



An  
Bord  
Pleanála

## Inspector's Report ABP-303806-19

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<b>Development</b>	Construction of an office development and associated site works
<b>Location</b>	Hume House, Pembroke Road, Ballsbridge, Dublin 4
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4155/18
<b>Applicant(s)</b>	Irish Life Assurance Plc
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	William Michael Collins
<b>Observer(s)</b>	An Taisce
<b>Date of Site Inspection</b>	15/03/2019
<b>Inspector</b>	Gillian Kane

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## **1.0 Site Location and Description**

- 1.1.1. The subject site on the eastern side of Pembroke Road, to the south of the junction with Lansdowne Road. This section of Pembroke Road is characterised by a mix of office, financial, hotel, and embassy uses. The area to the west and south of Pembroke Road comprises the Pembroke Estate which is a planned residential area that dates from the mid-19<sup>th</sup> Century and is a designated Residential Conservation Area. The area to the east of Pembroke Road is more mixed use in character with a range of commercial and residential uses extending eastwards in the direction of Lansdowne Road Stadium. The scale of development in this area is also larger with a number of sites either developed or in the process of being developed. The area to the south of Pembroke Road comprises the main town centre of Ballsbridge while the area to the north which extends towards Baggot Street and Northumberland Road is mainly commercial in character.
- 1.1.2. The appeal site contains an existing part 8 and part 9 storey “T” shaped office building which fronts onto Pembroke Road to the west and Shelbourne Lane to the east. The site is bound to the north and east by the former veterinary college site where the One Ballsbridge development is nearing completion. The relationship between the appeal site and the One Ballsbridge site is close with a limited separation between the site boundary and the new build on the site to the north east and north west. To the southeast the appeal site is bounded by Franklin House which is a 4-storey office building with modern office and apartment buildings beyond; to the south west by Pembroke Road and office buildings with the American Embassy further south; to the northwest by the D4 Hotel complex (formerly Jury’s Hotel) and to the east by a site currently under construction (ABP-301608-18).

## **2.0 Proposed Development**

- 2.1.1. On the 11<sup>th</sup> October 2018 planning permission was sought for the demolition of the existing Hume House (9,110sq.m.) and the construction of an 8-storey over two basement level building of 21,929sq.m., 72 no. car parking spaces, 187 no. bicycle spaces. The proposed development is intended to replace the permitted development (PL29S.245342) which has not been implemented.
- 2.1.2. Details provided in the application form are as follows:

- Total site area: 3500sq.m.
- Proposed new floor area: 21929sq.m. (18,647sq.m. above ground and 3,282sq.m. at basement level)
- Floor area of demolition: 9,110sq.m.
- Proposed plot ratio: 4.6
- Proposed site coverage: 83%

2.1.3. In addition to the required documents, the application was accompanied by the following:

- Planning report
- Architectural Design Statement
- Photomontages
- Landscape Planning Report
- Landscape and Visual Impact Assessment
- Daylight & Sunlight Analysis
- Infrastructure Design Report
- Engineering Schedule
- Site Specific Flood Risk Assessment
- Transport Statement
- Mobility Management Plan
- Preliminary Construction Management Plan
- Hydrogeological Impact Assessment
- Energy Statement
- AA Screening report
- Construction and Demolition Waste Management Plan
- Archaeological Impact Assessment Report

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

- 3.1.1. On the 30<sup>th</sup> of January 2019 the Planning Authority issued a notification of their intention to GRANT permission subject to 12 no. standard conditions.

#### 3.2. **Planning Authority Reports**

- 3.2.1. **Drainage Division:** No objection subject to standard and site-specific conditions, including a revised FRA.
- 3.2.2. **Waste Regulation:** Standard conditions for larger projects to apply.
- 3.2.3. **Transportation Planning:** Additional information required regarding the potential for conflict between vehicles exiting the subject site and vehicles travelling along Shelbourne Lane entering the neighbouring site.
- 3.2.4. **Planning Report:** Demolition of existing and proposed height established by planning history. Notes that applicant does not justify the exceedance of the site coverage and plot ratio for the site. Recommends that the FI requested by the Transportation section be requested.

#### 3.3. **Further Information**

- 3.3.1. On the 2<sup>nd</sup> January 2019 the applicant responded to the request for further information with two drawings, stating that these had been confirmed as acceptable by the Transportation Department. The drawings showed the set-back of the boundary wall to extend the footpath and provide visibility for vehicles and pedestrians. The second drawing shows sight-lines at Shelbourne lane.
- 3.3.2. **Transportation Planning:** No objection subject to conditions.
- 3.3.3. **Planning Report:** Response to FI is acceptable. Recommendation to grant permission subject to conditions.

#### 3.4. **Prescribed Bodies**

- 3.4.1. None on file.

#### 3.5. **Third Party Observations**

- 3.5.1. Two objections to the proposed development were submitted to the Planning Authority. They related to site coverage and plot ratio resulting in over development

of the site, impact on the adjoining Conservation Area, traffic and noise pollution and excessive height.

## 4.0 Planning History

- 4.1.1. **PL29S.245342**: Planning permission granted for amendments to PL29S.236211. A reduction in the GFA of office by 814 sq. metres (from 14,722 sq. metres to 13,908 sq. metres) by the omission of two basement levels and the reduction in the number of car parking spaces by 16 no. (from permitted 69 no. to 53).
- 4.1.2. **PL29S.236211**: Planning permission granted for the demolition of the existing nine storey office block and construction of a 6,8 and 9-storey building of 16,080sq.m.

## 5.0 Policy and Context

### 5.1. Project Ireland 2040: National Planning Framework

- 5.1.1. This national policy seeks to support the future growth and success of Dublin as Irelands leading global city of scale, by better managing Dublin's growth to ensure that more of it can be accommodated within and close to the city. Enabling significant population and jobs growth in the Dublin metropolitan area, together with better management of the trend towards overspill into surrounding counties.
- 5.1.2. The NPF recognises that at a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.
- 5.1.3. Of relevance to the subject application are the following:
- **National Policy Objective 2a**: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs
  - **National Policy Objective 5**: Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
  - **National Policy Objective 6**: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment

activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

## 5.2. **Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018**

- 5.2.1. Reflecting the National Planning Framework strategic outcomes in relation to compact urban growth, the Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.
- 5.2.2. The first of the 10 National Strategic Outcomes in the National Planning Framework that the Government is seeking to secure relates to compact urban growth. Securing compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.
- 5.2.3. While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable proper consideration of development proposals for increased building height linked to the achievement of a greater density of development.
- 5.2.4. **SPPR1:** In accordance with Government policy to support increased building height in locations with good public transport accessibility, particularly town / city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.



5.2.5. **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.

### 5.3. **Dublin City Development Plan 2017-2022**

5.3.1. The site is located in an area zoned **Z6** – Employment/Enterprise with the objective ‘To provide for the creation and protection of enterprise and facilitate opportunities for employment creation’.

5.3.2. The Plan states that Z6 lands constitute an important land bank 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.

5.3.3. The permissible uses will be accommodated in primarily office-based industry and business technology parks developed to a high environmental standard and incorporating a range of amenities.

5.3.4. Section 16.7 of the Plan details the policy on building height within the city.

### 5.4. **Natural Heritage Designations**

5.4.1. The subject site is located 1.5 km from the South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA.

### 5.5. **EIA Screening**

5.5.1. Having regard to nature and scale of the development and the built-up urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted to the Board. The grounds of the appeal can be summarised as follows:

- The Planning Authority assessment of this significant development is inadequate. There is no mention of adjoining developments or of the adjoining conservation area.
- The subject site is bound by development that exceeds plot ratio. The proposed development also exceeds the Development Plan plot ratio yet planning permission was granted by the Planning Authority.
- The proposed development which is entirely commercial adjoins residential properties. The proposed landscaping is grossly inadequate to address visual impact.
- The proposed development with no residential element does not comply with section 16.5 of the development plan which allows an exceedance of the recommended plot ratio of 2-3. The Board is asked to address this error by the Planning Authority.
- The surrounding transport networks are not adequate or sufficient to justify the increase in plot ratio. This will be exacerbated by developments occurring at adjoining sites such as AIB.
- The proposed development does not comply with section 16.5 as it is not an area in need of urban renewal and does not currently benefit from a higher plot ratio.
- The subject site should have a site coverage of 60%. None of the special considerations in the development plan apply to allow the proposed 80% site coverage.
- The proposed development would negatively impact on the adjoining more-sensitive Conservation area. The small cottages in Estate Cottages are negatively impacted in terms of traffic and noise from the adjoining large-scale developments.
- The narrow Shelbourne Lane will be unable to accommodate the traffic generated by the proposed and existing developments. The proposed development would set a precedent for other Z6 zones.
- The proposed development is not compatible with the development plan or the area and the Board is requested to refuse permission.

## 6.2. Applicant Response

6.2.1. An agent for the first party responded to the third-party appeal. The response provides details of the site description and context, noting surrounding development and public transport options. The response can be summarised as follows:

- It is submitted that the existing building is an out-dated commercial building, the renewal of which will optimise the site.
- The scale and massing of the proposed development reflects the permission granted by the Board (PL29S.245342).
- With 31 no. fewer than existing car spaces proposed, the traffic on Shelbourne lane will remain the same.
- The proposed plot ratio and site coverage are acceptable at this inner urban location which is well served by public transport. Comparable plot ratios are found nearby

### **Planning Authority Assessment**

- The submission that the Planning Authority did not adequately assess the proposed development is rejected.

### **Plot Ratio and Site Coverage**

- The extant permission has a plot ratio of 3.9, exceeding the development plan recommendation.
- In the context of the National Planning Objectives 6 and 11, Regional Policy Objectives 4.3 and the surrounding pattern of development the proposed plot ratio is acceptable.
- The proposed development complies with the development plan circumstances for higher plot ratios as it is highly accessible by public transport (bus and Dart), the proposed development will contribute positively to the area and will achieve the objectives of the development plan.
- The existing out-dated building is an under-use of the subject site and fails to integrate with the streetscape due to the surface car park on Pembroke Road. The proposed building reinforces the building line and provides visual interest.

- The removal of the vehicular access on Pembroke Road will positively contribute to the urban realm. It provides an improved design solution, continuing the building line on either side.
- The immediate area has many examples of comparable plot ratios – One Ballsbridge to the north (PL29S.228224) with a plot ratio of 4.83, Franklin House to the south (reg.ref. 3646/12) with a plot ratio of 3.6 and to the rear Shelbourne Road (ABP-301608-18) with a plot ratio of 4.12.
- The wider area shows a plot ratio of 7 (reg. ref. 2350/08), 4.5 (reg. ref. 5157/08), 4.9 (PL29S.239323), 4.1 (reg. ref. 3024/18) and 6.1 (reg. ref. 2388/18).
- The proposed plot ration of 4.6 and site coverage of 83% are reasonable.

### **Conservation Area**

- To assess the impact of the proposed development from the Estate Cottages conservation Area, a Visual Impact Assessment is submitted.
- The proposed development will not have an impact, in the context of the emerging developments in the area which have been permitted in compliance with the development plan.
- The permitted 6-8 storey development (ABP-301608-18) between the site and the Cottages was noted by the An Bord Pleanála Inspector to be well removed from the sensitive sites. The Inspector noted that the Cottages are orientated away from the sites and that there would be no visual impact.
- The proposed development will be absorbed into the area and will be viewed as a background element at the conservation area.
- The proposed development complies with the development plan policy CH4 in scale, design and layout.

### **Traffic Management**

- The Applicants response to the FI request of the DCC Traffic Department was deemed acceptable by the Planning Authority.
- An additional traffic on traffic movement is submitted with the response.

- The proposed development provides 71 no. car spaces including 4 no. disabled spaces. This is 32 no. less than currently provided and will therefore reduce the volume of traffic accessing the site from Pembroke Road and remove pedestrian conflict.
- 162 no. bicycle spaces are proposed at basement level, with access from Shelbourne Lane.
- The site is highly accessible by public transport.
- The Transportation report of the Planning Authority notes that the NTA confirmed that the proposed development would not have a material impact on Bus Connects Route Corridor no. 14.
- It is submitted that the traffic strategy is an appropriate response to this site and will ensure a positive impact on the area.

6.2.2. The Board is requested to grant permission for the proposed development. The response is accompanied by the following:

- Planning Authority planning report
- Photomontage and Visual Assessment
- Response to FI request
- Assessment of Traffic Impact
- Copy of ABP-301608-18 Inspectors Report
- Mobility Management Plan.

### 6.3. **Planning Authority Response**

6.3.1. None on file.

### 6.4. **Observations**

6.4.1. **An Taisce:**

- The proposed development does not comply with the development plan.
- None of the exceptional circumstances for exceeding plot ratio outlined in the development plan apply to the subject site. There are no grounds for the proposed 4.6:1.

- None of the five exceptional circumstances for exceeding the recommended 60% site coverage apply to the proposed development. The Planning Authority noted that the applicant did not justify the proposed 80% site coverage as there is none.
- As the subject site is located in a transitional zone, section 14.78 of the development plan applies. It is submitted that the quantum of development would be detrimental to the adjoining Z1 and Z2 areas in close proximity.
- The visual impact of the proposed development would negatively impact the amenities of nearby residents.
- The Board is requested to refuse permission.

## 6.5. Further Responses

6.5.1. An Taisce responded to the First Party response as follows:

- The intensity of the proposed development is excessive
- The proposed development is significantly larger than the comparable cases noted by the applicant. One of the cases was permitted under the previous development plan which had no building height guidance and was before the urban Development and Building Heights Guidelines.
- The subject site is inner suburbs not inner urban as stated by the Applicant.
- The subject site is not identified as being suitable for mid-rise or high-rise development and is not in an SDRA. Permitted height as per section 16.7.2 of the development plan is 24m.
- The assessment undertaken by the Planning Authority of the justification for exceeding the development plan height recommendation was inadequate.
- The subject site is in a transitional zone. The proposed development is excessively high, will be visually obtrusive and fails to comply with policy CHC4 of the development plan.
- To comply with the development plan criteria for exceeding site coverage and plot ratio the proposed development must have a mix of residential and commercial uses. The Applicants suggestion that surrounding residential use complies as the residential element is not on accordance with the development plan.

- The development plan criteria of allowing a higher plot ratio where the site already has the benefit of one does not mean that the plot ratio should be further increased as suggested by the applicant.
- The subject site with a development plan compliant plot ratio of 2.6:1 is not under development.
- It is submitted that the proposed development does not “largely reflect” the scale and massing of previously permitted developments on site. The July 2010 permission (4448/09) was granted under the previous development plan and had a plot ratio of 3.88:1 and a site coverage of 56%. It is submitted that the permitted development is significantly less intense than the proposed development.
- The precedents quoted by the applicant are not comparable as four were assessed under the previous development plan and two are located in an SDRA.
- The Board is requested to refuse permission.

6.5.2. **The Appellant** responded to the Observer and the Applicant as follows:

- The Board must consider the proposed development de novo and not simply the issues raised by the parties.
- The applicant has not justified the increase in plot ratio and site coverage, only stating that they are acceptable and appropriate.
- The proposed development is not an improvement on the extant permission.
- The Core Bus corridors are only proposals. It would be premature to grant permission on foot of proposed works.
- The applicant’s comments regarding the quality of the scheme are subjective and without foundation. The area is not in need of urban development. The existing building can be upgraded.
- The applicant does not address the requirement for a mix of residential and commercial uses on site in order to qualify for higher plot ratio and site coverage.
- Pembroke Road and Shelbourne Road are not areas in need of rejuvenation or regeneration. The adjoining conservation area is in need of protection from existing and proposed developments.

- As the RSES is a draft it is not relevant to the proposed development.
- The applicant has not addressed that the public transport networks are at capacity.
- The proposed development will negatively alter the existing streetscape. The existing set-back building forms part of the streetscape. The proposed development without a set-back is disastrous to the streetscape.
- The existing building cannot be considered to be under-utilised as it is still occupied.
- The proposed development will move vehicle access problems closer to the more sensitive conservation zone. The road is already narrow, over crowded, and congested with traffic and parking, all of which negatively affect Estate Cottages. The provision of cycle spaces will not result in a reduction in car traffic. Nor will the reduction in car parking spaces.
- The exceedance of plot ratio on the comparable sites adds to the excessive over development of the area. This warrants a reduction in subsequent applications.
- The photomontages are not a true reflection of the area. Figure 3 is not the view from the front entrances of Estate Cottages and therefore does not create a true representation of the impact of the proposed development. The submitted images reduce the impact of the proposed development. The Board is requested to disregard them. Appellants photographs submitted.
- The Board is not bound by the report of the Inspector on the adjoining site ABP-301608-18 where the height of that proposed building and its impact on Estate Cottages was considered acceptable. Precedents are only valid on a level playing field.
- It is not enough to “not significantly damages” the visual amenity of an area. The proposed development will have a negative impact on Estate Cottages.
- The Board is requested to refuse permission.



## 7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Plot Ratio and Site Coverage
- Traffic
- Conservation Area

### 7.2. Principle of the Proposed Development

7.2.1. The subject site is located with the Z6 zone which has the stated objective to provide for the creation and protection of enterprise and facilitate opportunities for employment creation. As the subject site is located outside the Canal, 'office use' is an "open for consideration" use.

7.2.2. I note the planning history on the site and consider that the principle of an office development on the subject site has been accepted by the Board. Subject, to all other planning considerations being satisfied, the proposed development is acceptable in principle.

7.2.3. To the immediate north of the subject site is a Z1 zone and to the immediate south is a Z2 zone, south of which is a Z4 zone. To the east is a Z10 zone and a Conservation area. The Observer An Taisce states that the subject site is located in a transitional zone and therefore should be subject to section 14.7 of the development plan. Section 14.7 requires a development to avoid abrupt transitions in scale and use and to avoid any detriment to the more environmentally sensitive zone. This is discussed in greater detail in each of the sections below.

### 7.3. Plot Ratio and Site Coverage

7.3.1. That the proposed development exceeds the development plan recommendation of 2.0 to 3.0 and site coverage of 60% is raised by both the Appellant and the Observer. The proposed development has a plot ratio of 4.6 and a site coverage of 83%.

- 7.3.2. The applicant makes the case that the extant permission on the site has a plot ratio of 3.9 and that permitted developments in the wider area have ratios between 3.6 and 7. The applicant submits that the proximity of the site to public transport networks is such that it qualifies for the exemptions provided for in the development plan. The appellant disagrees with the position of both the Applicant and the Planning Authority, stating that the subject site does not qualify under any of the circumstances listed for an exceedance of the plot ratio or site coverage.
- 7.3.3. The subject site is located in an area acknowledged by the development plan to be an important land bank for employment use in the city, one which it is strategically important to protect. The site adjoins a number of public transport routes / corridors and is one that is undergoing significant re-development. As noted by the applicant, the wider area has seen a number of instances where an exceedance of the plot ratio is acceptable. It is considered that ignoring the flexibility offered by indicative plot ratios would restrict development on the subject site to the extent that the optimal use of the site would not be realised.
- 7.3.4. Notwithstanding the above, precedent from the surrounding area cannot be used to justify disregarding the development management standards of the development plan to the point where they become meaningless. Nor can the cumulative effect of such a precedent on an area be ignored. As noted in the development plan (section 16.5 refers) plot ratio must be used in conjunction with other development control measures such as site coverage, height, open space etc.
- 7.3.5. Site coverage is a control for the purpose of preventing the adverse effects of overdevelopment, thereby safeguarding sunlight and daylight within or adjoining a proposed layout of buildings. The proposed development, with a site coverage of 80% must be assessed against the ability of the proposed development to provide an optimal work environment for the future employees but also against the ability of adjoining sites to maximise their potential.
- 7.3.6. It is proposed to provide light and amenity areas to the proposed building via two external courtyards along Pembroke Road and a central sunken garden at basement level -1, an external courtyard at level one, and roof terrace at levels six and seven. It is regrettable that access to the Pembroke Road courtyards is via the basement only and not through reception or other means at ground level. It raises the question

of the final usability of these spaces. I note that the Daylight and Sunlight analysis finds that just 48% of their area will receive 2 hours of sunlight on the 21<sup>st</sup> March. This is just below the recommended 50% threshold (BRE guidance). However, this shortfall is not considered significant.

- 7.3.7. The scale of the proposed building and the adjoining residential development to the north (One Ballsbridge PL29.228224) is such that the level of light reaching the proposed amenity spaces must be addressed. I am satisfied that the separation distance between the two buildings is sufficient to allow each floor of office accommodation to receive adequate light. The Daylight and Sunlight Analysis shows that the three terraces on the 6<sup>th</sup> and 7<sup>th</sup> floor levels receive at least two hours of sunshine on the 21<sup>st</sup> for 100% of the terrace area. The main amenity area – the first-floor external courtyard, however fails the BRE test as it will not receive the recommended minimum of two hours sunshine on the 21<sup>st</sup> March. Regrettably the report does not provide any detail on the failure, only that it is to be expected given the orientation of the building and that it is comparable to the permitted scheme.
- 7.3.8. The nature and scale of development on either side of the subject site is such that providing amenity space on the northern side of the site (adjoining the residential development) is more appropriate than building closer to the northern boundary. On balance, that the proposed amenity spaces are not optimal in terms of sunshine levels is not so significant that it would warrant a refusal of permission or even a request for a re-design. The provision of such an amenity space within a commercial development is a welcome bonus rather than a prerequisite. That the wider area is well provided for with recreational and restaurants / cafes must also be acknowledged. I do not consider the failure of the amenity areas to meet the BRE guidance an indication that the subject site is over-developed or excessive in scale or height – principles that guidance on plot ratio and site coverage seek to govern. Noting that the starting point is a development with a plot ratio of 3.9 was considered by the Board to be acceptable, it is considered that the increase to a plot ratio of 4.6 is not materially significant.
- 7.3.9. The Appellant and the Observer both submit that the proposed development cannot be considered to qualify for a higher plot ratio under section 16.5 of the development plan as there is no residential element to the scheme. The first criteria for allowing higher plot ratio / site coverage is “adjoining major public transport termini and

corridors, where an appropriate mix of residential and commercial uses is proposed". Both third parties submit that the mix must occur on the site, while the applicant contends that the mix must be apparent in the wider area. I agree that while the development plan is not definitive, it is likely that the policy is site specific rather than referring to the wider area. However, as noted above, the site complies with other circumstances provided in section 16.5 (streetscape profile, existing permitted higher plot ratio) and the Board has accepted the principle of an entirely commercial development on the subject site. The development plan recognises that the need to protect the employment land bank of the Z6 zoned area.

#### **7.4. Traffic**

- 7.4.1. The Appellant submits that the proposed development will exacerbate the existing traffic congestion on Shelbourne Road. He states that the argument made by the Applicant that the removal of on-site parking on Pembroke Road being a welcome move, will actually cause further traffic difficulties on Shelbourne road.
- 7.4.2. It must be noted that the proposed development proposes a reduction in overall car parking for the subject site. The existing development has 30 no. on-site car parking spaces with access from Pembroke Road, 18 no. spaces at ground level and 55 no. basement spaces accessed from Shelbourne Lane. According to the transport statement the proposed development provides 72 no. car spaces at basement level -2, including 4 no. disabled spaces. 5 no. motorbike spaces and 187 no. bicycle spaces are proposed. The Board will note that the Applicants response to the appeal refers to 71 no. spaces, 4 no. disabled spaces and 162 no. bicycle spaces. This is presumed to be an error as the submitted drawings of basement level -1 and -2 show 187 no cycle and 72 no. car spaces (corresponding to the details provided in the Transport Statement).
- 7.4.3. Currently 73 no. cars access the site from Shelbourne Road. The proposed development will allow 72 no. I note the provisions of the Mobility Management Plan and the details of the Transport Statement submitted with the application. Notwithstanding that the proposed development provides significantly more office floorspace than existing, it is considered that the proposed development, with the removal of on-site parking from Pembroke Road and proposals to increase

sustainable travel to the site will result in a negligible impact on Shelbourne Lane and Shelbourne Road and a positive impact on Pembroke Road.

## **7.5. Conservation Area**

- 7.5.1. The Appellant submits that the impact of the proposed development on the adjoining Conservation Area Estate Cottages will be unduly negative. He submits that the visual impact assessment carried out by the Applicant is not a correct representation.
- 7.5.2. I note the Landscape and Visual Impact Assessment submitted with the application. It describes the stepped profile of the proposed building as providing a transition between the neighbouring buildings and the use of complementary materials and finishes as being visually cohesive along the streetscape. The report concludes that the proposed development will remove an out-dated building that has a slightly adverse visual impact on Pembroke Road and replace it with a development that positively addresses the immediate area and has a neutral impact on the wider area.
- 7.5.3. The impact of the proposed building on Estate Cottages arises largely from the height and scale – both of which I have considered to be acceptable above. I concur with the assessments of the Inspectors (ABP-301608-18) and (PL29S.245342) that this part of the city is a rapidly changing urban environment where higher buildings are readily accommodated. I concur with the assessment of the Inspector that the adjoining site (ABP-301608-18) is sufficiently removed from Estate Cottages – both in terms of actual distance and the scale of buildings between for there not to be any undue negative impact on Estate Cottages. I am satisfied that there will not be a significant or negative impact on the more sensitive Conservation area of Estate Cottages.

## **7.6. Appropriate Assessment**

- 7.6.1. The subject site is located 1.5km from the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).
- 7.6.2. The applicant submitted an AA Screening report with the application. The report notes that the subject site is not located within or directly adjacent to any Natura 2000 sites and that there is no pathway for loss or disturbance of habitats that may act as ecological corridor for important species associated with the qualifying interests of the designated sites. The report notes that there is a pathway from the

site to Dublin Bay via the River Dodder, but that as there will be no alteration in the area of hard surfacing and new attenuation measures there will be a negligible impact on surface water leaving the site. During the construction phase, effects are considered to be unlikely due to the separation distance and the temporary nature of the operation. Dust emissions will occur, but these are not considered to be significant. No cumulative impacts are likely. The report concludes that significant effects are not likely to arise, either alone or in combination with other plans or projects that will result in significant effects to the integrity of the Natura 2000 network.

7.6.3. The proposed development is to be connected to the public drainage network and a separate system for surface and foul drainage is proposed on the site. Sustainable drainage such as subsurface attenuation storage and green roof will reduce volumes entering public surface water sewer. Foul water will be sent to the Ringsend treatment plant which will be upgraded to increase network capacity by 50% by 2023.

7.6.4. In view of the above it is considered that having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, it is considered that the proposed development either individually or in combination with other plans or projects on a European site is not likely to have significant effects on the integrity of the South Dublin Bay SAC (000210) or the South Dublin Bay and River Tolka Estuary SPA (004024) in light of the conservation objectives of these sites.

## **8.0 Recommendation**

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

## **9.0 Reasons and Considerations**

9.1.1. Having regard to the Z6 zoning objective for the site, the established use of the site for office use, the pattern of existing and permitted development in the area, the site's centrality, accessibility and proximity to good public transport infrastructure, and the desirability of maximising the use of such land, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not adversely impact on the visual

amenity or character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

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

**Reason:** In the interest of clarity.

2. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing, by the planning authority. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals.

**Reason:** In the interest of visual amenity.

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

**Reason:** In the interest of residential and visual amenity

4. Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for

written agreement. This plan shall provide details of provisions to protect the amenity of the existing occupiers of the premises, including protective measures to minimise noise and disturbance, as well as intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of orderly development.

- 5 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,
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works, and
  - (c) provide satisfactory arrangements for recording and removal of any archaeological material which may be considered appropriate to remove.

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

6. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.



**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

8. The following requirements shall be complied with:

(i) The applicant shall undertake to implement the measures outlined in the Mobility Management Framework/Plan and to ensure that future tenants of the proposed development comply with this strategy. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans.

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

(iii) Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties.

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

9. Construction and demolition waste shall be managed in accordance with the 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 interests of sustainable waste management and to protect the residential amenities of property in the vicinity.

10. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

11. Prior to the commencement of development the developer shall submit and obtain the written agreement of the planning authority to a plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

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

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

**Reason:** In the interest of public health.

13. Prior to commencement of development, the 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

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Gillian Kane  
Senior Planning Inspector

27 May 2019