



An
Bord
Pleanála

Inspector's Report

ABP-309490-21

Development

Amendments to road works and revised proposals for Wilton Square previously refused permission under ABP 303706.19. The proposed development includes closure of an entrance and path leading from Wilton Terrace to the park fountain, creation of 2 entrances and pathway, restoration of the historic fountain; installation of new park furniture; installation of wayfinding lighting, includes works to the adjacent public roads.

Location

Wilton Square, Dublin 2 and adjacent Public Roads

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3300/20

Applicant(s)

IPUT PLC

Type of Application

Permission

Planning Authority Decision

Grant with conditions

Type of Appeal

Third Party

Appellant(s)

Patricia Hodgins

Observer(s)

Kate O'Toole,
Zuleika Rodgers,
Fergus Fahey
Katrina Goldstone
Noel & Fidelma Magee

Date of Site Inspection

19th of October 2021

Inspector

Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is c. 2km south of Dublin City Centre. The majority of the park includes Wilton Square (Wilton Park) which is a triangular area of open space that appears to be in private ownership but is open to the public. The park is located just north of the Grand Canal with Wilton Terrace in between. The park is bound by a plinth and rail boundary with mature trees throughout. The park has a stated site area of c.0.62ha.
- 1.2. The site also includes parts of public road including Wilton Place, part of Wilton Terrace, parts of Cumberland Road and parts of Lad Lane. The stated area of this part of the site is stated as c.0.21 ha.
- 1.3. The general area of the site is currently under development to the west, north and east of the park area. The northern boundary of the park, save the footpath area is enclosed by high hoarding with vehicular access to Wilton Place closed and accessible only to construction traffic. The development under construction was permitted under ABP-303706-19 and includes a significant mixed use office development. This permission was also amended by works permitted under 3099/20.
- 1.4. There is a fountain located centrally in the park which is identified on the NIAH as register number 50930192. It is described as-

'Freestanding cast-iron fountain, erected c. 1841, comprising masonry plinth on square-plan granite-clad base, with two-tier circular-plan cast-iron troughs supported on columns topped by central finial with replacement stainless steel spout. Located to centre of flower bed, bordered by rendered circular-plan dwarf wall with granite coping. Terracotta tiled hardstandings to perimeter, extending along path to west. Sited within centre of triangular-plan park, bordered by Wilton Place to north-east and north-west, and Wilton Terrace and Grand Canal to south-east. Park lined by mature planting, with gravel perimeter path and bound by cast-iron railings over granite plinth.'

The NIAH appraisal also details that water for the fountain was originally supplied from the nearby canal.

- 1.4.1. Access to the park is from Wilton Terrace and Wilton Place with a path dissecting the path between both entrances in a NW to SW direction. There is also a path providing a loop of the park within its internal perimeter.

1.5. There are a number of residential properties in the area including Court Apartments and 1-6 Wilton Place. The LinkedIn offices are located to the north of the site.

2.0 Proposed Development

2.1. The application comprises of works to Wilton Square and surrounding public roads. The application seeks a seven-year planning permission. The development involves amendments to indicative road works previously permitted under ABP-303706-19 and revised proposals for Wilton Square (the park). Works to the park were previously omitted by condition under ABP-303706-19.

- The Park-
 - closure of an existing entrance and path leading from Wilton Terrace to the park fountain (including closing the existing gate and grassing over the path) and creation of a new entrance and pathway to the fountain to match its historic position (including the creation of an opening in the existing railings and plinth wall) from Wilton Terrace;
 - restoration of the historic fountain in its current location;
 - creation of a second new entrance to the park (from Wilton Place, including the creation of new openings in the existing railings and plinth wall);
 - removal of some low-level planting and trees and introduction of new low-level planting and trees;
 - installation of new park furniture;
 - installation of wayfinding lighting and all associated and ancillary development and site works above and below ground.
- Adjacent public roads
 - Works to the adjacent public roads, including sections of Wilton Place, Wilton Terrace, Cumberland Road and Lad Lane.
 - road resurfacing and reconfiguration,

- changing Wilton Place (from Cumberland Road to the LinkedIn corner) to a one-way traffic system (northwards from Cumberland Road to LinkedIn);
- removal of 16 on-street car parking spaces (12 from Wilton Place, 3 from Lad Lane and 1 from Cumberland Road),
- reconfiguration of the Wilton Terrace/Cumberland Road/Wilton Place road junction,
- provision of pedestrian crossing areas,
- provision of three loading bays (one on Cumberland Road, one on Lad Lane and one on Wilton Place);
- all of the preceding to include all associated and ancillary development and site works above and below ground.

2.2. On the 22/12/2020 the applicants submitted Additional Information in response to a request by DCC. The above application has been amended to address concerns raised including-

- the integrity and character of the historic park,
- reinstatement of the historical landscape layout
- materials proposed along the path,
- reinstatement of extinguished historic entrance to the north eastern boundary.

The response to Additional Information also sought to address other concerns not raised in the Additional Information. These include-

- Transportation Division Concerns, A revised report from ARUP has been submitted.
- Parks, Biodiversity and Landscape Concerns relating to street lighting design and materials to paving outside of the park. The applicants propose Leinster granite inside the park but not externally due to costs.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 27/01/21, subject to nine conditions, generally of a standard nature and including the following-

- C2 Terms and conditions of 4421/18 (ABP-303706-19) to be fully complied with.
- C4 Noise condition
- C6 A number of Transportation Planning Division requirements
- C7 A number of Drainage Division requirements
- C8 A number of DCC Parks, Biodiversity and Landscape Services requirements including retention of a Landscape Architect, lodgement of a €50,000 bond, submission and agreement of a Landscape scheme including structures/furniture etc.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer (27-01-21) reflects the decision of the Planning Authority. The following is noted from the report-

- The Applicant has submitted a revised scheme and the fountain is to be retained in its current location and restored to full working condition.
- the proposed changes to this historic park have been simplified and incorporate a more mannerly and sympathetic design which respects the original layout and form of this green space. The proposed reinstatement of the entrances and paths and the inclusion of 2 further entrances, along with further surface improvements, lighting and tree and planting management is likely to create a more usable public space for new and existing patrons alike.
- The Applicant has liaised with DCC's Parks, Biodiversity and Landscape Services and have shared the historic landscaping report of Dr John Olley.

Following the meeting a supplementary report addressing the topics has been submitted as part of the Additional Information Response.

- The revised plans indicate the internal path (on the canal path of the park) has been realigned and it is now proposed that the paths are resurfaced in gravel.
- In regard to the reinstatement of the previously extinguished historic entrance along the north eastern boundary of the Park, the Applicants state that local residents raised concerns. As a consequence the revised scheme proposes to restore the original path leading from the gate to the fountain, but not to reinstate the historic gate.
- On balance, the proposed development will upgrade one of the most prominent locations in the City and contribute to the animation of a green space in an inner city location proximate to public transport and other amenities.
- Having regard to the nature and scale of the proposed amendments to the permitted scheme, it is considered that the proposed development would not seriously injure existing buildings or surrounding location and it is considered that the proposed development accords with both the City Development Plan and the proper planning and sustainable development of the area.

4.2. Other Technical Reports

- **Transportation Division-**
 - Following the submission of additional information which includes changes to loading bay provision, on street parking and kerb alignments no objections are raised subject to conditions.
- **Parks, Biodiversity and Landscape Services-**
 - Referenced in both Planning Reports, following submission of Additional Information no objection subject to conditions.
- **Drainage Division-**
 - no objection subject to conditions. (Additional Information noted)

4.3. Prescribed Bodies

TII- Recommends section 49 levy if applicable

4.4. Third Party Observations

Eight submissions were received. Concerns raised are generally those highlighted in the grounds of appeal and the observations to the appeal. These are set out in section 7 below.

5.0 Planning History

This and adjoining site-

- 4421/18, 303706-19- 10 year permission for development, including-
 - 'Plot 1'- the demolition of the existing up to 7 storey structures (c.24,476m² and 256 car parking spaces) on this part of the site and the construction of a new up to 7 storey mixed-use office development over Lower Ground Floor (c.48,879m² office, c.1,258m² food and beverage/retail, c. 625m² food and beverage/retail, c. 625m² Leisure and c.94m² retail services) and 2 ancillary basement levels in three interlinking blocks (to be known as 'Two'. 'Three' and 'Four Wilton Park', respectively)
 - the creation of a new public route linking Lad Lane with the new square;
 - c. 122 car parking spaces at basement level (accessed via a ramp opening onto Cumberland Road),
 - c. 500 cycle spaces, plant, waste and ancillary areas at Basement Level;
 - Rooftop plant, landscaping on rooftops and within the overall site area, roof gardens and terraces, external street furniture, lighting to landscaped areas and all other associated site excavation, safety hoardings and ancillary development and site works above and below ground.

- 'Plot 2'- alterations to the existing layout and access arrangements of Wilton Park, including provision of a Pavilion/Tea Room (c. 74m2)) and ancillary plant enclosure, relocation and refurbishment of the existing fountain, reconfiguration of part of the park fencing, replacement of some hedging and trees with new planting, installation of new park furniture, the addition of new gated openings at the Cumberland Road/Wilton Place junction, the installation of timber children's play equipment, wayfinding lighting and all associated and ancillary development and site works above and below ground.
- 'Plot 3': environmental improvement works to the adjacent public streets, including Wilton Place, Wilton Terrace, Cumberland Road and Lad Lane.

Grant 10/07/19-

Condition 3 states-

“The 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 shall be omitted. A revised scheme which adequately addresses the geometry and context of Wilton Park shall be submitted as part of a separate planning application to the planning authority.

Reason: In the interest of orderly development.”

Condition 4 states-

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

Reason: To ensure a satisfactory standard of development.”

Adjoining Site (included in above site boundary)

- 3099/20- Seven year permission for amendments to a permission granted for the site on July 10th 2019 (ABP 303706.19). (buildings referred to as Numbers 2, 3 and 4 Wilton Park.) The proposed development includes-

- increases to permitted parapet heights (at No's. 2 and 3 Wilton Park) by up to 2.82m (leading to a maximum of 30.67m above ground compared to the permitted parapet maximum of 27.85m);
- changes to roof level layout and landscaping; changes to the building massing and fenestration of No's. 2 and 3 Wilton Park along their Lad Lane frontage;
- changes to permitted retail, restaurant and leisure uses at lower ground and ground floors;
- increased depth and changes at entrances to covered street;
- widening of the public footpath along the Wilton Place frontage (extending c.1.1m into public road);
- omission of ESB sub-stations from rear of No. 2 and 4 Wilton Park; relocation of the Logistics Hub from rear of No. 3 to rear of No. 2 Wilton Park;
- reduction of permitted office floor space of c.2,063sqm.,
- reduction in car parking spaces from 122 to 111,
- and increase of bicycle parking from 500 to 674 spaces,
- all of the preceding to include all associated and ancillary development and site works above and below ground.

Grant 02/11/20

Historical Record

3257/81- An observer to the appeal has submitted evidence of a **Grant** of permission on the 02/03/81 for alterations to an approved plan for office/residential development for site at Wilton Place/Cumberland Road/Lad Lane, Dublin. Condition 5 of this permission states-

“The Triangular park area of the site shall be retained permanently as an unbuilt-upon amenity which shall be open to the public at large, at least between the hours of 10.00 and 17.00 hours each weekday. The existing

railings and foundations shall be retained and repaired and the area generally shall be tidied up and planted to the satisfaction of the planning authority (Parks Department)

Reason- In the interests of visual amenity.”

6.0 Policy Context

6.1. Guidelines

6.2. Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding “Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003)

6.3. Dublin City Development Plan 2016-2022

6.3.1. The majority of the site includes the open space area of Wilton Square. This is zoned Zone Z9: Amenity/Open Space Lands/Green Network. These lands have an objective ‘*To preserve, provide and improve recreational amenity and open space and 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

6.3.2. The remainder of the site appears to include areas of the public roads that have no designated zoning.

6.3.3. The site is located/zoned within a Conservation Area (Red Hatching on the zoning map). -

Section 11.1.5.4- Architectural Conservation Areas and Conservation Areas

The policy mechanisms used to conserve and protect areas of special historic and architectural interest include:

- Land-use zonings:‘and the red-hatched areas shown on the zoning objective maps’.....

The policy to ensure the conservation and protection of the areas of special historic and architectural interest is as follows-

It is the Policy of Dublin City Council:

CHC4: 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.....

6.3.4. The section of proposed development located along Lads Lane is located within the Fitzwilliam Square Architectural Conservation Area. The Fitzwilliam Square and Environs Architectural Conservation Area (ACA) document adopted on the 07/12/2009 would appear to show the south eastern side of the road on Lads Lane within the ACA boundary¹.

6.3.5. Nos. 1 – 6 Wilton Place to the east of Wilton Square and near the junction with Wilton Terrace are all listed on the Development Plan’s Record of Protected Structures. RPS Ref No’s 8608-8613. These buildings are opposite the subject site.

6.4. Natural Heritage Designations

6.4.1. The site-

- is c. 2.5km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).
- is c.3.3km south west of the North Dublin Bay SAC (000206) and c. 5.6km south west of the North Bull Island SPA (004006).
- Part of the site to Witan Terrace appears to adjoin/encroach upon the Grand Canal Proposed Natural Heritage Area. The canal is across Wilton Terrace c. 10 from Wilton Square.

¹ https://www.dublincity.ie/sites/default/files/media/file-uploads/2018-05/10_Fitzwilliam_Square_ACA__adopted_07.12.09.pdf

6.5. EIA Screening

- 6.5.1. An Environmental Impact Assessment Screening report was submitted with the application and I have had regard to same.
- 6.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001-21 (as amended) provides that mandatory EIA is required for the following classes of development:
- *Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.*
- (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)*
- 6.5.3. The application proposes works to Wilton Square (Park) and works to roads in the area. The area of the park is stated as c.0.62 ha and the area of roads is stated as c. 0.21ha. The overall site area is stated as 8,300 sq.m (or 0.83 ha) and is located within an existing built up area. The site area is therefore well below the applicable threshold of 2 ha. The Board are also advised that the majority of the application site is zoned Z9 ‘Amenity/Open Space Lands/Green Network’ where most urban development would not be permitted.
- 6.5.4. Under planning permission 4421/18 and ABP-303706-19 the Board have accepted the Inspectors recommendation which acknowledged the recommended works were restricted to Z6 lands only (Wilton Park works omitted by condition 3).
- 6.5.5. The subject application and already permitted (by DCC) amendment application 3099/20 essentially seek amendments to roadworks permitted granted under 4421/18 and ABP-303706-19 as well as a new proposal for Wilton Square.
- 6.5.6. This application formed one of two adjoining applications submitted to the Planning Authority. Planning application 3099/20 was Granted permission on the 02/11/20 by DCC. It was not appealed. In their planning assessment for 3099/20 DCC determined that an EIA was not required-

“It is considered therefore, given the proposed scheme involves the replacement of existing building and the nature and scale of the development that an EIA is not required in this instance.”

6.5.7. Class (13) of Schedule 5 Part 2 of the Planning and Development Regulations 2001-21 (as amended) provides that mandatory EIA is required for the following classes of development:

- *Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:-*
 - (i) *result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and*
 - (ii) *result in an increase in size greater than –*
 - *25 per cent, or*
 - *an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.*

6.5.8. The site area of 3099/20 as indicated in question 10 of the application form is c. 9,882 sq.m (0.988 ha). I consider 3099/20 and the subject application do not involve changes or extensions of development already authorised, executed or in the process of being executed. that would result in an increase in size greater than 25% or an amount equal to 50%. In this regard the area of the works to roads is c.0.21 ha and the area of works to Wilton Square were not previously authorised.

6.5.9. The cumulative size of both 3099/20 and the subject application is c. 1.818ha. This remains below the stated requirement of 0.2ha and accordingly I am satisfied a mandatory EIA is not required and consideration of the cumulative impact of both applications is necessary in the context of Sub-threshold EIA.

6.5.10. Sub-threshold development is defined in Article 92 of the Planning and Development Regulations 2001-21 (as amended) as

‘development of a type set out in Part 2 of Schedule 5 which does not equal or exceed, as the case may be, a quantity, area or other limit specified in that Schedule in respect of the relevant class of development’.

6.5.11. Article 103 (a) of the Regs states-

'Where a planning application for sub-threshold development is not accompanied by an EIAR, the planning authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.'

6.5.12. The applicants have submitted information in relation to Schedule 7 and 7A of the Planning and Development Regulations 2001-21 (as amended)-

- Schedule 7- 'Criteria for Determining whether Development listed in Part 2 of Schedule 5 should be Subject to an Environmental Impact Assessment'
- Schedule 7A- 'Information to be Provided by the Applicant or Developer for the Purposes of Screening Sub-Threshold Development for Environmental Impact Assessment'

This is set out in section 2.5.2 of their submitted EIA screening report. In this context the regulations require the planning authority to carry out an examination of, at the least, the nature, size or location of the development for the purposes of their screening determination. I consider that the necessary information has been submitted to determine the outcome of this screening

6.5.13. The site can be described as an existing area of open space, open to the public and adjoining public roads. The site is located within a red hatched Conservation area with a small part of the site located within the boundary of the Fitzwilliam Square and Environs ACA. There are six protected structures located across from the south eastern boundary of the site.

6.5.14. The proposed development is not likely to have a significant effect on any European Site (as discussed below in section 8.9) and there is no hydrological connection evident such as would give rise to significant impact on existing watercourses nearby i.e. the canal (which I note is linked to European sites). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development will connect to existing public water and drainage services of Irish Water and Dublin City Council, upon which the effects of the works and use would not be significant. The development proposes works to the park which will significantly reinstate the historic layout of the park, including a third pathway off the fountain in keeping with the historic park layout, save an area where it is proposed to relocate the path (along the

canal side) slightly to safeguard a number of existing trees (See section 8.4 below). This proposal respects the historic integrity of original formal layout and would not have a significant impact upon Cultural Heritage in the area.

6.5.15. Having regard to: -

- The parent permission for the site ABP-303706-19 as subsequently amended by 3099/20,
- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 and 13- Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of much of the site on lands that are zoned Z9 for 'Amenity/Open Space Lands/Green Network' and the unzoned public roads under the provisions of the Dublin City Development Plan, and the results of the strategic environmental assessment of the Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4) (a) (v) of the Planning and Development Regulations 2001-21 (as amended),
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 and 7a of the Planning and Development Regulations 2001-21 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See EIAR Screening Form in Appendix 1).

7.0 The Appeal

7.1. Grounds of Appeal

One third party appeals have been received from Patricia Hodgins of Gilford Road Sandymount. The grounds of appeal can be summarised as follows-

- A seven year permission would sentence people in the area to seven more years of noise, dust, traffic disruption on top of what has already being suffered in the last few years.
- Restoration of the foundation in Wilton Park is welcomed. The emphasis should be on keeping the park as a park and it should not be used for commercial purposes.
- The park has become an area subject to anti-social behaviour.
- Existing trees should be retained
- The gateways to Wilton Terrace and Wilton Place should remain. An entrance opposite court apartments will cause congestion.
- The loss of 12 car parking spaces on Wilton Place will cause hardship to local residents and devalue Court Apartments.

7.2. Applicant Response

The applicant's response to the third party grounds of appeal can be summarised as follows-

- The Applicant appreciates redevelopment can be inconvenient for local residents. In order to mitigate the impact of works on neighbours especially Court Apartments a demolition dust management plan for the area adjacent Court Apartments has been developed with feedback from the Board of Management of the Court Apartments and their engineers. A copy of the plan is submitted. This plan is titled Demolition Dust Management Plan Two to Four Wilton Park. The plan is identified as Rev 2-16 February 2021.

- A seven year permission was requested because of the scale of the development and to align with the duration of the adjacent office permission (3099/20). At time of submission works on site were suspended due to Covid 19 restrictions. Nevertheless it is now considered that the works can be delivered within 5 years and the applicants are happy to invite such a condition.
- The applicants are happy to restore the foundation in-situ.
- The park will remain a restful green space as it always has but with additional seating, lighting etc. This is a privately owned park but is open to the public. The applicants intention is that it will remain open to the public. The proposal to host appropriate exhibitions and events in the park is a positive one and we disagree with the appellant in this regard. Reference is made to DCC website where they aim to promote the use of public spaces.
- The applicants have instituted a security system for the park where it is open during the day and locked as per times indicated in a picture of signage erected at the park i.e. 8pm in Spring Summer and 6 pm in Autumn/Winter. The park is checked multiple times every night by a security firm employed by the applicant.
- The proposal retains all but one tree and its removal is unavoidable to reinstate the historic path as per DCC's request.
- The application proposes closing the existing Wilton Terrace gate and relocating slightly to the south in order to reflect the historic path layout. The existing path to the existing gate will be removed and relocated accordingly. The applicant having consulted with local residents do not propose reopening the historic northern entrance and DCC's decision does not require it.
- Loss of car parking is due to very significant improvements being made to the adjacent public roads and footpaths. A significant amount of bike parking is proposed as part of the 2, 3 and 4 Wilton Park development (674 basement spaces and 17 public spaces). This will encourage significant staff numbers to travel by bike. A 2018 parking study submitted as part of this application found

there is spare parking provision along these streets and proposed on-street parking will meet the predicted future demand.

- The development will not devalue the Court Apartments even during construction. It should make them more attractive due to public realm improvements and the new office complex with mixed uses. A letter is submitted from Savilles Estate Agent in this regard.

7.3. Planning Authority Response

- None received

7.4. Observations

Five observations were received from-

- Kate O'Toole,
- Zuleika Rodgers,
- Fergus Fahey
- Katrina Goldstone
- Noel & Fidelma Magee

The relevant issues raised by observers can be summarised as follows-

- Reference is made to the applicants massive office redevelopment project which is ongoing and minimising the impact and protecting the health and well being of residents in the area. The impacts of such works on residents is immeasurable.
- The development involves the irreversible destruction of Wilton Square and is in contravention of DCC's policy of conservation. The proposal will require mature trees to be felled.
- The plan does not follow best practise in finding nature based solutions and has no concern for the health and well-being of local communities.
- The plans to open 'Wilton Square' and turn it into a plaza/short cut for office workers would destroy the enclosed nature of the amenity.

- One of the proposed entrances will be large enough to allow vehicular access which contradicts the nature of enclosure with historic railings.
- Concerns include commercialisation of public spaces.
- The nature of street furniture is unclear and there are no assurances it will be in keeping with the Georgian proportions of the space.
- Additional lighting has been proven to attract anti-social behaviour. Such behaviour has increased since the applicants took over the park. There continues to be a huge increase in littering in the area as volumes of visitors to the park increases substantially. Particular incidents are identified and security arrangements for the site and closing times are not consistent.
- The traffic plan ignores existing residential communities and the redirection of traffic is of no benefit to the public and are detrimental to the people living in the area.
- The removal of parking spaces will impact upon the quality of life of local residents. There is not enough parking in the area for commercial and business users as well as residents coming and going during the day.
- Under the terms of the existing planning permission (3527/81) the park shall be open to the public at large at least between 10.00 and 17.00 hours each weekday. A similar condition should be attached to this application. The applicants have not disagreed and provided a copy of the original permission which is attached with the observation.

7.5. Further Responses

Following circulation of the Applicants response to the appeal 5 Responses have been received from the Appellant(1) and the Observers (4). These generally challenge the applicants response and reiterate previously submitted comments including matters such as

- Anti-Social behaviour with specific incidents referenced
- devaluation of property in the area
- the timeframe of the suggested five year permission,

- the extent, scale and management of events
- Adequacy and need for the Demolition Dust Management Plan.
- Impact of light pollution
- References to snack bars
- Inadequate public consultation, dishonest claims of engagement with local community
- The 2018 car parking study is out of date and shows that parking is close to full capacity at 11.30 am. The three new office developments will generate more demand for parking on Wilton Place. This and the proposals to reduce car parking will create difficulties for existing residents.
- The impact of existing development in the area including health and safety, waste/debris from the existing building site and effects of dust etc

Concerns in relation to Covid infringements (in particular gatherings) have been highlighted. Any issues in respect of Govt or HSE infringements are a matter for enforcement/ consideration under separate legislative provisions.

8.0 **Assessment**

8.1. **Introduction**

8.1.1. I have examined the application details and all other documentation on file, including the submissions and observations received in relation to the appeal. I consider the substantive issues for assessment arising from the grounds of appeal and observations relate to the following matters-

- Zoning
- The Application type and length of permission required.
- Works to the Park
- Use of the Park
- Works to Public Roads

- Impacts of existing development and the Dust Management Plan
- Devaluation of property in the area
- Appropriate Assessment

8.2. Zoning

- 8.2.1. The majority of the site includes the open space area of Wilton Square. This is zoned Zone Z9: Amenity/Open Space Lands/Green Network. These lands have an objective *'To preserve, provide and improve recreational amenity and open space and green networks.'* The majority of the development proposed in this application relates to works to the park which are consistent with the Z9 zoning objective.
- 8.2.2. The remainder of the site appears to include areas of the public roads that have no designated zoning. In this context roadworks to existing roads is considered appropriate and I note a letter of consent from DCC (31/07/20) to make the application has been submitted.

8.3. The Application type and length of permission required.

- 8.3.1. Planning permission 4421/18 & ABP-303706-19 permitted much of the significant development that is currently under construction in this general area. Condition 3 of that permission omitted works to 'Wilton Square' which is the area of the majority of the subject application and appeal. Condition 4 of the permission stated permission was granted for a period of seven years from the date of the order (10/07/19).
- 8.3.2. The current application seeks to "amend" indicative road works permitted under 4421/18 & ABP-303706-19 and submits new/revised proposals for Wilton Square (the park). Previous proposals for the park were omitted by ABP under condition 3 of ABP-303706-19.
- 8.3.3. In the subject application the applicants originally sought permission for a seven year period. Dublin City Council issued their notification to grant permission. Condition 2 required the terms and conditions of the permission for the original development issued under 4421/18 & ABP-303706-19 to be complied with. I understand this to

include the subject application expiring at the same time as 4421/18 & ABP-303706-19.

- 8.3.4. In their response to the appeal the applicants have indicated they requested a seven year permission to align with 4421/18 & ABP-303706-19. However they now consider it is possible to complete the works in five years and are happy to invite a condition in this regard.
- 8.3.5. I note the applicants did not avail of their entitlement to appeal DCC's condition 2. It would, therefore, be unreasonable to restore or extend the duration of the permission for the proposed development that were restricted by the condition on the basis of a response to appeals by a third party where the grounds of those appeals objected to the development as a whole as well as highlighting the duration of works as a concern.
- 8.3.6. The nature of the works proposed in this application are considered relatively minor in the context of the development permitted under 4421/18 & ABP-303706-19 as amended by 3099/20. However the cumulative nature of all these works are considerable. When granting ABP-303706-19 the Board permitted seven years to complete the development instead of the ten originally sought by the applicants. The Inspectors Report for ABP-303706-19 refers to third party amenity concerns and detailed seven years was appropriate.
- 8.3.7. Notwithstanding section 251 and 251A (calculation of appropriate periods and timelines during emergencies) of the Planning and Developments Acts 2000-21 (as amended) I note the planning permission granted under 4421/18 & ABP-303706-19 will not expire before the 09th of July 2026. Having inspected the site and its surrounding areas, noting the considerable progression of works to date and having particular regard to residential amenity of the area, it is my opinion that should the Board grant permission it should expire at the same time as 4421/18 & ABP-303706-19. A condition to this effect should be applied if permission is granted.

8.4. **Works to the Park**

- 8.4.1. The Planning Authority initially raised concerns in relation to the proposed works to the park. In this regard they sought Additional Information seeking proposals to reinstate the historical landscape layout of the park and details of the proposed

materials. The applicants were also requested to explore options regarding reinstating the extinguished historic entrance along the north-eastern boundary of the park.

8.4.2. In their Additional Information response the applicants submitted a supplementary report titled 'Supplement to Wilton Square: a Unique Urban Space' dated November 2020. This submitted a similarly titled report with the application. The supplementary report details how the original submission was of limited scope because of time constraints including closure of the National Archive during Covid 19 restrictions.

8.4.3. The supplement provides mapping from 1840 (Original proposal, Dublin City Archive), 1864 5ft OS Map and overlays the 1840 map with the 1889 5ft OS Map. The report includes a number of photographs from 1979, 1984, 1985, 2008 and 2018. I am satisfied these provides a reasonable understanding of the historic layout and planting of the park. The report concludes that-

'the best match to the reality of the square is the 1889 map.....to reinstate the original boundary path, a whole row of currently existing trees along both north and the west side of the square must be removed totalling about 12 trees which are approaching c.40 years of age.'

This is overlaid with the current topographical survey of Wilton Square (Figure 18) which shows the impact of tree planting in 1984/5 on the original boundary walk. The report details trees should be retained and makes 5 recommendations summarised as follows-

- restoration of the fountain,
- restore the original entrances with paths leading to and in line with centre of fountain,
- retain existing circuit path,
- appropriate boundary planting and
- Definition of triangular geometry with copper beech specimen trees.

8.4.4. In the applicants Additional Information submission they detail that the 'Supplementary Report' was shared with DCC Senior Executive Landscape Architect and local residents and issues raised were addressed where possible. Following local

consultations the applicants now propose to realign the internal path on the canal side of the park, but further in from the boundary along the line of the 1889 map. This avoids the loss of four trees.

- 8.4.5. The Additional Information submission details that it was not possible to ascertain the original surface material of internal paths. As per the Supplementary Report the application proposes gravel as per the materials employed in Mountjoy Square and Merrion Square.
- 8.4.6. The Additional Information submission also details that local residents raised concerns about reopening the historic entrance to the northern boundary opposite Court Apartments and as such the application proposes reinstating the original pathway from the fountain to the gate but not to reinstate the historic gate. Reinstating the path will lead to the loss of one tree.
- 8.4.7. Following the submission of the Additional Information it is noted that DCC's Parks, Biodiversity and Landscape Services have stated no objections subject to the inclusion of conditions.
- 8.4.8. The application proposes retaining one new entrance, relocating an existing entrance to original historic position and to not open an historic entrance in the interest of residential amenity. The existing entrances are shown with 2.6m wide gates and the proposed new and relocated entrance are also to have 2.6m wide gates as per Drawing No. Town658(08)3001 submitted at Additional Information stage. I consider this width is reasonable to allow general access for a park which may require vehicles for maintenance. I note the Wilton Park Landscape and Public Realm Amendments report dated 08/2020 and submitted with the application appears to suggest the new entrance to north west corner of the park will be 4m wide. On closer review the report specifies this is the plinth width rather than the gate width.
- 8.4.9. The application proposes the removal of one tree to facilitate the reinstatement of the historic pathway from the fountain to the northern site boundary. Having considered public residential amenity concerns the application does not propose reopening the historic entrance at this location. I do not consider such an entrance would negatively impact upon residential amenity and its opening would be preferable. However it does not form part of the development description and the applicants have not

applied for it. In this context it would not, in my opinion, be appropriate to recommend a condition be applied to open the entrance.

8.4.10. The application also proposes the restoration of the historic fountain and supplying it with water from the public supply. A new water supply connection from Irish Water is proposed. This can be addressed by condition.

8.4.11. Condition 3 of ABP-303706-19 omitted the then proposed alterations to the existing layout and access arrangements at Wilton Park. In this regard I note the Inspectors Report stated-

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.

8.4.12. Having regard to all of the above and having considered the proposal as amended at Additional Information stage and revisions from the proposal under ABP-303706-19 which now retain and reinstate the fountain at its original location, I am satisfied that the application now proposes to significantly reinstate the historic layout, including a third pathway off the fountain in keeping with the 1889 map layout, save for an area where it is proposed to relocate the path (along the canal side) slightly to retain a number of existing trees. This proposal respects the historic integrity of the original formal layout and would not fundamentally alter it. I consider the proposal is in keeping with the sites Conservation Area status, contribute positively to and will enhance the character and distinctiveness of the area and its setting. The proposal is in accordance with Policy CHC4 of the Development Plan.

8.5. Use of the Park

- 8.5.1. Concerns have been raised in the appeal and observations with regards to the intended use of the park. I note one observer has referred to condition 5 of Permission 3527/81. This permission and condition appears to detail that the park shall be open to the public at large at least between 10.00 and 17.00 hours each weekday.
- 8.5.2. Based on the information on file and having inspected the site, I am satisfied that Wilton Square (the park) is a private park that is open to the public. The use of the park by the public would appear to be regulated by Condition 5 of 3527/81.
- 8.5.3. Having reviewed the development description submitted with the application I am satisfied the applicants have not applied for permission to use the park in any way that differs from the original permitted use of the park. In this regard the application and development description do not propose amending condition 5 of 3527/81 or to provide any commercial use.
- 8.5.4. In the response to the appeal the applicants detail they consider the hosting of exhibitions and events in the park is a positive one and they refer to DCC's website where the council aim to promote the use of public spaces for festivals and events etc.
- 8.5.5. While it would appear the applicants may have some intentions to use the park at some time in the future for exhibitions or events, I am satisfied those intentions do not form part of this application and therefore cannot be considered. Accordingly, and should the Board decide to grant permission, I consider there is no requirement to impose a condition regulating opening hours beyond what is already permitted, to restate Condition 5 of 3527/81 or to regulate the nature of the parks use.

8.6. Works to Public Roads

- 8.6.1. The application proposes amendments to the road works permitted under ABP-303706-19. It is noted these works are to the public roads and a letter of consent has been submitted from DCC. The concerns raised in the appeal and observations generally relate to the loss of car parking spaces for residents in the area and the need for changing Wilton Place to a one-way traffic system.

- 8.6.2. In their response to the appeal the applicants detail that the development proposed and permitted under ABP-303706-19 and as amended by 3099/20 will provide very significant improvements to adjacent public roads and footpaths, will provide significant bicycle parking- 674 in the basement of the office development and 17 spaces in the public realm. They argue that the quality and quantity of bike parking and changing facilities will encourage staff of the office development to travel by bike. The applicants also refer to a 2018 parking study which found spare parking provision along these streets.
- 8.6.3. Having inspected the site and the general area I noted the provision of public pay and display parking in the general area. I also noted a large number of free spaces at the time of my inspection. The site is located inside the canal ring, in close proximity to a number of bus routes and stops and a dedicated bicycle lane is provided along Wilton Terrace and the canal. There are also two Dublin Bike stands located along the canal side of the park.
- 8.6.4. The application submitted at Additional Information stage proposes the loss of 16 parking spaces (12 from Wilton Place, 3 from Lad Lane and 1 from Cumberland Road). The works will provide a taxi rank, a dedicated loading bay and 13 parking spaces to the north west boundary of the park along Wilton Place. No changes are proposed to parking along the northern boundary of Wilton Place. The application proposes the loss of 3 car parking spaces from Lad Lane and 1 from Cumberland Road. It will provide 15 parking spaces and a loading bay to Lads Lane and 4 parking spaces to Cumberland Road in lieu of the originally proposed loading bay. 2 existing parking spaces to Wilton Terrace are also proposed to be lost with a built out path in their place.
- 8.6.5. While I acknowledge concerns raised in relation to the loss of public on-street car parking for residents, the area is well served by public transport, bicycle infrastructure and significant parking remains in the general area. I note these spaces are public pay and display which are provided and managed by DCC who have raised no concerns. The proposal does not impact upon private car parking provision.
- 8.6.6. The works to Wilton Place will create a one way system from the junction with Cumberland Road to the corner of the LinkedIn building where a roundabout is

proposed. Wilton Place along the northern boundary of the park will remain two way. DCC have indicated these revisions will result in a limited traffic impact. I note concerns in this regard consider the proposal will only benefit the development. However, in my opinion, the proposed works which also include significant revisions to the public realm which will provide a visually more amenable environment for the benefit of all its users including local residents.

- 8.6.7. I note road works to Lads Lane appear to be just within the Fitzwilliam Square Architectural Conservation Area. The works proposed are amendments to the parent permission and involve provision of car parking spaces and a loading bay. They will not have a negative impact upon the ACA.

8.7. Impacts of existing development and the Dust Management Plan

- 8.7.1. I note the concerns of the appellants and the observers appear to generally relate to the cumulative impacts of the existing developments on site. In this context I note the proposals as set out in this application are in my view considered quite minor. Works to the park are unlikely to contribute excessive noise, dust or other negative residential amenity impacts. I accept the proposed road works could create excessive noise, dust and disruption, however this must be considered in the context of what is already permitted and the fact this application proposes amending those works.
- 8.7.2. In response to the appeal the applicants have submitted a 'Demolition Dust Management Plan' dated 16th February 2021. This plan proposes a number of measures including hoarding and protective screens. It also proposes a 'Cleaning Regime' for neighbouring properties. The plan submitted appears to relates to the works permitted under ABP-303706-19 and not to the proposed application. I also note during my site inspection that demolition works under ABP-303706-19 appear to have been completed and the worst impacts of dust from demolition are likely to be complete.
- 8.7.3. I am satisfied restricting the duration of the permission as per section 8.3 is an appropriate measure to manage residential amenity concerns including dust, noise and general disruption. Notwithstanding this, should the Board decide to grant permission I also consider it appropriate to apply a condition requiring the

submission of a new/revised Construction Management Plan to include for the works as proposed in this application.

8.8. Devaluation of property in the area

8.8.1. I note the concerns raised in the appeal and observations in respect of the devaluation of property in the area. I acknowledge the difficulties local residents are experiencing given the existing extent of development in the area. In this context, this application proposes relatively minor works and amendments to an already permitted development. Having regard to the matters addressed in this assessment, it is my opinion that the subject development when complete, would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity or warrant a refusal of this application.

8.9. Appropriate Assessment

8.9.1. *Introduction*

A screening report for Appropriate Assessment was submitted with this application compiled by ARUP and dated 21st of August 2020. It concludes that-

- *'There is no potential for the proposed development to significantly impact on Natura 2000 Sites.*
- *The proposed development is not directly connected with, or necessary to the conservation management of any Natura 2000 sites.*
- *The proposed development, alone or in combination with other project, is not likely to have significant effects on Natura 2000 sites in view of their conservation objectives.'*

8.9.2. *Stage 1 Screening*

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on European sites. The proposed development is examined in relation to any possible interaction with European sites designated Special

Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on such European Sites.

8.9.3. *The Permitted Development on site*

The proposed development comprises of amendments to road works permitted as part of a much larger office development under 4421/18 & ABP-303706-19 and subsequently amended under 3099/20. The application also involves works to Wilton Square i.e. the park.

The application permitted under 4421/18 & ABP-303706-19 can be described as the demolition of the existing up to 7 storey structures and the construction of a new up to 7 storey mixed-use office development. A Stage 1 screening report was submitted with that application. I note the Inspector agreed with the conclusions of the screening report and stated-

'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.'

8.9.4. *The Proposed Development and Receiving Environment*

Taking account of the characteristics of the proposed development in terms of its urban environment, nature, location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites-

- discharge of surface water from the site
- discharge of foul water from the site.

8.9.5. *European Sites*

Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites as set out in Table 1 to be within the zone of influence of the subject site-

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
South Dublin Bay SAC [000210]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 475m to the east
North Dublin Bay SAC [000206]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalwort <i>Petalophyllum ralfsii</i> [1395]	c. 4.1km to the north east
South Dublin Bay and River Tolka Estuary SPA [004024]	Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046] Oystercatcher <i>Haematopus ostralegus</i> [A130] Ringed plover <i>Charadrius hiaticula</i> [A137] Grey plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A149] Bar-tailed godwit <i>Limosa lapponica</i> [A157] Redshank <i>Tringa totanus</i> [A162] Black-headed gull <i>Chroicocephalus ridibundus</i> [A179] Roseate Tern <i>Sterna dougallii</i> [A192] Common Tern <i>Sterna hirundo</i> [A193]	c. 475 m to the east

	Arctic Tern <i>Sterna paradisaea</i> [A194] Wetland and waterbirds [A999]	
North Bull Island SPA [004006]	Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046] Shelduck <i>Tadorna</i> [A048] Teal <i>Anas crecca</i> [A052] Pintail <i>Anas acuta</i> [A054] Shoveler <i>Anas clypeata</i> [A056] Oystercatcher <i>Haematopus ostralegus</i> [A130] Golden Plover <i>Pluvialis apricaria</i> [A140] Grey Plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A144] Dunlin <i>Calidris alpina</i> [A149] Black-tailed Godwit <i>Limosa</i> [A156] Bar-tailed Godwit <i>Limosa lapponica</i> [A157] Curlew <i>Numenius arquata</i> [A160] Redshank <i>Tringa totanus</i> [A162] Turnstone <i>Arenaria interpres</i> [A169] Black-headed Gull <i>Chroicocephalus ridibundus</i> [A179] Wetland and Waterbirds [A999]	c. 4.1 km to the north east

I am satisfied that other such European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site.

8.9.6. **Test of Likely Significant Effects**

The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction (direct or indirect) with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Based on the source-pathway-receptor model, the nearest downstream pathway to designated sites from the appeal site would appear to be the Grand Canal to the south of the site which flows into Dublin Bay. The site is surrounded by existing urban development and I am satisfied that significant effects from the development would not be likely in this context, as there are no other obvious pathways to European Sites.

8.9.7. *Potential Effects*

Having regard to the urban context of the site and the nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. I consider standard construction methods would generally be sufficient to address these considerations during both the construction and operational phase.

Due to the nature of the application site and the proposed development, it is considered there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.

Section 2.3.1 of the screening report details a new water supply connection to the Square (fountain) will be required. It also details that there will be no drainage measures in the park as is currently the case.

Section 2.9 of the Traffic Engineering and Drainage Report submitted with the application details surface water runoff proposals will connect by gravity to new surface water sewer constructed along Wilton Place and to DCC requirements. This sewer will connect back to the existing sewers in the area. The application proposes no change to surface water disposal from the park area. I consider there will be minimal if any change to the quantity or quality of surface water leaving all areas of the site.

Section 2.9 of the Traffic Engineering and Drainage Report does not propose foul water arrangements. It does detail a new water supply connection will be required. It is considered that drainage from the fountain will be required. Although this does not appear to be specified in the application it will be required to be through a

connection to the foul sewer which would require agreement with Irish Water requirements. This can be addressed through condition.

Any foul water from the site would then be discharged via the public system with discharge to the Ringsend Wastewater Treatment Plant (WWTP). Permission has been granted (ABP Ref. 301798-18) for works that would increase the capacity of the plant. I note there is evidence to suggest that some nutrient enrichment is benefiting winter birds for which the SPAs have been designated in Dublin Bay (Nairn & O' Halloran eds, 2012). Increased flows from this project to Ringsend WWTP, individually or cumulatively are not likely to have a significant impact on European sites.

Given the nature and amount of the water being disposed from the fountain, I consider that the distances are such that any pollutants in discharge post treatment from the Ringsend WWTP would be minimal and would be sufficiently diluted and dispersed. Therefore, there is no likelihood that pollutants arising from the proposed development, either during construction or operation, could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

8.9.8. *In-combination Impacts*

I note the developments permitted under 4421/18 & ABP-303706-19 and subsequently amended under 3099/20 were considered by ABP and DCC to be unlikely to have a significant effect individually or in combination with other plans and projects on a European site. Having regard to the above findings of no likely significant effects from the proposed development, I am satisfied that likely significant in-combination impacts would not arise in this context.

8.9.9. *Conclusion*

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024),

- South Dublin Bay SAC (Site Code: 000210),
- North Bull Island SPA (Site Code: 004006) and
- North Dublin Bay SAC (Site Code: 000206),
- or any other European sites, in light of the sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 Recommendation

9.1. I recommend that permission is granted subject to the following conditions-

10.0 Reasons and Considerations

Having regard to the parent permission for the site ABP-303706-19 as subsequently amended by 3099/20, the nature of the proposed development, the existing urban environment, the Z9 zoning objective that applies to Wilton Square, the unzoned nature of the public roads, site's location within a designated Conservation Area and partly within an Architectural Conservation Area, the site's close proximity to public transport and existing bicycle infrastructure, the sites close proximity to the Grand Canal pNHA and subject to compliance with the conditions set out below, the proposed development would restore the historic integrity of original formal layout of Wilton Square, would contribute positively to the character and distinctiveness of the designated conservation area, would enhance the character and appearance of the conservation area and would be in accordance with Policy CHC4 of the Dublin City Development Plan 2016-2022. The proposal would not individually (or in combination with other plans or projects) be likely to have significant effects on the environment nor would it be likely to have a significant effect on designated European Sites, it would not injure the visual amenities, built heritage or character of the area and would be acceptable in terms of traffic and road safety. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 22nd day of December 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The developer shall comply with all terms and conditions of the parent application Reg. Ref.: 4421/18 & ABP-303706-19 including its expiry, as subsequently amended under Reg. Ref.: 3099/20 save for amendments made by this application.

Reason: In the interest of clarity.

3. Details of the materials, colours and textures of all the materials including paving to public roads, railings, gates, restored paths, park furniture, street furniture and lighting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The road works serving the proposed development including, junctions, parking areas, footpaths, kerbs and materials shall comply with the detailed standards of the planning authority for such road works and shall comply with all relevant aspects of DMURS.

Reason: In the interest of pedestrian and traffic safety.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the park, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

6. Drainage arrangements (including disposal of wastewater from the fountain) shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to commencement of development

Reason: In the interest of public health

7. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. The proposals of the Landscaping and Public Realm Amendment Report as submitted to the Planning Authority on the 2nd day of September 2020 as amended by the further plans and particulars including Drawing Number TOWN658(08)3001, submitted on the 22nd day of December 2020 shall be carried out within the first planting season following substantial completion of works to the Wilton Square (Park). 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 visual amenity.

9. A minimum of 10% of all proposed car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals for agreement in writing with the Planning Authority prior to the commencement of development.

Reason: In the interest of orderly development and to provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

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

Reason: In the interests of public safety and residential amenity.

11. 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.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

13. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Adrian Ormsby
Planning Inspector

20th of October 2021

12.0 Appendix 1

A. CASE DETAILS		
An Bord Pleanála Case Reference		
Development Summary	<p>Amendments to ABP-303706-19, Works to Wilton Square (Park)- closure of an existing entrance and path leading from Wilton Terrace to the park fountain, creation of a new entrance and pathway to the fountain to match its historic position from Wilton Terrace, restoration of the historic fountain in its current location; creation of a second new entrance to the park from Wilton Place, landscaping, installation of new park furniture and lighting• Works to public road- road resurfacing and reconfiguration, changing Wilton Place (from Cumberland Road to the LinkedIn corner) to a one-way traffic system , removal of 16 on-street car parking spaces (12 from Wilton Place, 3 from Lad Lane and 1 from Cumberland Road), reconfiguration of the Wilton Terrace/Cumberland Road/Wilton Place road junction, provision of pedestrian crossing areas, two loading bays</p>	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	The Planner’s report on file details that the proposed development is sub-threshold and that the preparation of an EIAR is not required.
2. Has Schedule 7A information been submitted?	Yes	It is considered that sufficient information has been submitted by the applicant to allow for a Screening Determination to be carried out of the proposed development under appeal.
3. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report has been submitted as part of the initial application.

4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	N/A		
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	The lands on which the proposed site is located have been subject to a Landscape Character Assessment (LCA). Landscape Assessment of County Leitrim, 2002.	
B. EXAMINATION		<p>Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The application involves amendments to roadworks permitted under ABP-303706-19 as subsequently amended by 3099/20. The application also involves revised works to Wilton Square. The original proposal to the Square where omitted by condition 3 of ABP-303706-19.		No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	No, the existing site has site is already within an urban area. The application involves roadworks and small scale interventions to existing fabric of the park area.		No

1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Standard construction methods and materials. No significant use of natural resources in operational phase.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	No such materials required or produced.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	No, Dust can be managed through condition for Construction Management Plan specific to proposed works.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No discharge of pollutants to ground or surface waters likely. Can be managed through condition for Construction Management Plan specific to proposed works.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	The extent of noise and vibration from the subject works is not considered significant.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No risk of major accidents given nature of subject application.	No
1.10 Will the project affect the social environment (population, employment)	The duration of this permission will be limited to the expiry of the parent permission ABP-303706-19.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	The application involves amendments to ABP-303706-19. This application is considered minor in the context of that permission.	No

2. Location of proposed development

<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>Wilton Square Park is located across Wilton Terrace from the Grand Canal which is pNHA. Some of the roadworks adjoin the boundary of the pNHA.</p> <p>The extent of works to the park and road are not considered significant.</p>	<p>No</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>Existing developed site and park. The extent of works proposed are not considered significant.</p> <p>It is noted the EIA screening report details 12 trees will be removed. Following submission of AI, only one tree is proposed to be removed.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>The site is located with a Conservation Area and part of Lads Lane appears to be within the Fitzwilliam square ACA. There are 6 protected structures located opposite the northern boundary of the park.</p> <p>The proposed works to the park will reinstate the historical park layout, restore the foundation (on the NIAH) and are considered in accordance with Policy CHC4 of the Development Plan.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No such resources on or near the site.</p>	<p>No</p>

<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>The site is located in close proximity to the Grand Canal. Given the nature of the work proposed to roads and an existing park it is considered there will not be a significant effect on the Canal.</p>	
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>No</p>
<p>2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>The site is in an existing urban environment.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</p>	<p>The site is in an existing urban environment and there are a number of residential and urban land uses in the immediate area.</p>	<p>No</p>
<p>3. Any other factors that should be considered which could lead to environmental impacts</p>		
<p>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</p>	<p>The application involves amendments to ABP-303706-19 as subsequently amended by 3099/20. The site is in an existing urban environment. In the context of the parent permission the proposed amendments to roadworks and works to the park are not considered significant.</p>	<p>No</p>
<p>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</p>	<p>No</p>	<p>No</p>
<p>3.3 Are there any other relevant considerations?</p>	<p>No</p>	<p>No</p>
<p>C. CONCLUSION</p>		
<p>No real likelihood of significant effects on the environment.</p>	<p>X</p>	<p>EIAR Not Required</p>

Real likelihood of significant effects on the environment.		
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D. MAIN REASONS AND CONSIDERATIONS

Having regard to:

- The parent permission for the site ABP-303706-19 as subsequently amended by 3099/20
- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 and 13-Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of much of the site on lands that are zoned Z9 for ‘Amenity/Open Space Lands/Green Network’ and the unzoned public roads under the provisions of the Dublin City Development Plan, and the results of the strategic environmental assessment of the Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4) (a) (v) of the Planning and Development Regulations 2001-21 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 and 7a of the Planning and Development Regulations 2001-21 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development is not necessary in this case.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____