprises of two separate plots separated by Wilton Place. The more north-westerly plot is rectangular in shape and is bounded to the north-west by Lad Lane, the south-west by Cumberland Road, the south-east by Wilton Place and the north-east by a building occupied by the new LinkedIn office headquarters. The subject site lies between the Fitzwilliam Square Architectural Conservation Area to the north and the Grand Canal to the south. The existing office development comprises of Wilton Park House and Gardner House which comprises of a configuration of 7-storey office blocks incorporating a recessed entrance and internal courtyards. The main entrance to the building which fronts onto Wilton Place incorporates a double height undercroft

on a raised plinth which is accessed via steps from Wilton Place. The gross floor area of the office block amounts to just over 21,000 square metres (Wilton Park House offices 12,409 square metres and Gardner House offices 6,839 square metres). There is a car park at basement level and 256 private car parking spaces are located at this level. The external elevation of the office building comprises of a polished stone finish with horizontal glazing on each floor facing towards Wilton Park.

- 2.2. A separate block is located at the southern end of the development at the corner of Cumberland Road and Lad Lane. This block formerly accommodated student accommodation. It incorporates a red brick finish. A circulation core serving the former student accommodation block is located at the corner of Lad Lane and Cumberland Street and rises above the parapet of the main building. The circulation core is clad in ivy. A number of two-storey mews developments are located on the north side of Lad Lane to the rear of the main dwellings on Fitzwilliam Square East. Fitzwilton House (No. 1 Wilton Place) is located to the immediate west of the subjection. This site was recently granted planning permission for the demolition of existing buildings on site construction of a new office development on-site.
- 2.3. Wilton Park is a triangular area of open space located between the office and residential blocks to be demolished and Wilton Terrace which runs along the northern side of the Grand Canal. This park dates from the early 1840's and appears to have been laid-out prior to the construction of any buildings on Wilton Place. The existing park is maturely landscaped with mature deciduous trees located around the park boundary. The central area comprises of parkland with a central ornamental fountain feature and a central pedestrian link which traverses the open space between Wilton Place and Wilton Terrace.
- 2.4. An additional residential block, Wilton Court is located on the eastern side of Wilton Place. This 5 storey residential block dates from the early 1980's. To the immediate south of this residential block, a terrace of 6 no. late Georgian houses, 4 storey over basement, face towards Wilton Park. Two of these buildings commenced contemporaneously with the layout of Wilton Park the remainder of these buildings were constructed in the years after. These buildings originally accommodated period residences but today, office and institutional/educational uses are the predominant land-use. All six buildings are on the record of protected structures.

- 2.5. In terms of the surrounding road network, Wilton Place is a two-way local street providing access to the subject site and adjoining LinkedIn headquarters as well as the residential and office buildings on the eastern side of Wilton Place. On-street pay and display car parking is located along Wilton Place.
- 2.6. Cumberland Road, a link road between Wilton Terrace and Fitzwilliam Place, is two-way with parking provision on both sides.
- 2.7. In terms of public transport there are no Dublin bus routes directly serving the roads contiguous to the site. However, Leeson Street Lower, which is c.300 metres to the west of the site at Baggot Street approximately 200 metres to the east of the site both accommodate a large number of bus routes being primary radial routes to and from the city to the south Dublin suburbs. The nearest Dart Station, Grand Canal Dock, is approximately 1.5 kilometres from the subject site. The nearest Luas station at Charlemont is approximately 800 metres to the west on the southside of the Grand Canal.
- 2.8. In terms of architectural heritage, there are no protected structures on the subject site. The site however is located within a designated Conservation Area which covers the wider quadrant of the south-east city centre area. The north-western side of the site also abuts the Fitzwilliam Square Architectural Conservation Area. The terrace of six late Georgian/early Victorian residential structures at the corner of Wilton Place and Wilton Terrace are also protected structures.

3.0 Proposed Development

- 3.1. Planning permission is sought for the demolition of the existing structure on the subject site namely Lad Lane apartments, Wilton Park House offices and Gardner House offices.
- 3.2. Proposed Uses
- 3.3. It is proposed to demolish and replace the existing buildings on site with three new interlinked blocks spanning the length of the site. The design approach incorporates setbacks in the façade and slight changes in the parapet line in order to subdivide the elevations in an attempt to break up the size and scale of the buildings proposed. The separate buildings on the drawings are referred to as 2, 3 and 4 Wilton Park. At sub-basement level it is proposed to construct a plant room and water services

infrastructure to serve the buildings. Basement level provides a ramp access off South Cumberland Street for 122 car parking spaces and approximately c.500 bicycle spaces. Showers, changing rooms and ancillary areas including areas

Lower Ground Floor	N/A
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associated with uses above on the lower ground floor level are also proposed at basement level (these uses include office use, café use, kitchens and toilet areas associated with lower ground floor level uses).

- 3.4. At lower ground floor level No. 2 Wilton Place which is located at the western end of the building (adjacent to Cumberland Road) is to accommodate access to the basement car park and this block will also accommodate office accommodation, restaurant use and a new leisure/gym facility at the corner of Cumberland Street and Lad Lane. The central portion of the building (No. 3 Wilton Park) accommodates office use as well as kitchen and restaurant accommodation. No. 4 Wilton Park at lower ground floor level accommodates office use only. The upper ground floor level which provides access to street level incorporates a direct pedestrian link between Lad Lane and a proposed new civic plaza area to the front of the building between No. 2 and No. 3 Wilton Park. No. 2 Wilton Park incorporates a reception area as well as informal lobby/collaboration space. Much of the office space at ground floor level comprises of an informal area where workers meet and discuss work related issues in informal shared areas. Leisure facilities, restaurant facilities and retail facilities are located at upper ground floor level. Much of the restaurant and retail facilities are located along the proposed internal pedestrian route between 2 and 3 Wilton Park and linking the proposed Civic Plaza and Lad Lane to the North. A large restaurant area is also proposed to the front of 3 Wilton Park adjacent to a new civic square proposed between Nos. 2 and 3.
- 3.5. No. 4 Wilton Park at upper ground floor level comprises almost entirely of office accommodation.
- 3.6. The upper floors (Floors 4 to 6) comprise of office space in each of the three blocks. The upper floors are progressively stepped back from Lad Lane with only the seven-storey elements of the buildings facing onto Wilton Place. A breakdown of the existing and proposed uses and on each floor, together with general site standards is set out in the various tables below:
- 3.7. **Table 1 Existing Uses**

Ground Floor	2,718
First Floor	3,457
Second Floor	3,794
Third Floor	3,768
Fourth Floor	3,792
Fifth Sixth	3,792
Sixth	3,792
Total	24,476

Existing Development of Site: (Lad Lane Apts, Wilton Park House Offices

Gardner House Offices Sq.m)

Existing Car Parking Spaces: 256

Existing Cycle Parking: 179

Existing Site Coverage: 40%

Existing Plot Ratio: 2.6

Table 2 Proposed Development (Breakdown on floor by Floor Basis – sq.m)

	2 Wilton Pk	3 Wilton Pk	4 Wilton Pk	Non-Office	Total
Lower Basement					2,049
Basement					8,523
Lwr. ground	2,102	2,094	2,551	984	
Upp ground	1,032	1,468	2,283	1,067	
First	1,908	1,786	2,133		
Second	2,475	2,109	2,226		
Third	2,658	2,214	2,433		
Fourth	2,472	2,214	2,276		
Fifth	2,469	1,927	2,131		
Sixth	1,496	1,230	1,192		
Total	16,612	15,042	17,225	2,051	50,930*

*Excluding basement areas

Table 3 Proposed Development (Breakdown by land-use – Sq m)

Total Office	48,879
Total Retail	94
Total Restaurant	1,332
Total Leisure	625

Proposed Car Parking Spaces: 122

Cycle Parking: 489

Site Coverage: 61%

Plot Ratio: 4.5

Environmental Improvement Works

- 3.8. The new civic area at Wilton Place will incorporate the use of stone sets which extend out onto the existing public carriageway. This is proposed as a traffic calming measure and this section of Wilton Place to the front of the site will become one-way eastbound for vehicular traffic. All on-street car parking spaces on Wilton Place to the front of the site will be removed.

Height and Elevation Treatments

- 3.9. The proposed three building blocks exceed the maximum height of the existing buildings on site and rise to a height of between 27 and 29 metres. The maximum height of the existing buildings on site rose to a parapet level of just less than 25 metres.
- 3.10. External elevation treatments incorporate extensive glazing with various types of glazing (vision glazing, fitted glazing and glazed shadow box glass) proposed in the external elevations. This glazing is broken up by narrow vertical bands of solid material including anodised aluminium, natural stone cladding and reconstituted stone. Details of the external finishes are indicated on Drawing 2010-2013 submitted with the application and are also indicated in the various photomontages submitted. A landscape roof area is also proposed with green space amenity areas on the flat roof top of the three blocks.
- 3.11. Each of the three blocks incorporate different external finishes. In general, the external cladding of the blocks get progressively darker moving eastwards from Nos. 2 to 4.

Changes to Wilton Park

- 3.12. The proposal also involves alterations to the existing layout and access arrangements at Wilton Park. As part of the proposal it is intended to provide a pavilion/tea room (74 square metres) within the park. The oval shaped glass pavilion

is to be centrally located within the park. It is also proposed to provide new pedestrian routes and a larger area of hardstanding in and around and through the park. The proposed layout of the park has been somewhat altered in the applicants response to concerns raised in the grounds of appeal.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Dublin City Council in its decision dated 18th January, 2019 issued notification to grant planning permission subject to 21 conditions.

4.2. Documentation Submitted with the Planning Application

- 4.2.1. The planning application was submitted to Dublin City Council on 16th November, 2018. It was accompanied by numerous reports which are briefly summarised below.
- 4.2.2. A **Town Planning Covering Letter** prepared by Sheehan Planning. This document sets out a summary of the proposed development and also discusses a number of planning issues relating to the proposed development, including the architectural rationale for the proposal, the quality of the buildings proposed, the environmental quality of the improvements to the public realm resulting from the proposal, and an analysis of the development mix proposed, including the consideration of residential use. It also assesses the potential environmental impacts arising from the proposal and the potential impact on the built heritage, local amenity and visual impacts arising. It concludes that the proposal is fully in accordance with the proper planning and sustainable development of the area.
- 4.2.3. **Architectural Report** prepared by Henry J. Lyons Architects. This illustrated report sets out an overview of the scheme as well as details of the subject site and its surroundings. It also provides justification for the demolition of the existing buildings. It is argued that the existing office development is of low quality, low environmental efficiency and offers poor servicing requirements. For these reasons it is argued that new more energy efficient buildings that would fully comply with the Building Regulations particularly in respect of Part M, Part B and Part L, would justify the replacement of the buildings in question. Details of the overall design strategy and

the approach in designing the urban realm, the elevational treatment, the streetscape and character of the buildings are also set out in the report. The report also contains details of the how the proposed development complies with the policy objectives and standards set out in the Dublin City Development Plan. Appendix B sets out details of the visual impact analysis undertaken, and Appendix C contains the statutory planning drawings in A3 format.

- 4.2.4. A separate report was prepared by Richard Coleman – City Designer. This report details Wilton Park, and contains a **Townscape Heritage and Visual Assessment of Wilton Park**. This report sets out the historic development of the site and its surrounding areas. It includes a suite of historical maps showing the site and its surroundings from John Roque’s Map of 1756 up to the present day. It describes the site in its current context and sets out details in relation to the overall design assessment. It also assesses the proposal in the context of the existing built heritage surrounding the site and an assessment of the visual impact which may arise as a result of the development proposed. It concludes that the existing buildings on site, while well-made, incorporate an “visual heaviness”, offering little to the public realm. It suggests that the photomontages submitted, illustrate that, notwithstanding the increase in floor area, the proposal does not result in an appreciably bulkier building. There is no feeling of overdevelopment or dominance resulting from the proposed development and it is argued that the public realm is greatly improved by the high-quality architecture.
- 4.2.5. **A Sustainability Report** prepared by Arup Consultants states that the proposed development will provide a highly sustainable modern office building which will demonstrate best practice in all aspects of environmental impact. The energy and water demands of the development will reduce by c.70% and 50% respectively, while potentially accommodating 70% more staff. The proposal will also result in a reduction of 51% in car parking spaces. It is stated that the net lifetime carbon impact of the redevelopment is notably lower than pursuing a refurbishment option.
- 4.2.6. Also submitted was a **Landscape and Public Realm Strategy**. It sets out details of the context and vision aimed for the public realm and also provides landscape masterplan proposals. The Strategy goes on to set out details of the proposed hard and soft landscaping as well as details of desire lines and pedestrian movement through the Wilton Park to the front of the proposed buildings. Within Wilton Park, details of the pavilion area, wildlife garden, box garden and the central events space

proposed for the park area are elaborated in the report. Details of existing trees to be removed are also set out, as are details of the proposed street furniture. Finally, the report analyses and sets out the landscaping proposals for the roof terraces above the main building.

- 4.2.7. **A Construction and Operational Phase Waste Management Plan** was also prepared and submitted by Arup Consulting. It sets out details of the waste management planning policy and guidance at a regional and local level. Details of the measures which the contractor will undertake in relation to construction waste management are set out in Section 3.6 of the document. All waste from the project will be transported by authorised waste collectors and will be delivered to authorised waste facilities in accordance with the requirements of the Waste Management Act. Records of all demolition waste will be kept. Details of the waste generated during the operational phase as per the lands uses proposed are set out. Details of operational management of waste including proposals for recyclable measures to be implemented are also set out in the document.
- 4.2.8. A **Daylight and Sunlight Report** was also prepared and submitted by Arup Consulting Engineers. The report presents the modelling methods undertaken together with the analysis of the level of daylight and sunlight availability arising from the proposed development. Based on the evaluation undertaken, and in accordance with the classification procedures of BRE209, the analysis concludes that the proposed development at Wilton Park will have a negligible impact on the skylight and sunlight regime over and above that associated with the existing buildings on site.
- 4.2.9. A **Traffic and Transportation Report** was also submitted. It sets out details of the site location, the road network, the accessibility of the site for pedestrians and cyclists and also provides details of public transport services in the vicinity. It notes that the nearest Dublin Bus bus-stop is approximately 350 metres away on Leeson Street. Details of the nearest Luas stop (c.700 metres) and Dart station (c.1.3 kilometres) are also noted. The report goes on to outline the proposed development and states that the main access to the proposed development will be along Wilton Place with pedestrian accesses through a number of entrances located at the centre of the site.

- 4.2.10. In compliance with development plan standards, a total of 122 car parking spaces have been provided (9 disabled). Five motorcycle spaces will also be provided in addition to 500 bicycle spaces. Details of the service access including the location of loading bays are also indicated. Details of road upgrades build outs and the traffic circulation system are also set out. The main changes relate to a one-way eastbound traffic movement on the northern leg of Wilton Place, directly outside the proposed office development. The traffic impact arising for both the construction phase and operational phase are assessed. As there is a reduction in the number of car parking spaces being provided, the proposal will not generate any additional vehicular demand and therefore will not impact, in any adverse way, on the surrounding road network. The traffic impact associated with the construction activities will be negligible even during the most onerous construction period which is likely to be the demolition of the existing buildings on site.
- 4.2.11. The report sets out a Mobility Management Plan including mobility management measures which are to be incorporated during the construction phase and the operational phase. The measures to be employed as part of the plan are set out in Section 5 of the document.
- 4.2.12. Also submitted was a **Community and Neighbourhood Engagement Report**. It sets out details of the on-going programme with community engagement stakeholders in the immediate vicinity of Wilton Park. It also contains details of the estate management programme and strategy to be undertaken during the operational phase to ensure that a clean, safe and aesthetically pleasing environment is maintained during the life of the development. Details of a cultural engagement plan is also set out. The proposal includes the provision of a new pavilion/tea room structure within Wilton Park which will provide a point of connection and reacquaintance for users with the artistic and cultural heritage of the area. The aim of the Plan is to recognise, protect and enhance the rich artistic heritage of one of Dublin's most culturally significant areas.
- 4.2.13. Also submitted was a **Drainage and Watermain Planning Report**. It sets out details of the existing drainage system and the proposed drainage system to serve the development. The foul drainage from the proposed development shall drain by gravity and discharge to the existing sewage system utilising five existing outfalls from the site. Surface water will be managed in accordance with SuDS and discharges from the proposed building development will be restricted in line with

Dublin City Council Drainage Division requirements. The new development will have an estimated hydraulic loading of 248 cubic metres per day of foul effluent generated on completion of the development. In terms of water supply it is stated that there is an Irish Water watermain in the vicinity of the proposed development. It is expected that the peak flow demand for the proposed development will be in the region of 8 litres per second.

- 4.2.14. Also submitted was a separate report on **Flood Risk**. It notes that the subject site is located well outside the predicted flooding catchment of both the River Liffey and River Dodder. In terms of pluvial flood risk, the site is not located within the predicted 1% AEP and 0.1% AEP pluvial flood extent. The risk of pluvial flooding is therefore considered to be low. In terms of groundwater flood risk, it is noted that given the absence of historic record of flooding at the site and the low Groundwater Table (2 to 3 metres below the subject site), groundwater flood risk appears also to be low. A similar conclusion in respect of flood risk from the Grand Canal is also reached having regard to the preliminary flood risk analysis report prepared by Waterways Ireland in respect of the Grand Canal. Finally, it is noted that the site is located within Flood zone C and therefore a justification test for the proposed development is not required. It is concluded therefore that the site does not pose a major risk in terms of flooding.
- 4.2.15. An **Environmental Wind Assessment** was also submitted by Arup. It sets out details of the proposed development and the ground level wind conditions. The report seeks to incorporate practical advice to improve pedestrian comfort conditions in terms of wind. It concludes that wind conditions around the proposed development are expected to be generally similar to those around the existing building. Conditions around the public square are likely to be acceptable for access use. The outdoor café and restaurant seating area are deemed to be usable in good weather. The wind levels around the streets surrounding the development are also considered to be acceptable.
- 4.2.16. A separate **Construction Management Plan** was also prepared by Arup Consulting and submitted with the application. It sets out details of the construction programme and phasing and details of the perimeter hoarding to be used during the demolition and construction works. Any asbestos on site will be removed by a specialist contractor. It is proposed that all major access for construction vehicles to the site will be via Cumberland Road and Wilton Place depending on the phase of

construction. Details of the construction works and the hours of operation are also set out. Construction operations on site will generally be between the hours of 0700 to 1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturdays. Details of the proposed dust, dirt, noise and vibration control are also set out. The report sets out details of construction traffic routing, on-site accommodation during the construction phase, and details of road maintenance and reinstatement after construction.

4.2.17. Finally, a report for **Screening for Appropriate Assessment** was also submitted. It notes that all development activity will take place within the site works boundary. No works will take place within any Natura 2000 site. No material or spoil from the works will be deposited in any Natura 2000 site and there will be no encroachment on habitats or species of any Natura 2000 site. Therefore, there will be no fragmentation of the habitats, no disturbance to the qualifying species of the Natura 2000 sites and no impacts on the population density of these species. There will be no significant emissions to air, soil or water during the construction or operational phases. It is noted that the nearest Natura 2000 site is over 2 kilometres from the subject site. It is concluded therefore that it is possible to rule out likely significant impacts on Natura 2000 sites and therefore a State 2 Appropriate Assessment is not required.

4.3. Assessment by Planning Authority

4.3.1. A report from **Transport Infrastructure Ireland** notes that the proposed development falls within an area set out in Section 49 Levy Scheme for light rail. If the above application is successful and not exempt, it is requested that a section 49 contribution scheme levy be applied.

4.3.2. A report from the **City Archaeologist** recommends that a condition relating to archaeological monitoring be attached.

4.3.3. A report from the **Drainage Division Engineering Department** stated that there was no objection to the proposed development subject to standard drainage conditions.

4.3.4. A report from the **Roads, Streets and Traffic Planning Department – Road Planning Division** sets out details of the proposed development and assesses the proposal in terms of access arrangements, car parking provision, cycle parking provision, servicing and the proposed external road upgrade. It also notes the details

contained in the Mobility Management Plan and Construction Management Plan submitted. It concludes that there is no objection to the proposed development subject to seven standard conditions.

4.3.5. The **planner's report** notes that the proposed development is in accordance with the land use zoning objective conferred on the site. It also considers that the demolition of the existing buildings is justified on the basis that the existing office buildings are deemed to be substandard in terms of building fabric, services and energy efficiency. With regard to the existing residential units it is noted that the units were initially constructed as apartments in the mid-80s but because of the small floorplate they were being let as student residences. It is noted that concerns were expressed in relation to potential 'over-occupancy' and due to subsequent inspections by Dublin Fire Brigade, the apartments were deemed to be unfit for occupancy. It is also noted that there were substantial non-compliance with regard to Part B of the Building Regulations (fire safety). With regard to the loss of residential accommodation, the planner's report notes that the subject site is zoned for employment and enterprise which constitutes an important landbank for employment use in the city. In terms of density, it notes that the city development plan sets no actual upper unit density limit for any zoned lands and each proposal should be assessed on its merits. Having regard to the site's central location it is considered that a higher plot ratio quantum of development would be acceptable in this instance. The planner's report has assessed the photomontages submitted with the application and considers the proposed development to be acceptable in terms of visual impact. It is considered that the contemporary design will have a positive effect aesthetically on the overall area. The overall development is considered to offer significant beneficial improvements to the overall public realm and this includes the proposed alterations in layout to Wilton Park proposed as part of the overall scheme. It is also considered that the modelling assessment undertaken as part of the application demonstrates that the impact in terms of daylight, sunlight and overshadowing will be negligible. Finally, the planner's report makes reference to the internal reports from the City Archaeologist and from the Roads and Traffic and Planning Division and notes the fact that there is no objections from these Department's subject to conditions.

4.3.6. In conclusion therefore, it is considered that the proposed development will update and upgrade buildings in one of the most prominent locations in the city, contribute to

the animation of the area and will allow for the construction of a striking and innovative contemporary building in an inner city location in close proximity to public transport and other amenities. It is therefore considered that the proposal would not seriously injure the existing buildings and would be in accordance with the proper planning and sustainable development of the area. The planner's report therefore recommended that planning permission be granted for the proposal.

4.4. Observations

- 4.4.1. A large number of observations were submitted most of which objected to the proposed development. A number of observations were submitted supporting the proposal. The contents of these submissions have been read and noted.

5.0 **Planning History**

- 5.1. No planning history files are attached. Details of planning history in the surrounding area is set out. It is noted that there is a current planning application for retention of planning permission by John Sisk and Son for the erection of temporary hoarding outside the main pedestrian entrance and the retention of a temporary change of use of part of the ground floor in connection with the redevelopment of the adjoining site known as Wilton One (formerly Fitzwilton House).
- 5.2. Under Reg. Ref. 3558/12 planning permission was refused for the erection of two illuminated external signs fixed above sixth floor level but below parapet level facing onto Wilton Place to existing office buildings.
- 5.3. Under Reg. Ref. 4446/09 planning permission was approved for a development at Gardner House consisting of the replacement of all external façades together with recladding and minor alterations to the internal configuration of existing buildings in order to accommodate a proposed extension. The development also incorporated the construction of a seven-storey office extension to the north of the existing building, the construction of a five-storey extension also to the north of the building with a garden at fifth floor level. Permission was also sought for the incorporation of a café/restaurant use and the provision of additional cycle spaces and alterations at basement level.

6.0 Grounds of Appeal

6.1. Introduction

6.1.1. 8 no. third party appeals were submitted on foot of the decision of Dublin City Council to issue notification to grant planning permission. The appeals were submitted by:

- The Pembroke Road Residents Association.
- Fergus Fahey.
- An Taisce.
- Camille O'Sullivan.
- Patricia Hodgins.
- Zuleika Rodgers, Margaret Callanan and Gillian Hynes.
- Catherine Walsh.
- Aidan Murphy.

6.1.2. The various issues raised in all the third-party appeals are set out under separate headings below:

6.2. Lack of Input from Conservation Experts

- Many of the appeals note that the Dublin City planner's report contained no advice or input from the Dublin City Council Conservation Department or prescribed bodies in relation to conservation impacts arising from the proposal. Great concern is expressed that the Conservation Department of the Council was not requested to comment on the application in question.
- It is also argued that there is a lack of conservation reports prepared on behalf of the applicant and there was little, or no analysis of the conservation impacts in the Dublin City planner's report.

- Information submitted with the application focused on the historical context of the building and not the historic importance of Wilton Park.
- The work to the public realm fails to comprehend the impact of the proposal on the historic streetscape, the historic furniture and setting of the houses and square at Wilton Place.

6.3. Impact on Wilton Park

- The proposal incorporates fundamental changes to the layout of the park. The railings, fountains and mature trees are all original and intact features associated with the park. The park dates from the 1840s and is reflective of the Georgian period. The layout and configuration of the park has remained intact since its original inception.
- The extra openings in the park increasing from two openings to six openings will make the park unsafe for children.
- The provision of a café area within the park is completely unwarranted. The café will also give rise to litter and vermin.
- It is noted that the café use is only open for consideration and therefore is at variance with the land use policy objectives set out in the development plan.
- The hard paving associated with the park will exacerbate flooding.
- The park should not be used for outdoor meetings or congregations as it serves residences in the area.
- The fountain at the centre of the park was installed by J and R Mallet, Ironmongers, a 19th century engineering firm of world renowned.
- In historical terms Wilton Park has the same status as St. Stephen's Green or Merrion Square.
- Revamping Wilton Park is totally at variance with the conservation principles set out in the development plan. Furthermore, the introduction of a commercial use in the form of a tea house/café is also totally at variance with conservation principles associated with open space.

- The removal of trees within the park has not been justified and their removal are contrary to stated policies contained in the development plan.
- The green space will be transferred into an extensive office plaza and the proposed park should not be transformed into a new dynamic quarter as suggested in the information submitted with the application.
- Wilton Park should be afforded the same level of protection as Dartmouth Square.
- The level of intervention at Wilton Park completely transforms the character of the park and the setting of the protected structures surrounding the park. The modernisation of the square is totally inappropriate as is the relocation of the fountain within the park.
- There has been no assessment of the cultural significance of the square in the documentation submitted.
- The assimilation of Wilton Square as an extension of a commercial use associated with the office and public plaza is totally unacceptable.
- The works to be undertaken at the square fail to adhere to best conservation principles.
- The introduction of a tea room will greatly reduce the size of the square and it is argued that there are enough cafés and restaurants in the area to serve the population.
- There will be a profound aesthetic impact arising from the removal of trees around the perimeter of the square.
- The alterations proposed at the park could give rise to an increase in drug dealing and anti-social activity within the park.
- Any changes to the park are premature pending a survey of the area by the National Inventory of Architectural Heritage which is currently ongoing in the area.
- The legacy of the Pembroke Estate which created the park must be protected.

- Further details are required as to what type of public events may take place in the park as these events could have a significant adverse impact on residential amenity.

6.4. Proposed Changes to Wilton Place and the Proposed New Public Plaza

- Concerns are expressed that the works being carried out at Wilton Place will result in the roadway being privatised.
- It is inappropriate to close the road off without agreement from residents in the area.
- The roads on Wilton Place relate to lands not in the ownership of the applicant and would impact on the historic layout of the area.
- The proposal seeks to incorporate a public road for the purposes of private development.
- The reduction of on-street car parking spaces which currently exist at Wilton Place is considered to be unacceptable.
- The road proposals will intensify traffic on the eastern side of Wilton Place and the incorporation of a roundabout at the top of Wilton Place will adversely impact on the public realm.
- The proliferation of different types of street furniture and materials within the civic square and along the streetscape at Wilton Place is inappropriate and will dilute the historic importance of the space.
- The creation of a one-way system and the reduction of car parking cannot be justified on either aesthetic or safety grounds.
- Reducing the amount of traffic to one lane while doubling the amount of workers in the office will almost certainly exacerbate traffic congestion.
- The new urban square would not create an ambient environment but would merely be a transitional space which people pass through rather than stay and enjoy.

- The proposed plaza area will have a significant adverse impact on the public realm which still is very much Georgian in character.
- The traffic impact assessment submitted is not robust enough in assessing the impacts on traffic particularly the traffic circulation on the east side of Wilton Place.

6.5. Loss of Residential Units

- There is too large an office population already in this area. The area would greatly benefit from a larger input of residential development.
- Intensification of office use without commensurate increases in other uses such as residential is unsustainable.
- The proposal will result in a reduction of housing supply. The proposal should be providing housing for the workers that will be employed in the offices.
- A housing report on the supply of housing within Dublin City should have been submitted with the application.
- The proposed office development will fuel further housing demand in the area and lower paid workers who are essential to Dublin City will be priced out of the market.
- The omission of residential units is a clear breach of development plan policy.
- Rather than being unviable to retain 40 apartments on Lad Lane, it is argued that the existing apartments earmarked to be demolished, could be refurbished in order to comply with the requirements of the Building Regulations. The design standards for new apartments (March, 2018) permits floor to ceiling heights of 2.4 metres and the floor to ceiling heights of the existing Lad Lane apartments are 2.5 metres.
- It is the policy of the development plan to discourage the demolition of existing houses and encourage more residential units in the historic Georgian area of the city. The demolition of residential units is contrary to the overarching strategy set out in the document entitled 'Rebuilding Ireland'.

6.6. Justification for the Demolition of Existing Office Building

- No justification has been made to demolish the office buildings in question. The reuse of the building should always be the primary objective and should always be given higher priority over demolition.
- The existing building incorporates double glazing and is of some architectural merit and for this reason its retention and reuse should be actively sought.

6.7. Development Plan Policy

- The planner's report selectively refers to the conservation policies set out in the development plan. It does not refer to a number of relevant policy standards contained in the plan in respect of conservation. It is suggested that if more emphasis was placed on the wider policy statements contained in the development plan, the proposed development would not be permitted.
- A development plan seeks to ensure that abrupt transition zones should be avoided. The large-scale nature of the new building is contrary to this policy objective. The size and scale of the proposed buildings with its associated mass, bulk and scale will have a significant and profound impact on the mews dwellings on Lad Lane.
- The proposal is contrary to Policy CHC4 which seeks to protect the interests and special character of all Dublin's designated Conservation Areas.
- The selective referencing of only some of the conservation policies in the Dublin City planner's report has resulted in an incomplete assessment of the application.

6.8. Size, Scale and Density of Proposed Development.

- The scale and density of the proposed office block is greater than that permitted in the development plan and will set an undesirable precedent in this regard. Specific reference is made to the excessive plot ratio. The planner's report provides no justification for exceeding the plot ratio limits set out in the plan.

- The overall height of the building is considerably higher than the existing building on site and exceeds the maximum building height of 28 metres set out in the plan.
- The proposal would have an overbearing impact on protected structures on Wilton Place and the two-storey mews structures on Lad Lane.
- The size of the office development will overwhelm the immediate area. It is also stated that buildings in excess of 18 metres in height will be too high for fire engines to put out fire on the upper floors.
- There needs to be a clear break-up of the massing of the façade of the proposal in order to breakdown the overall scale of the building.
- The building form proposed is more massive, bulkier and higher than the building recently granted planning permission at 1 Wilton Place (under Reg. Ref. PL 29S 246828).
- The visual impact assessment submitted is not objective and seeks to justify the proposed development rather than objectively assess the visual impact. The visual impact assessment should place more emphasis on the impact of the proposal in the context of the existing protected structures on Wilton Place.

6.9. Tourism

- The subject site is located in a tourism area and policies set out in the development plan for supporting tourism should be encouraged. The proposed office development in question does little to enhance the tourism product in the area.
- The location of the building could not be in a more sensitive area, adjoining Fitzwilliam Architectural Conservation Area and the site's location within the Grand Canal Conservation Area.

6.10. Details of Pre-Application Consultation

- It is suggested that full details of the pre-application consultations are not contained on file.
- It is also contended that part of the planner's report (section relating to "materials" on page 11 of the report) was copied and pasted from another report and is not relevant to the application in question.
- The developer failed to carry out a meaningful consultation with local residents in the area.

6.11. Other Issues

- The 10-year permission is not necessary and could result in a staggered development which could impact on the amenity of the Conservation Area.
- The proposed development requires EIA; particularly as the cumulative site area including 1 Fitzwilton exceeds 2 hectares. In this regard it is argued that the proposal constitutes project splitting when taken into consideration with the adjoining development. The cumulative communal floor area amounts to 79,320 square metres.
- The public notices are inadequate and fail to adequately describe the indicative environment traffic measures to be undertaken nor do they make reference to the fact that residential units are being demolished.
- The applicant does not have the sufficient legal interest to carry out the works in question. The fact that the proposal cantilevers over the public footpath has not been referred to in the public notice.
- No details are provided with regard to the opening times of the retail units or restaurant on site.
- The impact on wind conditions arising from the opening of six new gates in the park and the removal of mature trees has not been assessed.
- The impact arising from construction traffic and construction parking requirements have not been adequately considered in the evaluation of the proposal.

7.0 Appeal Responses

7.1. Dublin City Council's Response

7.2. It appears that Dublin City Council have not submitted a response to the grounds of appeal.

7.3. Appeal Response on behalf of the Applicants

7.3.1. A response was received from Sheehan Planning Consultants. The response is arranged in five sections and these are set out below.

Impact on the Proposals for Wilton Park (Wilton Square).

7.3.2. It is stated that the proposals for the park were in fact motivated by the applicant's desire to bring the privately-owned park into wider use and was based on extensive research on other parks and other locations. In response the applicant has proposed amendments to the initial scheme including the retention and renovation of the fountain in its current central location. The removal of a non-original entrance and the reinstatement of the original narrower path nearby. The proposed pavilion/tea room is moved away from the fountain and the number of proposed entrances has been reduced and all entrance gates and gateways will be detailed to match the detail of the original gates of the square. The amended proposal is set out in drawings attached to the response (also see Figure 2.1 on page 5 of response). The proposed alterations to the park have been the subject of separate assessments by conservation architects (Dr. John Oilly and Bill Hastings). These reports conclude that the proposed interventions are appropriate in conservation terms. Further details in relation to gates and railings are also submitted. It is also stated that the relocated tea rooms within the park will provide shelter during inclement conditions and will also provide passive surveillance within the park. The proposal also modifies the perimeter planting however there is no change to the proposal to remove 12 trees. As the removal of the trees in question simply represents good practice all 12 of the trees to be removed are weak.

7.3.3. The proposed amendments demonstrated that the applicant has carefully considered the various points raised by the appellants and has appropriately responded to these concerns. Also submitted are a number of letters of support (see Appendix G) for the proposal including the proposals for amenity space.

Proposed Environmental Works on Wilton Place

- 7.3.4. With regard to the indicative proposals on the adjoining streets, it is stated that such works outside the red line ownership is not without precedent. Reference is made to the ESB headquarters on Fitzwilliam Street. It is not considered that the loss of on-street parking would devalue existing dwellings. It is argued in fact that it would enhance existing values. It is not accepted that the proposal would give rise to significant traffic impacts. This issue has already been addressed in the Arup Consulting Engineers report submitted with the planning application. It is clearly stated that the indicative works will be subject to agreement with Dublin City Council's Environmental and Transportation Department.
- 7.3.5. It is acknowledged that the proposed environmental works would affect two small areas of historic footpath kerbstone at the southern and north-eastern corners of the park. It is considered that the proposal to extend the footpath in these areas is warranted on pedestrian safety grounds. The response notes that a pavement build-out was showing to the front of No.1 Wilton Place. This is in fact a mistake as the applicant does not intend to carry out any works to the front of No. 1 Wilton Place.
- 7.3.6. As the proposal involves the relocation of a basement car park to Cumberland Road, it is not anticipated that there will be any adverse impacts on traffic on Wilton Place. The volume of trips to Wilton Place will be solely associated with service courier and taxi services.
- 7.3.7. With regard to construction traffic it is stated that the highest level of construction traffic is likely to be associated with the demolition period where trip generation is unlikely to exceed 20 two-way trips per hour. It is argued that the wider road capacity in the city centre has ample room to accommodate construction traffic associated with the development.

Design and Land-Use Issues

- 7.3.8. In terms of proposed building design, and use it is stated that the scheme was designed to respect its context and its proximity to Fitzwilliam Square and Environs ACA. The proposal will have very little impact on existing views and will have minimal impact on residential amenity. Reference is made to many statements contained in the townscape heritage and visual assessment submitted with the original application which it is argued illustrate that the overall design approach is

acceptable. The incorporation of active uses such as a restaurant, gym and food retailing is good practice, provides animation and passive surveillance.

7.3.9. Events to be held in the park will be cultural in nature and appropriate to the context.

7.3.10. With regard to the omission of the residential element, reference again is made to the housing quality assessment set out under the sustainable urban housing design standards. It states that the existing residential building on site fails to meet relevant criteria in relation to:

- Private open space.
- Bedrooms widths.
- Bedroom areas.
- Bedroom aggregate areas.
- Living room aggregate areas.
- Storage areas.

7.3.11. A daylight analysis also illustrates significantly substandard results for bedrooms and living rooms within the layout. It is stated that the existing apartments do not even meet the most basic criteria for quality housing. While some works could be incorporated to remedy the substandard quality, this would result in a significant reduction in the number of units.

7.3.12. It is noted that the County Development Plan blanket height of 28 metres is marginally exceeded in the case of the proposal. However, the blanket height provisions contained in the County Development Plan are superseded by the provisions of the new Urban Development and Building Height Guidelines 2018.

7.3.13. It is not accepted that the townscape heritage and visual impact assessment is not objective as suggested in one of the grounds of appeal. The assessments undertaken were done so in an independent and transparent manner which highlight both the positive and negative effects of the proposed development.

7.3.14. While it is acknowledged that site coverage and plot ratio standards set out in the development plan have been exceeded. However such standards are indicative only and the proposed development is aimed at attracting foreign direct investment (see letter of support by the IDA included in Appendix G).

- 7.3.15. It is not accepted that the proposal either contravenes the Z6 zoning objective set out in the development plan nor does it negatively impact on the views of Fitzwilliam Square.
- 7.3.16. It is also noted that the Z6 zoning does not require retention of residential development within the site and that residential development is only open for consideration under this land use zoning objective. Furthermore, the county development plan expressly states that the primary objective of the Z6 zoning is to facilitate long term economic development. The National Planning Framework provides the strategic national planning and development policy for the state and the proposal is consistent with the strategy objectives in relation to urban development.
- 7.3.17. It is noted that the site is not located in an Architectural Conservation Area and does not involve any works to protected structures as suggested in one of the third-party appeals.

Procedural Issues

- 7.3.18. Contrary to what is stated in some of the appeals, a letter of consent was obtained from the City Council for the proposed overhang and this was submitted with the application and is available on public file. It is reproduced as Appendix J in the appeal response.
- 7.3.19. With regard to indicative works on adjacent streets, it is stated that Dublin City Council's current practice is not to supply letters of consent to applicants for such works. It is the clear ambition of the applicant to carry out such works, but the planning authority's position is reserved in this matter. For completeness the indicative works are described in detail and the potential impacts are assessed. However, the proposal is in no way reliant on the delivery of these indicative works. Any works outside the red line are explicitly conditioned to be the subject of agreement with the planning authority. Any works to the public road may subsequently be agreed and may in due course require a Part 8 application.
- 7.4. It was agreed with Dublin City Council that a full transport assessment was not required for the application as the number of car parking spaces proposed are fewer than that which currently exists on site.
- 7.5. With regard to the requirement of an EIAR, it is stated that the Fitzwilton House application was submitted in January 2016. At the time there was no plan to develop

the current site and no ability to do so as much of the site was not owned by the applicants. A detailed legal opinion on this matter is provided by Mr. Stephen Dodd, Barrister at law (Appendix F).

7.6. With regard to statutory notices, it is stated that 11 prominent A3 site notices were erected around the site. The description set out in the statutory notices are contained in the appeal response. It is also stated that the historic name for the triangular park is Wilton Square.

7.7. Finally, it is stated that a 10-year permission was requested in light of the complexity of the proposed development. However, the applicant acknowledges the genuine concerns expressed and are anxious to take reasonable steps to reduce the inconvenience of demolition and construction. Having reviewed the project programme the applicant considers that a 7-year permission would be sufficient in this instance.

7.8. 9 appendices are attached.

- Appendix A includes a copy of An Bord Pleanála's letter to the applicant's agent dated 19th February, 2019.
- Appendix B contains a further assessment of additional photomontages specifically focussing on Wilton Park and the revised changes proposed on foot of the various appeals.
- Appendix C contains an Architectural Heritage Impact Assessment of the proposed works to Wilton Square carried out by Dr. John Olley and Mr. Bill. Hastings, Grade 1 Conservation Architect.
- Appendix D contains a housing quality assessment of the existing Lad Lane apartment block prepared by Henry J. Lyons.
- Appendix E contains an additional assessment of the architectural quality of the proposed buildings prepared by Mr. Des McMahon, Architect.
- Appendix F contains a legal opinion on the issues raised in relation to environmental impact assessment by Mr. Stephen Dodd, Barrister at law.
- Appendix G contains letters of support from the IDA and others including letters from landowners and businesses in the vicinity.

- Appendix H provides summary response to the various issues raised in the appeal submitted by Mr. A. Murphy.
- Also submitted is an amended photomontage report incorporating additional and amended views of the park.

7.9. **Further Submission from Appellants on other Third Party Submissions**

The various third-party appeals were cross circulated to other third parties for comment. The comments received from the Board are briefly referred to below.

A further submission from Reid and Associates, Town Planning Consultants on behalf of Mr. Aidan Murphy supports the issues raised in the various third-party appeals and reiterates that an EIAR is required and that significant concerns are reiterated in terms of the impact of the proposal on the heritage conservation character of Wilton Square. Concerns are reiterated in relation to the design, scale, mass and bulk of the development together with the proposed intensification and commercialisation of use on Wilton Square. The proposal will result in a land use conflict with the residential amenity of No. 1 Wilton Place. Concerns are restated that the proposal which does not incorporate any residential element contravenes national policy on housing provision and that the proposed traffic changes are deemed to be unacceptable.

A further submission was received by An Taisce which expressed concerns about a number of matters relating to the validity of the application which were referenced in the other appeals lodged, as well as the lack of thoroughness in the assessment by the Planning Authority. An Taisce agrees with the assertion that an EIAR should have been submitted. Concerns are also expressed that there are flawed public notices in the development description. The proposal fails to comply with housing requirements flouts conservation principles and constitutes an excessive quantum of development on the subject site. Concerns are also expressed in relation to the objectivity of the visual impact assessment submitted with the application. An Taisce also support concerns raised in other appeals in relation to the protection of Wilton Square, the potential impact arising from the proposed development, the appropriation of the public road and the removal of granite kerbing.

7.10. Third Party Submissions on Applicant's Response to the Grounds of Appeal

7.10.1. A submission from An Taisce received on the 16th April, 2019 is summarised below.

- The assertion by the applicant that the subject site is located outside the south Georgian core is incorrect. It is argued that the south Georgian core extends to the Grand Canal and encompasses Wilton Square. Concerns are reiterated that the proposed alterations to the square includes the provision of a pavilion. It further notes that the report by Dr. John Olley submitted in respect of the square makes no specific reference to the pavilion/tea room proposed. It is also suggested that the applicant in his response to the grounds of appeal incorrectly rely on statements contained in the report provided by Mr. John Olley which do not actually appear on the report. It is reiterated that the proposed structure would in the opinion of An Taisce detract from the historic importance of the existing square. The need to provide shelter within the square as suggested in the applicant's response to the grounds of appeal does not stand up to scrutiny.
- No justification could be found in the tree survey and arborcultural report to warrant the felling of 12 trees at Wilton Square. An Taisce are opposed to the unnecessary felling of the trees and every effort should be maintained to retain as many trees as possible.
- It is also stated that the works involved in the interference with the historic footpath kerbstones would be a breach of city development plan policy.
- An Taisce reject the contention that the proposed development would not have any real impact on views as suggested in the statements made in documentation submitted in the application. An Taisce consider the visibility of the proposed structure from Fitzwilliam Square would create a highly undesirable precedent.
- Reference to a mixed-use development in a public notice is inaccurate as the proposal is overwhelmingly office use. It is argued that the proposed development is clearly at variance with the Z6 zoning which seeks to incorporate mixed uses in appropriate ratios.

- The proposal is also contrary to the NPF which seeks to identify and reuse brownfield lands/infill sites for high quality/high-density mixed-use developments.
- Concerns are reiterated in relation to the high plot-ratio, excessive heights and site coverage on site.
- A copy of Dublin City Council's "Update on the Review of Industrial Lands (Z6/Z7) in the City" is attached to the submission.

7.11. Further Submission from Richview Residents Association

- This submission also argues that the proposed development is located within the Georgian core of the city which extends to the canal.
- Concerns are also expressed that the provision of a pavilion is contrary to the original unique design of Wilton Park and would be superfluous addition. The submission also welcomes the retention and refurbishment of the fountain in its original location and the retention of railings and plinths.

7.12. Submission from Catherine Walsh

A submission from Ms. Catherine Walsh supports the arguments set out by an Taisce and in particular the following:

- The public notice which omitted reference to the intention to demolish residential units on Lad Lane and not replace them.
- The failure of the developers to undertake an EIAR.
- The failure to embrace conservation principles in respect of Wilton Square.
- The size and scale of the development exceeds that which is permitted under the development plan.
- The need to protect Wilton Square by ensuring its amenity value and that the square is not diminished by the development of a wind tunnel.
- The attempt to colonise the public road space which would be detrimental to the local heritage and will create a visual discord with the existing environment.

7.13. Submission from Fergus Fahey

- A further submission from Fergus Fahey outlines details of the communications held with the developer to date. It expresses concerns that the developer did not fully understand the historic importance of the townscape and failed to appreciate the impact which would arise from the commercialisation of the park in question.
- Concerns are also expressed in relation to the proposed tree removal within the park. It is noted that in the arborists report some of the trees to be removed have a life expectancy of 20-plus years.
- Concerns are also expressed that the records of 3 out of 4 pre-planning meetings were not included or added to the planning file until after Dublin City Council had made its decision.
- Concerns are reiterated with regard to the failure to include residential developments in the current application.
- Also, concerns are expressed in relation to potential traffic issues arising from the proposed revised road layout.

7.14. A Further Submission was received from Zuleika Rodgers, Margaret Callanan and Gillian Hynes.

- This submission comments on the engagement undertaken by the developers with the local community during the course of the application.
- The submission goes on to reiterate concerns in relation to the proposed redevelopment of Wilton Square and its impact on local heritage and conservation. Particular concern is expressed in relation to the proposed pavilion. Concerns are also expressed in relation to the creation of additional gates into the park.
- The small number of car parking spaces available to visitors to the office developments are also a cause of concern and it is argued that the area cannot support increased traffic. During weekdays the large number of drop-offs by taxi to the LinkedIn HQ and other offices has meant that traffic is often backed up on streets and that cars and delivery vans are parked on the footpaths.

- The replacement of the residential blocks with office buildings is also criticised.

7.15. Submission from Patricia Hodgins

- This submission again expresses concerns with regard to the demolition of the existing residential element on site. It is proposed to demolish dwellings during a severe housing crisis and it is extraordinary that the Dublin City Council planners did not check the use of the building and the original zoning associated with the building.
- It is noted that previously there was a nursery at Wilton Place and the park was used as a play area for children as there was so few entrances in and out of the park. The developer's plans for the square amount to "corporate vandalism".

7.16. Submission on behalf of Aidan Murphy by Reid and Associates

- This submission notes that the An Taisce appeal and response supports the conclusion that the public notices should have included specific reference to the demolition of 40 residential units at Lad Lane. This is a serious and substantial omission warranting the invalidation of the application.
- The submission also concurs with An Taisce that there is a lack of appreciation of the intrinsic value of Wilton Square as a Georgian square which is located in the south Georgian core.
- It is reiterated that an EIAR should have been submitted with the application. There is a need to protect the heritage and conservation character of Wilton Square and Wilton Place.
- The design approach to the buildings in the public realm and the public square is misconceived and fails to have regard to the conservation policies set out in the development plan. As such the proposed development contravenes many of the conservation policies set out in the Plan.
- The scale, mass and bulking and height of the development is excessive and contravenes development plan standards for site coverage and plot ratio.

- The holding of events in the park would adversely impact on the appellant's amenity.
- It is reiterated that the proposed development contravenes national policy in relation to housing and the proposed 10-year planning permission would have a significant adverse impact on the residential amenity and architectural conservation character of the area.
- The proposed traffic changes in the absence of any traffic impact assessment is also deemed to be inappropriate and would adversely impact on amenity.

7.17. Further Submission from Pembroke Road Residents Association

- The Pembroke Road Residents Association wish to state that they agree with all the points made in the submissions by An Taisce in respect of the proposed development.
- Concerns in relation to the proposed intervention to the park including the provision of a café are reiterated. It is argued that the lands form part of the core of the Georgian and early Victorian districts. The park is of a scale pertaining to residential use and was designed to serve the Georgian houses surrounding the square. It is stated that historically there was no commercial development on Merrion Square, Fitzwilliam Square or Wilton Place due to the restricted covenant placed on the squares. There are many cafés in the vicinity and therefore there is no requirement for a café on the park in question. The provision of more hard paving within the square is contrary to climate change strategy. The smart cities are implementing tree planting for air quality and rainfall run-off.
- Views along the southside of the Canal and from Baggot Street and Leeson Street are also important not just views from Fitzwilliam Square. It is argued that the replacement building constitutes a dull elevation which will be visible

from inside the houses of Fitzwilliam Square. The proposal will take away from the classical architecture of the area.

- It is reiterated that there is no excuse for removing residential accommodation from the urban Dublin City district.
- There is a need to provide housing within the city centre and it makes far more sense to provide quality housing in the city rather than forcing workers to commute from outside the city centre. This is particularly important having regard to the national housing crisis.
- It is argued that the proposed development contravenes the Architectural Heritage Guidelines and has insufficient regard to the site's location within the south Georgian core. The last thing the area needs is another glass office block with the plaza as this does little to animate and enhance the urban district particularly at night time.

7.18. Further Submission on behalf of Aidan Murphy by Reid and Associates dated 26th April, 2019.

- This report reiterates the conservation value of Wilton Square and reiterates concerns in relation to the pavilion and the removal of 12 trees.
- With regard to works outside the red line boundary, reference is made to planning conditions attached by the Board under similar circumstances in the applicant's response to the grounds of appeal. It is suggested that such conditions are fraught with legal problems.
- Concerns regarding the conservation approach with regard to the overall development in such a sensitive Georgian area are reiterated. The applicant is incorrect in stating that the park is not a protected structure. Concerns are again reiterated in relation to the removal of the residential content.
- Notwithstanding the legal opinion of Stephen Dodd BL submitted in response to the grounds of appeal, it is considered that an EIAR is necessary in this instance. Mr. Dodd's opinion is incorrect in stating that the project is a standalone project. It is suggested that the extent of basement excavations alone could have a very significant impact on dewatering of surrounding Georgian areas and their foundations.

- Concerns with regard to contravention of policy statements in the development plan and the height, size and scale of the proposed development together with the intensification of use proposed are reiterated. Concerns in relation to traffic, a 10-year planning permission and the contravention of national policy on housing are reiterated.

7.19. Further Submission on behalf of the Applicant by Sheehan Planning dated 30th April, 2019.

- The submission addresses An Taisce's contention that the public notice did not refer to the demolition of the Lad Lane apartments. Reference is made to the public notices which specifically states that the applicant intends to apply for a 10-year permission for development at this site which includes lands at Wilton Park House, Gardner House and Lad Lane apartments. Specifically, in respect of Plot 1 specific reference is made to the demolition of the existing up to seven-storey structures on this part of the site. It is considered that the notices fully comply with Article 18 of the Planning and Development Regulations. It is argued that failure to comply with the housing requirement was fully addressed in Section 3.1.6 of the submission dated 15th March, 2019.
- With regard to the accusation that the proposal flouts conservation principles it is stated that the very thorough assessment of the proposal was carried out between the design team and the Planning Authority and matters in relation to Wilton Park have been adequately addressed in the information submitted with the application and the response to grounds of appeal.
- With regard to the excessive quantum of development on-site, it is again reiterated that plot ratio and site coverage standards are indicative. It is also stated that the existing condition of Wilton Park provides low quality public realm and very limited accessibility. It is also stated that the proposed development incorporates a much higher quality public realm. In any case it is argued that the proposed development does not constitute overdevelopment and the proposed buildings are appropriately scaled.
- Concerns in relation to the visual impact assessment has been adequately addressed in the submission to the Board dated 15th March, 2019.

- Consulting engineers have confirmed that the wind regime within the adjacent park is not likely to be increased as a result of the proposed development massing. As in most places in Dublin, the usability of the public open space for seating and public amenity would be limited to good weather in the spring and summer.
- Issues with regard to non-compliance with public realm policy and appropriation of the public road have been dealt with in the applicant's previous submission on 15th March.
- In conclusion it is considered that the proposed buildings will not have a significant effect on adjacent amenity or on the architectural or cultural heritage of the area. On the contrary the proposed development will represent a significant enhancement of the area. The proposal offers an opportunity to attract foreign direct investment to suitable locations within the well serviced city centre core.

8.0 Planning Policy Context

8.1 Development Plan Provision

8.2. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022.

8.3. The subject site is governed by two zoning objectives. The rectangular part of the site bounded by Wilton Place, Cumberland Road and Lad Lane in which the existing apartment and office blocks are located are governed by the zoning objective Z6 "*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation*". The development plan states that Z6 lands constitute an important landbank for employment use in the city which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region. The uses in these areas will create dynamic and sustainable employment and these uses include innovation, creativity, research and development, science and technology and the development of emerging industries and technologies such as green/clean technologies. The permissible uses above would be accommodated in primarily office-based industry and business technology parks developed to a high environmental standard and incorporating a high range of amenities including creche

facilities, public open space, green networks and leisure facilities. A range of other uses including residential, local support businesses are open for consideration on lands zoned Z6 but are seen as subsidiary to the primary use as employment zones.

- 8.4. In relation to employment it is stated that any redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to redevelopment in terms of numbers employed and/or floorspace. In terms of uses, the development plan seeks to incorporate mixed-uses in appropriate ratios. All such uses including residential and retail should be subsidiary to the employment generating uses and shall not conflict with the primary aim of providing for employment requirements of the city over the development plan period and beyond and shall not detract from existing centres. The proposal should also seek to maximise access to public transport connections and proposed public transport infrastructure. Proposals should seek to create a distinctive identity for individual areas with a high-quality physical environment and coherent urban structure. For large developments, a schematic masterplan will be prepared and submitted as part of the planning application.
- 8.5. Wilton Park/Wilton Square - the triangular area of open space located between Wilton Place and Wilton Terrace is governed by the zoning objective Z9. This objective seeks to preserve, provide and improve recreational amenity and open space in green networks. This zoning includes all amenity open space lands which can be divided into three broad categories as follows:
- Public Open Space
 - Private Open Space
 - Sports Facilities and Private Ownership
- 8.6. Generally, the only new development allowed in these areas other than amenity/recreational uses are those associated with open space use. Kiosk, tea room and café/restaurant are all uses which are open for consideration under the zoning objective Z9.
- 8.7. The subject site is also located within a designated Conservation Area. The subject site also abuts the Fitzwilliam Square Architectural Conservation Area. However, no part of the subject site is located within the designated Architectural Conservation

Area. Nos. 1 – 6 Wilton Place to the east of the subject site near the junction with Wilton Terrace are all listed on the Record of Protected Structures.

- 8.8. Section 10.5.3 of the development plan relates to parks and open spaces. It states that parks and open spaces also require protection to meet the recreational and conservation needs of the city. The parks of Dublin City also include historic parks and squares. Parks and open spaces form part of the green infrastructure network. Dublin City Council has been implementing the Accessibility Strategy for Dublin City Parks (2008) to ensure equality of access for all citizens to green infrastructure network and facilities within it. This includes the redesign of park entrances, the refurbishment of changing rooms, the provision of specialised play equipment, accessible park furniture and access to angling facilities.
- 8.9. Policy GI10 seeks to continue to manage and protect and enhance public open spaces to meet the social recreation, conservation and ecological needs of the city and to consider the development of appropriate complementary facilities which do not detract from the amenities of spaces.
- 8.10. Chapter 11 of the development plan specifically relates to Built Heritage and Culture. The development plan notes that all aspects of the built culture including the street pattern, local architectural features, the unique Georgian squares and streets together with the large areas of Victorian and Edwardian architecture south of the canals all contribute to the city's character, identity and authenticity. The key challenges identified in Section 11.1.3 of the plan is to protect the special character of existing designated Architectural Conservation Areas and Conservation Areas of Dublin City and to protect structures of special interest which are included in the Record of Protected Structures. It is noted that Dublin's tourist industry relies largely on the city's built heritage.
- 8.11. In terms of policies, Policy CHC1 seeks to preserve the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- 8.12. Architectural Conservation Areas and Conservation Areas have been designated in recognition of the special interest and unique historic and architectural character and important contribution to the heritage of the city. Designated conservation areas include extensive groupings of buildings and streetscapes in associated open spaces and include parts of the medieval/walled city Georgian core, the 19th and 20th

century city and the city quays, rivers and canals. The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all these areas require special care in terms of development proposals and works by private and public sector alike which affects the structure both protected and non-protected in these areas.

8.13. Policy CHC4 seeks to protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible.

8.14. Enhancement opportunities may include:

- (1) *Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
- (2) *Reinstatement of missing architectural details or other important features.*
- (3) *Improvement of open spaces and the wider public realm, and reinstatement of historic routes and characteristic plot patterns.*
- (4) *Contemporary architecture of exceptional design quality, which is in harmony with the conservation area.*
- (5) *The repair and retention of shop and pub fronts of architectural interest.*

8.15. *Development will not:*

- (1) *Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area.*
- (2) *Involve the loss of traditional, historic or important building forms, features and detailing including roofspace, shop fronts, doors, windows and other decorative detail.*
- (3) *Introduce design details and materials such as uPVC, aluminium, inappropriately designed or dimensioned timber windows and doors.*
- (4) *Harm the setting of a Conservation Area.*
- (5) *Constitute a visually obtrusive or dominant form.*

- 8.16. Changes of use will be acceptable where in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings. The Council will consider the contribution of existing uses to the special interest of the area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.
- 8.17. Policy application for Conservation Areas are set out in Section 11.1.5.6 of the development plan. It notes that it is particularly important within Conservation Areas that design is appropriate to the context and based on an understanding of Dublin's distinctive character areas. The Planning Authority will require development in Conservation Areas to take opportunities to enhance the area where they arise. Where a building has been identified as having a negative impact on the area a proactive approach to improvement will be sought.
- 8.18. Any development which adversely affects the setting of a Conservation Area will be refused planning permission and the City Council will encourage change which enhances the setting of Conservation Areas.
- 8.19. Chapter 6 of the development plan specifically relates to the city economy and enterprise.
- 8.20. There are numerous policies in this section of the Plan which seek to promote and enhance the role of Dublin as a national economic engine and driver of economic recovery and growth with the city centre as its core economic generator.
- 8.21. Policy CEE3 seeks to take a positive and proactive approach when considering the economic impact of major planning applications in order to support economic development, enterprise and employment growth and also to deliver high quality outcomes.
- 8.22. Policy CEE11 seeks to promote and facilitate the supply of commercial space, where appropriate e.g. retail and office including larger floor plates and quanta sustainable for indigenous and FDI HQ type uses as a means of increasing choice and competitiveness and encouraging indigenous and global HQs to locate in Dublin, to consolidate employment provision in the city by incentivising and facilitating the high-quality redevelopment of obsolete office stock in the city.

8.23. Section 16.2.1.2 relates to sustainable design. It notes that good design is a key role to play in both reducing waste and emissions which contribute to climate change and ensuring future occupants will be able to adapt to impacts of changing climate. The plan also seeks to minimise the waste embodied energy in existing structures, the reuse of existing buildings should always be considered as a first option in preference to demolition and new build. Buildings should be designed to minimise resource consumption, reducing waste and energy use. The reuse of existing buildings and/or building material should be considered in appropriate cases.

8.24. In terms of plot ratio and site coverage, the Z6 zoning permits an indicative plot ratio of 2 to 3. The plan notes that a higher plot ratio may be permitted in certain circumstances such as adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed.

- To facilitate the comprehensive redevelopment in areas in need of urban renewal.
- To maintain existing streetscape profiles.
- Where the site already has the benefit of a higher plot ratio.

8.25. In terms of site coverage Z6 zones have an indicative site coverage of 60%.

8.26. **National Planning Framework**

8.27. One of the key shared goals set out in the planning framework is to achieve compact growth. This is sought by carefully managing the sustainable growth of compact cities, towns and villages which will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas centrally located and frequently publically owned, that are suitable and capable of reuse to provide housing, jobs, amenities and services but which need a streamlined and co-ordinated approach to their development with investment in enabling infrastructure and supporting amenities to realise their potential. Activating these strategic areas and achieving effective density consolidation rather than more sprawl of the urban development is a top priority in the NPF. Section 4.5 of the framework plan seeks to achieve urban infill and brownfield development. The plan targets a significant proportion of future urban development on infill/brownfield sites within the built footprint of existing urban areas.

National Policy Objective 11 states in meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages subject to development meeting with appropriate planning standards and achieving targeted growth.

- 8.28. The National Framework Plan also seeks to enhance amenity and heritage so that our cities, towns and villages are attractive and can offer a good quality of life. This will require investment in well-designed public realm which includes public spaces, parks and streets as well as recreational infrastructure. Development must integrate with our built cultural and natural heritage, which has intrinsic value in defining the character of urban areas and adding to their attractiveness and sense of space.

9.0 EIAR Screening Determination

I have argued in section in my assessment below that the proposed development should not be the subject of a mandatory EIAR on the basis, as suggested in some of the appeals, that it exceeds the mandatory threshold of 2ha for development in urban areas.

Notwithstanding this conclusion, the overall site at 1.77 ha is close to the mandatory threshold for EIA as per Schedule 5 Part 2 10 (b) (iv) for urban developments which would involve an area greater than 2 hectares, and therefore should be the subject of a more detailed screening determination. However, the Board should take the following into consideration as part of its EIA screening determination. Firstly, the area zoned for urban development under the current application, (Z6 lands) amounts to 0.9 ha, which is considerably below the threshold under 10(b)(iv), (The residual lands are zoning Z9 – open space). Secondly, the Board in screening for EIA are permitted to take mitigation measures into account. The Board will note from my assessment below, that it is recommended that work to be undertaken as part of the proposed development would exclude all works associated with Wilton Park and therefore all works to be undertaken would be restricted to the area governed by the Z6 zoning and the proposed plaza/ environmental improvement works to the road way to the front of the proposed building. For this reason, and having regard to the limited nature and scale of the development there is no real likelihood of significant

effects on the environment arising from the development and a more detailed screening determination is not required.

10.0 Planning Assessment

I have read the entire contents of the file and have had particular regard to the issues raised in the grounds of appeal and the applicant's response to the grounds of appeal. I have also had regard to the statutory policy provisions which relate to the proposed site and its redevelopment. I have also visited the subject site and its surroundings, and I consider the following issues to be pertinent in dealing with the current application and appeal before the Board.

- The Principle of Redevelopment of the Subject Site
- Traffic and Transportation Issues
- Dublin City Council's Assessment of the Proposed Development
- Proposed Changes to Wilton Park
- Other Issues

Each of these issues are dealt with under separate headings below.

10.1. The Principle of Redevelopment of the Subject Site

Strategic Arguments for Higher Density Development

- 10.1.1. What is essentially proposed in this instance is the redevelopment of an existing urban block which currently accommodates a gross floor area (above ground) of 24,476 square metres comprising of office space and residential units and its replacement with a development comprising to a large degree of office space with some restaurant, retail and leisure use amounting to just less than 51,000 square metres. It is clear and unambiguous in my view that the Z6 zoning relating to the north portion of the site permits office use, and indeed actively encourages such use as part of the land-use zoning objective. The development plan recognises that Z6 lands constitute an important landbank for employment use within the city which it is strategically important to protect. The primary objective of the land use zoning is to facilitate long-term economic development within the city region. The provision of office space constitutes long-term economic development and employment use in

accordance with the overarching objectives of the Z6 zoning. The uses encouraged within the Z6 zoning seeks to ensure sustainable employment including innovation, creativity, research and development, science and technology as well as emerging industries. Again, the provision of office space can facilitate and encourage such dynamic and sustainable employment. The development plan goes on to state that the primary uses mentioned above will be accommodated in “primarily office-based industry” which are required to be developed to a high environmental standard incorporating a range of amenities.

- 10.1.2. Furthermore, the development plan points out that in order to create a dynamic and sustainable employment areas “any redevelopment proposals of Z6 lands should ensure that the employment element on the site should be in excess of that on site prior to redevelopment in terms of numbers employed and/or floorspace”. This statement in my opinion justifies a higher quantum of development to replace that which currently exists on site.
- 10.1.3. The recently adopted NPF consistently highlights the importance of increasing the density of development within built up areas and on brownfield sites. Section 2 of the NPF highlights the importance of securing compact growth within cities which focuses on reusing previously developed brownfield land. The redevelopment of the subject site would in my view fall within such a category. Section 4.5 of the NPF highlights the presumption in favour of development that can encourage more people and generate more jobs and activities within existing cities on infill sites. The need for integrated spatial and transport planning, placing higher density development closer to public transport nodes to achieve more sustainable transport pattern is also highlighted in the National Planning Framework.
- 10.1.4. Thus, the provision of a high quantum of development facilitating employment uses on the subject site which is in close proximity to the city centre on serviced lands relatively close to public transport nodes (including Charlemont Luas stop and numerous bus routes and bus corridors on Leeson Street and Baggot Street) would be justified in strategic terms. It could be reasonably argued that the subject site constitutes an important and somewhat exemplary site in order to achieve a higher density employment use such as that espoused in the framework. The positive arguments for facilitating the proposed development from a more sustainable landuse/transportation point of view appear to be somewhat overlooked in the grounds of appeal submitted, but should in my view be given significant weight by

the Board in determining the current application and appeal before it. Thus, the principle of developing the subject site subject to qualitative safeguards which are discussed in my detail below would in my view be on the whole acceptable.

10.2. Justification for Demolition

Many of the grounds of appeal argue that the applicant has not justified the case for demolition and redevelopment of the subject site and that the demolition in this instance should not be countenanced in terms of energy use etc. The An Taisce appeal submitted rightly points out in my opinion that the development plan highlights that the reuse of existing building should always be considered as a first option in preference to demolition and new build. The existing building on site comprises of a 35-year old office structure. Information submitted with the application readily acknowledges that the initial carbon impact of the rebuild option would be higher due to the embodied carbon associated with the use of new materials. However, it is pointed out that over the 60-year lifespan of the building and the improved energy performance which is set out in the sustainability report submitted with the original application, clearly highlights the energy efficiency associated with the operation of the new building over that lifespan. The information submitted with the application indicates that the proposal will produce a highly sustainable modern office building that exceeds environmental requirements of the legislation. The proposal will provide a higher occupant density which allows for a more efficient utilisation of resources. The report also indicates that the energy and water demand for the development will reduce by c.70 and 50% respectively while the reduction of car parking by half will also facilitate more sustainable transportation use and reduce CO₂ emissions.

Therefore, setting aside the aesthetic arguments which will be dealt with in my detail below, I consider that the proposed demolition of the existing building can be justified on energy efficiency grounds over the lifetime of the building.

Design Aspects

I note that there are few statements, if any, in the grounds of appeal submitted, which specifically argue that the existing building on site should be retained purely on grounds of architectural heritage or aesthetics. While much concern is expressed in relation to the replacement building, few arguments are put forward to retain the existing building on site purely on the grounds of its architectural value. The existing

buildings on site, including the block of residential units are in my opinion of little architectural merit. In urban design terms, while I do not consider that the existing building on site constitutes a visual eyesore, it is somewhat heavy in appearance with the grey coloured rendered cladding on both the external elevation and on the fenestration arrangements. The double height undercroft at the entrance and the incorporation of columns/stilts and recessed glazing at ground floor level also in my view contributes to the “heavy appearance of the building”. The extensive use of brick in the apartment blocks creates a somewhat cumbersome and heavy feel to the overall elevational treatment. The proposed replacement buildings at Nos. 2, 3 and 4 Wilton Park are in my opinion a more aesthetically pleasing intervention. The extensive use of glazing in the elevation together with the lighter coloured materials, thinner vertical solid elements on the external elevation, and incorporation of amenity areas on the roof, and the incorporation of more interactive land-uses at ground floor level, all create a more vibrant and lively elevational treatment than that associated with the existing building.

The more modern and contemporary design is more suited and more in keeping with the recent redevelopment of No. 1 Wilton Terrace to the immediate west and the contiguous LinkedIn headquarters to the east. The overall design approach in my view constitutes a more aesthetically pleasing and ‘lighter’ intervention in urban design terms and would have more positive and vibrant impact on the public realm. The proposed intervention in the context of the designated Conservation Area is dealt with separately in my assessment below.

The Quantum of Development Proposed

Concerns are expressed in a number of appeals submitted that the proposed quantum of development is excessive and contravenes many of the standards set out in the Dublin City Development Plan with regard to plot ratio, site coverage and height standards. The development plan acknowledges “the intrinsic quality of Dublin as a low-rise city and it is the policy that the city should predominantly remain so”. In this regard there is a recognised need to protect Conservation Areas and the architectural character of existing buildings, streets and spaces of civic or historic importance. The existing buildings on site rise to a height of c.24 metres. The proposal rises to a maximum height of 29.65 metres, an increase of 5 metres. While the proposed building exceeds the 28-metre limit set out in the Development Plan, it is only marginally above this limit, being less than 30 metres in height. Furthermore, I

note that the building in question is slightly lower than the redevelopment of No. 1 Wilton Place immediately adjacent to the west. The proposed structure which is the subject of the current application provides a visual stepdown between No. 1 Wilton Place and the slightly lower LinkedIn headquarters to the east. This is adequately demonstrated on the photomontages submitted with the application.

Having assessed the drawings and the photomontages, I do not consider that the proposed redevelopment of the site constitutes an incongruous insertion into the streetscape in terms of height, notwithstanding the fact it exceeds the limits set out in the development plan (albeit a marginal exceedance). The proposed redevelopment of the subject site is commensurate in terms of size and scale with contiguous buildings and is therefore acceptable in my view.

Furthermore, the National Planning Framework which was adopted subsequent to the Dublin City Development Plan and informs strategic planning on a wider scale throughout the State, emphasises the need for planning policies and standards to be flexible, focussing on design-led and performance-based outcomes rather than specifying absolute requirements in all cases. Specifically, it states that, in particular, general restrictions on building heights or universal standards for car parking or garden sizes may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location e.g. city/town centre, public transport hub etc.

The new recently published Departmental Guidelines on Building Height (December, 2018), note that in recent years local authorities, through the statutory development and local areas plans, have begun to set generic maximum height limits across the functional areas. Such limits, if inflexibly or unreasonably applied, can undermine wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework and result in a continuum of unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening existing built-up areas.

The Guidelines acknowledge that historic environments can be sensitive to large scale and tall buildings. It notes that an initial assessment of the existing character and setting of a place will assist in a robust framework for decision making that will facilitate increases in building heights and involve an integrated understanding of

place. With regards to large scale and tall buildings in historic urban areas, an examination of the existing character of the place can assist Planning Authorities to establish the sensitivities of a place and its capacity for development and define opportunities for new development and innovative/contemporary design. When addressing aspects of impacts in the historic built environment, a specific design statement on the individual insertion from an architectural perspective should be submitted. I note that in the case of the current application, such a statement was submitted.

Having regard to the recently adopted Guidelines referred to above, I consider that a reasonable case can be made for increasing the building height of the proposed development beyond the 28 metres stipulated in the development plan, particularly as the increase above the stipulated limit is marginal – c1.6m or of c. 5% above the limit.

I consider that similar reasoning can be applied in relation to the issues of site coverage and plot ratio. I fully acknowledge that, in the case of plot ratio and site coverage, the indicative limits set out in the development plan (2.0 to 3.0 in the case of plot ratio and 60% in the case of site coverage) are exceeded in the case of the current application. The applicant's submission dated 30th April, 2019 indicate that the site coverage in the case of the proposal is 69% an increase above the existing site coverage of 43%, but less than 10% above the permitted site coverage. A proposed plot ratio of 4.5 is significantly above the indicative limit set out in the development plan. I would stress that the development plan clearly indicates that the site coverage and plot ratio are indicative only, and should be used in conjunction with other development control measures and policies set out in the development plan. It is also noted that higher plot ratios may be permitted where the proposed development adjoin major public transport termini and corridors. I have already indicated that the subject site is located within a kilometre of the Luas line and within 500 metres of two bus corridors on Baggot Street and Leeson Street. While it can be argued that the site is not contiguous to high quality public transport corridors or termini, the site is in my view within easy walking distance on the public transport services referred to above.

It can also be reasonably argued in this instance that the proposal seeks to maintain existing streetscape profiles in replacing a building of similar size and scale. Perhaps more importantly I would again make reference to the policies and objectives set out

in the NPF which suggests that when assessing planning applications there will be no requirement to slavishly adhere to absolute limits and standards set out in the development plan and that planning policies and standards need to be more flexible in response to well-designed development proposals that can achieve appropriate urban infill. As a result, I do not consider that any exceedance of the blunt instruments relating to plot ratio and site coverage should be used in itself as justification to refuse planning permission for the proposed development.

Objectiveness of Visual Assessment

A number of appeals express concerns in relation to the visual impact assessment submitted with the proposed development and with the applicant's response to the grounds of appeal. I have no reason to believe that the photomontages submitted with the planning application do not accurately depict the buildings proposed. Furthermore, I am of the opinion that the vantage points from which the photomontages were depicted are appropriate in enabling the Board to assess the visual impact arising from the proposed development. It is noted that a total of 21 views were incorporated into the visual impact assessment which illustrate the potential visual impact from a wide range of vantage points including vantage points within the south Georgian core of the city.

Land Use Mix

Concern is expressed, particularly in the An Taisce appeal, that the description of the proposed development as a mixed use development is inaccurate on the basis that there is negligible amounts of ancillary uses and the proposal is dominated by office use. It is readily acknowledged that the proposed development is primarily office development. However, this in itself is not grounds on which to refuse the proposed development having regard to the fact that one of the primary objectives of the Z6 zoning is to provide for office and employment use and in this regard the proposal readily complies with the zoning objectives relating to the site. Over 2,000 square metres of non-office space is provided at the lower and upper ground floor level. These two levels are most readily accessible to the public and it is appropriate that non-office use would be restricted to these levels. It is appropriate in my opinion that the upper floors of the proposal would accommodate exclusive office development in accordance with the zoning objectives for the site. While land uses other than office might be considered modest, in the context of the overall scheme, the proposed

development does incorporate an element of retail and element of restaurant and the provision of a leisure/gym facility. And in this regard it is reasonable in my view, to refer to the proposal in the planning notices as a mixed use development as uses other than offices are provided on the subject site - albeit on a modest basis.

The incorporation of non-office use on the floor and lower floor of the buildings together with the incorporation of a new access through the site in my view help significantly enliven and animate the street frontage and creates a more permeable scheme. The proposal incorporates commercial enterprises which will in itself, attract active uses and trips which will contribute to a more socially vibrant space than currently exists on site. The Board will note that the existing buildings on site are exclusively office and it is clear that the uses proposed will generate more activity and vitality in and around the streets and spaces proposed and this in my view constitutes a significant planning gain over the building and land uses currently occupying the site.

The Absence of Residential Development

The vast majority of third-party appeals submitted express significant concern that the proposal involves the removal and non-replacement of residential units which currently exist on site. It is suggested that the overall area would benefit from the insertion of a residential component within the overall scheme and that residential accommodation would add vitality and vibrancy to the area, mitigate against anti-social activity and contribute to a more healthy living urban quarter, which is fully in accordance with the overarching objectives set out in the development plan. It is also suggested that the omission of residential units is contrary to current housing policy which seeks to, as a matter of urgency, increase the supply of housing units particularly in the city centre.

The applicant in his response to the grounds of appeal and in the information submitted with the application argues that the existing residential units on site are substandard and fail minimum standards in relation to internal space standards and also that the existing residential units fail to comply with a number of aspects associated with the Building Regulations – including fire safety standards. While the applicant makes the case that the existing apartments are in non-compliance with various standards in relation to internal room size etc and non-compliance fire regulations and other aspects of the Building Regulations, the submission does not

in my view, offer a plausible explanation as to why the residential element cannot be modified or retrofitted to incorporate apartments which comply with the Regulations albeit it might result in a reduction in the number of apartments provided.

That said, the applicant in my view is correct in stating that there is no legal or obligatory requirement on the site in question to incorporate a residential component in any new proposal. The applicant correctly points out that there is no specific requirement under the Z6 zoning objective to incorporate residential development in any new proposal. In fact, I note that residential development is merely a use which is open for consideration.

While it is of course open to the applicant to incorporate a residential element as part of the proposal, the development plan stipulates that any such residential element should be subsidiary to the employment generated use and should not conflict with the primary aim of the Z6 land use zoning to provide for employment requirements of the city.

While it might be desirable and within the overall strategic aims to increase the supply of housing in the city centre it is not in my view a requirement that the redevelopment of every site for employment generation uses would slavishly adhere to the requirement to incorporate a residential component for each scheme. There are residential communities in the immediate vicinity of the subject site including a residential community on Wilton Place, Lad Lane and Fitzwilliam Square, and a wider area to the south of the canal. To suggest that an office mono-use prevails in the wider area is not accepted.

The incorporation or retention of a residential element within the overall scheme may in my view be acceptable or indeed desirable. However, the absence of such an element does not in my view constitute reasonable grounds for refusal of planning permission for the proposed scheme. It is clear and unambiguous from the land use zoning objective contained in the development plan that the primary aim is to provide for the creation and protection of enterprise and to facilitate opportunities for employment creation. The predominantly office development proposed on the subject site fully accords with the zoning objectives.

Impact of the Proposed Redevelopment of the Subject Site on the Conservation Area

This section of my assessment restricts deliberations to the impact of the proposed on the Z6 zoned lands on the character of the wider Conservation Area and Architectural Conservation Area. It does not specifically deal with conservation concerns in relation to Wilton Park which are assessed under a separate section below.

Much comment has been made in the grounds of appeal and the response to the grounds of appeal ,as to whether or not the subject site forms part of the South Georgian Core of the city. There can be little doubt that the canal district to the south-east of the city forms the southern boundary of the Georgian core of the city. The site and its surrounding area were extensively developed at the end of the Georgian period and the beginning and middle of the Victorian period in the mid-19th century. While the subject site may form part of the Georgian quarter it is located outside, but nevertheless abuts the Fitzwilliam Square Architectural Conservation Area. It is clear and unequivocal that the site while located outside an Architectural Conservation Area but is located within a designated Conservation Area and therefore the policies and objectives contained in the development plan relating to conservation areas apply.

Notwithstanding the above, it is also clear that the subject site which is proposed to be redeveloped, does not in itself incorporate any buildings or features of intrinsic historic interest other than some elements of granite paving along Wilton Terrace. The existing buildings on site all date from the mid-1980s and are of modest architectural quality in my view. I have argued above in my assessment that there are no overriding arguments which would support the retention of the buildings in question on either historic, architectural or aesthetic grounds. The replacement of the existing office building with more contemporary style offices, as argued above in this assessment, are more aesthetically pleasing would not result in an intervention which would further detract from or adversely impact upon the character of the designated Conservation Area in which the site is located. In my view, and I fully accept that any such view would be somewhat subjective, the replacement of the existing buildings with the proposed buildings would result in a more visually appropriate streetscape having particular regard to the recent redevelopment of buildings on either side of the subject site. The more contemporary design results in a lighter massing of materials and results in buildings of more elegant proportions which will result in a more positive contribution to the townscape and urban realm.

The emphasis on vertical proportions and the extensive glazing would result in an appropriate redevelopment of the site which would in no way detract from the Conservation Area over and above that associated with the existing building on site. I have argued above that the proposed redevelopment would result in a more aesthetically pleasing building which in turn would be more appropriate for the designated Conservation Area. The fact that the building incorporates a progressive step-down onto Lad Lane provides for a building that shows an appropriate level of architectural deference to the adjoining Architectural Conservation Area to the north at Fitzwilliam Square. It is further noted and highlighted in the photographs attached and the photomontages submitted that the proposed building will not be readily visible from vantage points in Fitzwilliam Square and as such would not detract from the setting and character of the square. I am therefore satisfied that the redevelopment of the lands governed by the Z6 zoning would not detract from the setting and character of the Conservation Area. Based on the above assessment I do not accept the arguments set out in the grounds of appeal that the proposed development will have an overbearing impact on the protected structures either at Fitzwilliam Square or Wilton Place over and above that associated with the existing building on site.

Abrupt Changes in Transition

Furthermore, I do not consider that the modest increase in height and the fact that the more recent guidelines referred to above, require a more flexible approach with regard to building height that the proposed development would result in an unacceptable or abrupt transition in zones over and above that associated with the existing building on the site in question.

10.3. Traffic and Transportation Issues

10.4. Introduction

- 10.4.1. A number of concerns were raised in relation to the new transportation arrangements to be incorporated as part of the proposed development and also the proposed traffic and environmental improvements earmarked for the front of the building and the perceived adverse impacts such improvements would have on the public realm. These are dealt with below.
- 10.4.2. There are concerns that the proposed development will exacerbate traffic congestion along Wilton Place primarily through the reduction in the width of the roadway to the

front of the building and the reduction in the amount of on-street car parking which is currently provided along the roadway serving the building.

10.4.3. It is proposed to provide a new public square/plaza to the front of the new building adjacent to the northern boundary of Wilton Park. The public plaza is to comprise of an inner square (24 metres by 10 metres) accommodating large feature benches interspersed with paved surface water fountains. This inner square is surrounded by an outer square c.30 metres in width and 40 metres in length. The different spaces are articulated and differentiated through changes in paving design and paving material. The paving associated with the outer square is to be extended onto the public thoroughfare to meet the northern boundary of the park.

10.4.4. Principle of Environmental Works on Wilton Place including the removal of On-Street Car Parking

10.4.5. The environmental improvement works to be undertaken in my view are appropriate. They would in this instance annex road space formerly associated and earmarked for the private vehicle and this space would be used as a civic open space and seating-out area associated with the new building. The idea that public road space would be surrendered to be used as a public plaza which would add to the vibrancy and vitality of the area and significantly contribute to vibrant urban spaces as part of a living city is a positive development in my opinion.

10.4.6. There is nevertheless the concern that the non-segregation of pedestrian and vehicular realms of activity could give rise to vehicular pedestrian conflict. However, I note that the reduction and relocation of the entrance to the underground car park from Wilton Place to Cumberland Road would greatly reduce the amount of traffic travelling along this section of Wilton Place. In my view it is entirely appropriate that the carriageway would be reduced in width to allow for single lane eastbound traffic only. It would provide another excellent example where the needs and requirements of the private car would be relegated below that of the pedestrian within the city centre. The proposed environmental works to be undertaken would result in significant traffic calming along this section of roadway with greatest focus on people as opposed to cars. The proposed environmental approach to this section of Wilton Terrace is in my view totally in accordance with the philosophy espoused in DMURS which seeks to move away from focussing on the street as a traffic conduit and emphasises the need to manage the street as an urban place which is solely

focussed on the movement of cars. The proposed relocation of the car park and removal of on-street car parking will be greatly beneficial in both urban design and public realm terms. It is clear from the DMURS document that both planners and designers are required to re-examine the way streets are designed in order to meet the needs of all users and not just cars. The proposed environmental improvement works in my considered opinion fully accords with this philosophy. The need to prioritise the pedestrian over the car is particularly apt in this instance having regard to the leisure and recreational uses proposed at ground floor level and the close proximity of the adjoining Wilton Park, and important recreational amenity along the Canal. Which should encourage and prioritise pedestrian free flow across the plaza/square into the adjoining green space.

10.4.7. The de-prioritisation of the vehicular carriageway and the removal of on-street car parking spaces is a positive aspect of the overall design proposal and will not in my view have a significant or material impact on car parking demand in the area. It is clear from the photographs attached that there was a low demand for on-street car parking in the vicinity of the existing buildings. While I acknowledge that the perpendicular parking provided to the front of Nos. 1 to 6 Wilton Terrace incorporated high occupation, at the time of site inspection, the same cannot be said in respect of the car parking spaces to the front of the area to be redeveloped on Wilton Place. I estimate that less than 50% of the spaces were utilised during my site inspection. I note that under the current proposal it is not proposed to alter or reconfigure the car parking spaces to the front of Wilton Terrace on the east side of the square.

10.4.8. The fact that the number of off-street car parking spaces associated with the office development are to be reduced to 50% of the current car parking provision together with the reallocation of the entrance to the underground car park from Wilton Terrace to Cumberland Road will significantly reduce trip generation along Wilton Place. I do not consider that the environmental works to be undertaken will reduce the status of the road from a public road to a private road as suggested in one of the grounds of appeal. The environmental works proposed will introduce a large element of traffic calming along the roadway in question. The roadway is presently designed to a standard in excess of its movement function being located off the main thoroughfare along the northern side of the Grand Canal. The proposal will create a greater sense of space and will accord with the design philosophy espoused in DMURS which

planners and road designers are required to have regard in the design of public thoroughfares.

10.4.9. Furthermore, I do not consider the environmental works to be undertaken on the public roadway will in any way detract from or compromise the character of the Conservation Area. Similar type traffic calming interventions have been undertaken on O'Connell Street in the vicinity of the GPO which is also a designated Conservation Area. It is also apparent that O'Connell Street accommodates considerably higher volumes of traffic than Wilton Terrace.

Legal Interest to Undertake Such Works

10.4.10. Concerns are expressed that the works along the public thoroughfare are inappropriate and that the applicant has no legal right to extend the works beyond the boundary of the planning application.

10.4.11. Dublin City Council is the competent authority responsible for the undertaking of any works on the public road. The City Council are fully aware of the proposed works to be undertaken as part of the proposed environmental improvement schemes. The applicant has referred to the redevelopment of the ESB headquarters on Fitzwilliam Street where environmental improvement works on the roadway to the front of the building were permitted as part of the application, notwithstanding the fact that it was not within the applicant's ownership. There is therefore precedent to consider such works as part of the planning application. It would also seem reasonable and in accordance with the Planning Acts that Dublin City Council, as de facto owners of the public carriageway, would be entitled to provide consent letters, should it deem it appropriate, to permit such works to be carried out in the interest of the proper planning and sustainable development of the area. Issues in relation to legal title to carry out the works in question are a matter between the parties concerned and should not in my view constitute grounds for refusing planning permission for the proposed works in question.

10.4.12. With regard to the indicative nature of the works, I consider that there is ample detail contained on file both in the photomontages and the drawings submitted to enable An Bord Pleanála and Dublin City Council to adjudicate on whether or not the works proposed are acceptable. It is not unusual for either the Planning Authority or An Bord Pleanála to attach conditions requiring that full details of all external finishes including hard and soft landscaping etc. be agreed in writing prior to commencement

of development. A similar condition in the case of the environmental improvement works to be carried out in my view would be acceptable and would not be ultra vires in the case of the current development before the Board.

10.4.13. In relation to the impact on property values, I consider that the environmental improvement works to be undertaken rather than detract from the value of property in the vicinity, the overall works to be undertaken to the front of the contemporary style building would enhance the public realm and therefore is more likely to enhance existing property values in the wider area.

10.4.14. Finally, I refer to the submissions on file from Transport Infrastructure Ireland. The TII submissions on file have not objected to the proposed development on traffic grounds nor have they objected to the proposed works to be carried out on the carriageway as part of the proposed development. TII's submission specifically relates to the requirement to apply to a financial supplementary contribution in accordance with the provisions of S49 of the Act to be included for the Luas Cross-City development.

10.5. Dublin City Council's Assessment of the Proposed Development

10.5.1. Numerous appeals and submissions on file express concerns that Dublin City Council, in assessing the application, did not seek specialist expert input from either its own conservation architect or prescribed bodies with a particular expertise in conservation architecture. The grounds of appeal, reasonably in my view suggest that the sensitive nature of the environment, the historic importance of the square, the site's location within the Conservation Area and abutting an Architectural Conservation Area required that a higher level of technical expertise in the area of conservation, urban design and built heritage should have been sought before adjudicating on the said application. It is also suggested that the planner's report selectively quoted from sections of the development plan and placed too much emphasis on economic as opposed to environmental arguments in determining the application. Concerns were also expressed in one appeal that the minutes of three pre-application consultations carried out in respect of the proposed development were not placed on the public file until after the decision on the application had been made by the City Council.

10.5.2. While there may be some validity in the above arguments particularly in relation to the need to seek expert advice in relation to conservation issues, the fact of the

matter remains that the decision of Dublin City Council has been appealed to An Bord Pleanála and therefore a de novo assessment of the issues relating to the application and appeal is required.

- 10.5.3. Many of the appeals submitted exhibited a high level of knowledge and expertise in relation to conservation issues, particularly in relation to Wilton Park. In addition the applicants response to the grounds of appeal and the specialist reports prepared by John Olley and Bill Hastings et al, there is in my opinion a significant amount of expertise and specialist information contained on file to enable the Board to make a comprehensive robust and objective assessment in relation to conservation issues pertaining to the application. I note that very detailed and comprehensive evaluation of the historic importance of the park and its surroundings are set out in a number of appeals and observations submitted and I would particularly highlight the appeal from An Taisce in that regard. Furthermore, the appeal by Rogers Callanan and Hynes also incorporate specialist input from Dr. Marcus J. Collier of Trinity College. The appeal submitted on behalf of Camille O'Sullivan of 1 Wilton Place was submitted by Robin Mandel an accredited Conservation Architect and Historic Building Consultant. There are also numerous observations on file including the submission from the Irish Georgian Society which highlight in detail many of the conservation issues relating to the proposed development.
- 10.5.4. On the basis of the information contained on file and notwithstanding the criticism of Dublin City Council in respect of its assessment of conservation issues, I consider that there is now sufficient information on file to enable the Board to carry out a comprehensive and objective assessment of the conservation issues relating to the application and appeal and that any assessment carried out by the Board will be greatly assisted by the totality of submissions contained on file in respect of built heritage and conservation.
- 10.5.5. Finally, in relation to Dublin City Council's assessment I would note that while the City Planner's report was criticised for overly emphasising issues in relation to economic and employment opportunities I would argue that such issues are very relevant in determining the current application.

10.6. **Proposed Changes to Wilton Park**

- 10.6.1. Wilton Park was laid out in the early 1840s alongside Nos. 1 to 6 Wilton Place which are designated as protected structures. The park was laid out in a very formal style

typical of classical type layouts associated with the late Georgian period. The design included the planting of trees around the perimeter of the open space with three footpaths connecting each side of the triangle to a central fountain which was installed c.1841 and was designed by J&R Mallet. According to information contained in the grounds of appeal, J&R Mallet were a renowned 19thC engineering and ironmongery firm in Ireland.

10.6.2. It is clear from the maps subsequent to 1840, which are contained in the townscape heritage and visual assessment submitted with the application, that the formal layout and planting incorporated into the park has changed little since its original inception. As such the park remains one of the best examples of a formal landscaped open space dating from the late Georgian/early Victorian period in Dublin City. This in my view is an important consideration in deciding whether or not the proposed alterations envisaged for the park under the current application should be permitted by the Board.

10.6.3. Fitzwilliam Square open space, located to the immediate north, is another excellent example of the formal layout and landscaping incorporated into an early 19th century open space. The historic maps submitted indicate that the layout of pathways and walking areas together with the formal landscape and planting arrangements within the square have remained more or less unaltered since the original inception of the square. In the case of Fitzwilliam Square, it is unlikely that any fundamental alteration to the landscaping layout would be countenanced having regard to the importance of the square and its location within an Architectural Conservation Area. I consider similar arguments should be given due consideration in the case of Wilton Park. This park is located within a designated Conservation Area. The development plan seeks to protect and maintain “designated conservation areas including extensive groupings of buildings or streetscapes and associated open spaces (my emphasis)”. Furthermore, Dublin City Council will seek to ensure that development proposals within Architectural Conservation Areas and Conservation Areas complement the character of the area, including the setting of protected structures and comply with development standards. The retention of the original formal layout of the square is an attribute in itself, which in my view should be protected in its own right, having regard to its location in a Conservation Area and the policy statements contained in the development plan which seeks to protect the special interest and

unique historic and architectural character of such areas. The open space in its original form makes important contribution to the heritage of the city.

- 10.6.4. The applicant in his response to the grounds of appeal altered the original proposal which included the retention and renovation of the fountain in its current location and the reinstatement of some original paths. Notwithstanding these changes and amended plans submitted as part of the applicant's response to the grounds of appeal, I would be reluctant to recommend a grant of planning permission for the revised scheme even where it constitutes an improvement over what was proposed in the first instance. While the applicant's desire to bring the privately-owned park into wider use for the people of Dublin is laudable, it should not, in my view, be at the expense of altering the original formal layout associated with the park. In particular, the alterations to the formal walkways, the incorporation of new entrances, the provision of a new hardstanding area within the park and perhaps most importantly the provision of a new café/pavilion/tea shop would have significant and profound impacts on the character of the park. In implementing the above changes, the historic integrity associated with the original formal layout would be fundamentally altered to an unacceptable extent in my opinion.
- 10.6.5. It is my considered opinion that the alterations proposed, having regard to the site's location in a Conservation Area, should be assessed in a similar way to any proposed alterations to a protected structure. Where it is found that the alterations in question would have a profound impact on the character and integrity of a protected structure, there would be a presumption against granting planning permission. I consider a similar conclusion should be reached in respect of the proposed alterations to the park as they would fundamentally alter the historic layout which is in itself worthy of preservation.
- 10.6.6. With regard to the issue of tree felling, I note from my site inspection that trees within the park range in age from young trees to more mature trees. The arborist report sets out a systematic evaluation of all the trees within the park. It is clear, and this was highlighted in the subsequent third party's observations on file, with the exception of one tree (Tree No. 3 (Bird Cherry)) all other trees are anticipated to have life expectancy of 10 years or more it appears therefore that there is no urgent need to remove the trees in question in order to cater for the proposed changes and design within the park.

10.6.7. On the basis of the above assessment I would recommend that the Board consider refusing planning permission for the proposed alterations at Wilton Park in its overall determination.

10.7. Other Issues

10.7.1. A range of other issues some of which were procedural and some of which were more minor were also raised in the grounds of appeal and these are dealt with separately below.

The Need for an Environmental Impact Assessment

The appeal submitted on behalf of Adrian Murphy by Reid and Associates argues that the proposed development should have been subject to an EIAR on the basis that the subject site in conjunction with the adjoining site at No. 1 Wilton Terrace incorporate a combined site area in excess of 2 hectares and as such trigger the requirement for an EIAR in accordance with the provisions of 10(b)(iv) – *‘urban development which would involve an area greater than 2 hectares in the case of a business district’*. I would agree that the subject site is located within a business district and the predominant land use relating to the site and its surroundings is commercial use.

The key question which the Board must consider in respect of EIAR is whether or not the cumulative development (i.e. 1-4 Wilton Place) should be assessed for the purposes of EIA requirements. The applicant in his response to the grounds of appeal argues that the application at Fitzwilton House (1 Wilton Terrace) was submitted in January 2016 and it is stated that at no time was there a plan to develop the current site nor had the applicant the ability to do so as he only had sufficient legal interest in approximately a third of the site at the time of making the previous application. The response to the grounds of appeal also includes a legal opinion by Mr. Stephen Dodds (BL) which concludes that there is no basis for the claim that the Fitzwilton House development and the present Wilton Park development form part of the same project.

Based on the statements submitted, I consider it reasonable to conclude that at the time of making the previous application at Fitzwilton House, the applicant did not have sufficient legal interest in the adjoining lands to carry out the entire redevelopment of both sites. Where a situation whereby the applicant owned both sites in their entirety and had plans to develop both sites as part of an overall

masterplan, then it could be reasonably argued in my opinion that the overall development should be subject to EIA. It appears however that the applicant developed Fitzwilton House as a standalone project in excess of 3 years ago. At this time the applicant did not appear to have sufficient legal interest to carry out the proposal on the current application and appeal before the Board.

Furthermore, Fitzwilton House has the benefit of planning permission and is currently under construction. It would not be appropriate in my view to retrospectively carry out EIA for development that already has the benefit of planning permission. In my view it could be reasonably argued that both proposals represent separate projects which were conceived at different times and did not form part of an overall masterplan and therefore would not fall within the scope of Schedule 5, Part 2(10)(b)(iv).

Requesting an EIAR on the basis on work already carried out could in my opinion set a somewhat dangerous and unwanted legal precedent whereby, works already carried out previously on adjacent sites could and should be taken into consideration on a cumulative basis for the purposes of determining whether EIA should be carried out for future development within an urban area.

The site in question amounts to some 1.77 hectares in size. While the site is relatively close to the 2 ha threshold it would of course be open to the Board to request a subthreshold EIS in accordance with Article 109 of the said Regulations. However, I would advise against such a request on the basis that the applicant has submitted a number of detailed reports which specifically assess the impact of the proposed development on the surrounding environment and in my view the report submitted address the main issues which are critical in determining the current application and appeal before the Board. On the basis of the above assessment I do not consider that an EIA report is required in respect of the development before the Board.

10.7.2. Public Notices

Concerns are expressed that the public notices did not adequately detail the nature and extent of the development in accordance with the legislation. In particular, it was argued that the “indicative” environmental improvement works were not detailed enough in the information submitted and secondly it is argued that the public notices did not refer to the demolition of the Lad Lane apartments.

In relation to the indicative works to be undertaken as part of the environmental improvements, I have argued previously in my assessment that there is sufficient detail in the drawings submitted to indicate the indicative works to be carried out as part of the overall development, including the areas to the front of the building, in the drawings submitted with the application. It is not a requirement of the public notice to slavishly detail every aspect of the proposed development including details of finishes etc. As already noted it is not unusual for either the Board or An Bord Pleanála to attach standard conditions requiring details of all external finishes/materials etc. to be agreed in writing with the Planning Authority, or where appropriate An Bord Pleanála, in issuing a grant of planning permission.

With regard to the public notices failing to specifically refer to the demolition of 40 residential units at Lad Lane, the public notices quite clearly indicated that all structures on the subject site were to be demolished and this would inevitably include the residential block on site.

Article 18 of the Planning and Development Regulations set out the obligatory details which must be contained in public notices they are as follows:

- (a) *The name of the applicant. This is quite clearly stated on the public notice.*
- (b) *The location, townland or postal address to which the application relates – the site location and address is clearly indicated on the public notice.*
- (c) *Whether the application has permission/outline permission or permission for retention – the public notice clearly states that the applicant seeks a 10-year permission for the development in question.*
- (d) *A brief description of the nature and extent of the development including:*
 - (i) *Where the application relates to development consisting of or comprising the provision of houses and the number of houses to be provided.*

The applicant is not proposing any houses or residential units as part of the proposed development.
 - (ii) *Where the applicant relates to the retention of a structure, the nature of the proposed use of the structure and where appropriate the period which it is proposed to retain the structure. There is on retention element in the current application.*

- (iii) *Where the application relates to the development which would consist of or comprise of the carrying out of works to a protected structure or a proposed protected structure.*

The works to be undertaken in this instance did not relate to a protected structure.

- (iv) *Where the application relates to a development which comprises or is for the purposes of an activity requiring an integrated pollution prevention and control licence. No such licence is required in the case of the current application before the Board.*

- (v) *Where a planning application relates to development in a strategic development zone.*

The subject site is not located in a strategic development zone.

- (vi) *It is also a requirement that a statement be included in the public notice noting that the planning application can be inspected or purchased.*

This is clearly indicated in the last paragraph of the public notice.

The Board will note that there is no specific requirement under the Planning and Development Regulations which requires that the public notice to specifically referred to the fact that residential units are being demolished as part of the proposed development. Where residential units are proposed - it is a requirement to state the number of houses/units to be provided. No such requirement for the demolition of units is required.

Therefore, in conclusion I consider the public notices to be adequate in describing the nature and extent of the development and are fully in compliance with the Regulations.

Works Outside Site Boundary

With regard to the issue of works being carried out outside the red line of the application boundary. These works appear to relate to the road improvement/civic space works to be carried out as part of proposed traffic calming scheme and public plaza/square. As point out in the applicant's response to the grounds of appeal there are precedents for such proposals where Dublin City Council are the owners of the lands in question. Such works cannot be carried out without the consent of Dublin City Council and any such works therefore will have to be subject to a legal

agreement between the parties concerned. Dublin City Council are aware that works are to be undertaken on its lands. In such circumstances it would be unreasonable to refuse planning permission on the basis that some of the proposed works may be on lands outside the red boundary of the site. Finally, in relation to this issue I would refer the Board to Section 34(13) of the Planning and Development Act which relates to permissions for development. Subsection 13 notes that a person shall not be entitled solely by reason of a permission under Section 34 to carry out any development. The Board therefore can grant planning permission for the proposed development on the basis that any works to be carried out outside the application site would be agreed between the parties concerned.

10 Year Permission

Some of the third-party appellants express concerns in relation to the application for a 10-year permission, arguing that such a prolonged construction period could adversely impact on the amenities of the area and could affect the setting and character of the designated Conservation Area. A grant of planning permission for a 10-year period does not necessarily imply that construction works would consistently occur over such period. It may merely relate to a longer timeframe under which development could be initiated on site. The applicant in his response to the grounds of appeal indicated that a 7-year permission should be sufficient to enable the development to progress. If the Board are minded to grant planning permission in this instance it could consider reducing the life of the permission from 10 to 7 years which would be appropriate in my view.

Changes in the Wind Regime

Concerns are expressed in the appeal by Mr. Adrian Murphy that the proposed size and scale of the development together with the changes proposed for Wilton Park could result in adverse amenity conditions at ground level due to excessive wind levels. In response the consulting engineers on behalf of the applicants have confirmed that wind conditions within the adjacent park are not likely to be increased as a result of the proposed development. I would consider this to be a reasonable conclusion on the basis that the overall mass and height of the building is not fundamentally different than the existing buildings on site. It is unlikely that the proposed development will not significantly alter wind conditions or the wind regime in the immediate vicinity of the subject site.

Pre-Application Consultations

One of the appellants argues that records of three of the four pre-application consultations which took place were not contained on file until after the decision by Dublin City Council was issued in respect of the proposed development. The Board cannot comment on the availability of documents available to third parties during the course of the local authority assessment of the planning application. However, the non-availability of such documents prior to the decision being made would not fundamentally or materially impact or influence the Board's decision. As stated earlier in my assessment it is requirement of the Board to assess the development de novo and in accordance with the proper planning and sustainable development of the area.

Accessibility for Fire Services

One of the grounds of appeal suggest that buildings in excess of 18 metres are too high for fire engines to extinguish fires in the upper floors of the buildings. In response to this, I note that there are many buildings in the city, including the existing buildings on the subject site, that are in excess of 18 metres in height and these buildings have not deemed to be contrary to Part B of the Building Regulations which relate to fire and safety issues. Furthermore, it is incumbent upon any developer to ensure that any building, commercial or otherwise, fully accords with any requirements of the Fire Officer and the Building Regulations.

11.0 **Appropriate Assessment**

I note that an Appropriate Assessment Screening Report was submitted with the application and I further note that the contents of which was not challenged in any of the third-party appeals. A total of four relevant designated sites were identified within the zone of influence of the proposed development. These are set out in the table below.

Table 2

Natura 2000 Site	Site Code	Distance km
South Dublin Bay SAC	000210	2.33
North Dublin Bay SAC	000206	5.66
South Dublin Bay and Tolka Estuary SPA	004024	2.43
North Bull Island	004006	3.32

I would concur with the Stage 1 screening for appropriate assessment conclusion in that, having regard to the fact the proposed development is to be served by mains drainage and mains water, and there is no scope, either directly or indirectly, for the proposed works during the construction phase or during the operational phase, will result in any direct or indirect impacts on the above Natura 2000 sites. Therefore, having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity 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 and projects on a European site.

12.0 Conclusions and Recommendation

Arising from my assessment above I recommend that the Board issue a split decision and grant planning permission for Plot 1 which relates to the demolition of existing structures and the construction of a new 7-storey mixed use office development on the subject site. I also recommend that the Board grant planning permission for the proposed works to be carried out at Plot 3 which includes indicative environmental improvement works to the adjacent public streets including Wilton Place, Wilton Terrace, Cumberland Road and Lad Lane.

I recommend that the Board refuse planning permission for Plot 2 comprising of the alterations to the existing layout and access arrangements at Wilton Park including the provision of a pavilion/tea room and ancillary plant enclosure. I therefore recommended issue a decision as follows:

13.0 Decision

Refuse planning permission for alterations to the existing layout and access arrangements at Wilton Park, Plot 2, including the provision of a pavilion/tea room and ancillary plant enclosure based on the reasons and considerations set out below.

14.0 Reasons and Considerations

It is considered that the proposed development which involves alterations to the existing walkways, landscaping and boundary treatment together with a new pavilion/tea room would significantly alter and adversely affect the historic layout and landscaping associated with the park which, on the whole, has remained unaltered since the 1840s. The proposed alterations of Wilton Park which is located within a designated Conservation Area in the Dublin City Development Plan 2016-2022 would seriously injure the residential, recreational, amenities and historic integrity of the Park and the associated Conservation Area and would, therefore, be contrary to the proper planning and sustainable development of the area.

15.0 Decision

Grant planning permission for the demolition of existing buildings on Plot 1 and the construction of a new 7-storey mixed use office development over lower ground floor together with food and beverage space, leisure space and two ancillary basement levels in three interlinking blocks together with works to be carried out at Plot 3 involving environmental improvement works to the adjacent public streets including Wilton Place, Wilton Terrace, Cumberland Road and Lad Lane. These indicative works may include the configuration of Wilton Place to a one-way traffic system, the reconfiguration of Wilton Terrace/Cumberland Road/Wilton Place road junction, the provision of pedestrian crossing areas, loading bays and the removal of car parking spaces and the relocation of existing office vehicular entry from the corner of Wilton Place to Cumberland Road together with paving and hard and soft landscaping based on the reasons and considerations set out below.

16.0 Reasons and Considerations

Having regard to the Z6 zoning objective relating to the subject site which seeks to facilitate enterprise and employment uses it is considered that the proposed mixed use predominantly office development together with the indicative environmental works to be carried out on the adjoining road network would, subject to conditions set out below not seriously injure the amenities of the area or of property in the vicinity, it is also considered that the proposed development would be compatible

with the provisions of the Dublin City Development Plan 2016-2022, would not adversely or materially impact on the character or architectural significance of the Conservation Area designation it forms part of, nor would it seriously injure the visual amenities of the area or residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

17.0 Conditions

1. 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 with, the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

2. This permission is granted for a period of seven years from the date of this order.

Reason: To ensure a satisfactory standard of development.

3. The primary function of the restaurant/café shall be for the sale of food, meals and refreshments for consumption on the premises. The units shall not be used as a public house or a fast food take-away for the consumption of hot meals off the premises.

Reason: In the interest of environmental amenity.

4. Prior to the commencement of development, detailed drawings of any proposed signage and shopfronts associated with the retail, restaurant and café use including illumination and lighting details shall be submitted for the written approval of the planning authority.

Reason: In the interest of visual amenity.

5. 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 visual amenities of property in the vicinity.

6. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity.

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 hours Mondays to Fridays inclusive, and between 0800 hours 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.

8. Site development works, and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept free from debris, soil and other material and if the need arises for cleaning works to be carried out on adjoining public road, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that adjoining roadways are kept in a clean and safe condition during the construction works and in the interest of orderly development.

9. The developer shall comply with requirements of the Environmental Health Section of Dublin City Council. Details of any requirements in relation to environmental health shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public health

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

Reason: In the interest of public health.

11. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of development.

Reason: In the interest of public health.

12. The following requirements of Dublin City Council's Transportation Planning Division shall be complied with:

(i) Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rendered or otherwise sublet or leased to other parties.

(ii) Cycle parking shall be provided in accordance with development plan standards. A total of 500 cycle parking spaces shall be provided on site. Cycle parking should be secure, conveniently located, sheltered and well lit. Shower and changing facilities shall also be provided as part of the development. Key/fob access shall be incorporated into cycle compounds.

Reason: In the interest of sustainable transport

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

Reason: In the interest of residential amenity

14. Prior to the occupation of development, a mobility management strategy shall be submitted to and agreed in writing with the planning authority. This strategy shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by a mobility manager appointed by the employer.

Reason: In the interest of encouraging the use of sustainable modes of transport.

15. Alterations to the proposed road network serving the proposed development along Wilton Place, Cumberland Road, Wilton Terrace and Lad Lane including the provision of turning bays, junctions, roundabouts, parking areas, footpaths, kerbs, paving and signage shall be in accordance with the detailed requirements of the planning authority for such works.

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

16. Any original stone granite kerbs on Wilton Place shall be retained and incorporated into the new scheme. Details shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To safeguard the visual amenities and built heritage of the conservation area.

17. 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.

18. 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:
- (a) Details of construction times;
 - (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (c) Location of areas for construction site offices and staff facilities;
 - (d) Details of site security fencing and hoardings;
 - (e) Details of on-site car parking facilities for site workers during the course of construction;
 - (f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (g) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (j) Provision of parking for existing properties at Lad Lane Upper and Cumberland Road during the construction period;

- (k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

19. Comprehensive details of the proposed lighting system, and hard and soft landscaping associated with the plaza/square on Wilton Place shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The agreed lighting system shall be implemented and operational before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

20. 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 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.

21. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

22. The developer shall pay to the planning authority a financial contribution of €1,809,776 (one million eight hundred and nine thousand seven hundred and seventy-six euro) as a contribution towards expenditure that was and is proposed to be incurred by the planning authority 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. The application of any indexation required by this condition 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.

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.

23. The developer shall pay to the planning authority a financial contribution of €981,608 (nine hundred and eighty-one thousand six hundred and eight euro) in respect of public infrastructure and facilities benefiting the development in the Luas cross city area in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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. The application of any indexation required by this condition 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

24. 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 and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 determination.

Reason: To ensure the satisfactory completion of the development.

Paul Caprani,
Senior Planning Inspector.

20th June, 2019.