



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309610-21

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|-------------------------------------|---|
| <b>Development</b>                  | Additional floor over approved 4-storey front block and additional floor over approved 6-storey rear block and building core. |
| <b>Location</b>                     | 20 Merrion Road, Ballsbridge, Dublin 4.   |
| <b>Planning Authority</b>           | Dublin City Council   |
| <b>Planning Authority Reg. Ref.</b> | 3879/20   |
| <b>Applicant(s)</b>                 | Knockanore Properties UC  |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant   |
| <b>Type of Appeal</b>               | Third Party vs. Grant   |
| <b>Appellant(s)</b>                 | Phillip O'Reilly  |
| <b>Observer(s)</b>                  | Cathy Morrow  |
| <b>Date of Site Inspection</b>      | 10 <sup>th</sup> January 2022   |
| <b>Inspector</b>                    | Stephen Ward  |

## 1.0 Site Location and Description

- 1.1. The site is located at the junction of Ballsbridge Park and Merrion Road in Ballsbridge and is distanced approximately 2km southeast of the city centre area. The area contains a mix of uses, including a range of small neighbourhood businesses along Merrion Road and small-scale residential development along Ballsbridge Avenue to the northwest of the site. The RDS events/exhibition campus (Protected Structure) and the City of Dublin Education and Training Board offices (Protected Structure, Former Pembroke Town Hall) are located on the opposite (southern) side of Merrion Road. Immediately eastwards along Merrion Road is No. 32 (Protected Structure), which appears to be used in connection with No.'s 34-36 ('Horse Show House' public house). Beyond this the former AIB Bank Centre is currently being redeveloped to provide significant additional office space. There are also three large modern office blocks to the north of the site along Ballsbridge Park.
- 1.2. The site itself extends to a stated area of 0.3354 hectares. It previously housed a 2-storey office building with ancillary ground floor restaurant. These buildings have been recently demolished, and the site is now under construction at basement level following several recent permissions for office development.

## 2.0 Proposed Development

- 2.1. The proposed development involves an amendment to the parent permission P.A. Reg Ref 4658/18, which itself has already been amended by P.A. Reg Refs 4603/19 and 3027/20. In summary, it comprises the following:
- Additional floor over approved 4-storey front block facing Merrion Road, involving increased building height from 17.3m to 21.125m
  - Additional floor over approved 6-storey rear block and building core, involving increased building height from 25.1m to 28.925m
  - Minor internal layout changes and ancillary works
  - A gross floor area increase of 1250m<sup>2</sup>, from 10,531m<sup>2</sup> to 11,781m<sup>2</sup>.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 9<sup>th</sup> February 2021, Dublin City Council (DCC) issued notification of the decision to grant permission for the development, subject to standard conditions. Condition No. 4 included some notable requirements to agree parking proposals, which can be summarised as follows:

(b) revised basement layout for motorbike parking provisions

(c) 10 no. Sheffield stands providing 20 no. visitor cycle spaces to be provided at surface level within the site along Merrion Road

(d) 139 no. secure staff bicycle parking spaces to be provided.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planner's report can be summarised as follows:

- The principle of office use has already been established under previous permissions and it is noted that the adjoining site is currently being redeveloped to significantly increase office space in the area. Development Plan policy CEE11 supports the increased supply of commercial floorspace and there is no objection in principle to the proposed additional office space.
- The original permission for the 4-6 storey building acknowledged the suitability of this strategic corner location for increased height in accordance with the Ministerial Guidelines on Urban Development and Building Heights (2018). The proposed increase in height is also broadly in accordance with the criteria set out in Section 3.2 of the Guidelines.
- The applicant's Visual Appraisal Report has been reviewed, particularly with regard to the most sensitive viewpoints (Views 2, 3, 11 & 12). The Planning Authority is satisfied with the assessment of visual impacts of the proposal having regard to its prominent corner location and its somewhat sensitive location close to residential receptors and Protected Structures.

- The proposal is generally respectful to the proximity of Protected Structures, which will not be negatively impacted by the proposed development.
- There is no change to the permitted car-parking provision and the maximum parking standards will not be exceeded. The DCC Transportation Planning Division has recommended conditions relating to parking proposals. Subject to these conditions, the planning authority is satisfied with car parking and cycle parking arrangements.
- There would be marginal increases to site coverage and plot ratio compared to the permitted development, and the proposed plot ratio (3.51) would exceed the indicative ratio for Z6 areas. However, the Development Plan allows a higher plot ratio in certain circumstances and the proposal is considered acceptable given that it already benefits from a higher ratio and having regard to the nature of surrounding uses and good transport links.
- The applicant has provided an adequate assessment of daylight/sunlight impacts on surrounding properties. The most sensitive receptors (the dwellings along Ballsbridge Avenue) all have a VSC greater than 27% or 0.8 times their former value, which exceeds the BRE recommendations. The Planning Authority is satisfied that the proposal will not give rise to an unacceptable or unreasonable level of overshadowing or loss of daylight/sunlight.
- No Appropriate Assessment issues arise.
- A grant of permission is recommended, subject to conditions. This recommendation forms the basis of the DCC decision.

### 3.2.2. Other Technical Reports

- Drainage Division: No objections subject to standard conditions.
- Transportation Planning Division: No objections subject to conditions. The report highlights that the submitted basement drawing does not reflect the permitted development and contains layout conflicts between motorbike and car parking. It also requests agreement on bicycle stacking systems and surface cycle spaces for visitors.

### 3.3. Prescribed Bodies

No submissions received.

### 3.4. Submissions / observations

Two third-party objections were received. The issues raised can be summarised as follows:

- Concerns about increased height/scale and adverse impacts on Protected Structures and architectural heritage in the area.
- The increased height would contradict planning decisions on the former AIB Bank Centre lands where a parapet height of 16.025m + 1.1m (glass) has been established for developments facing Merrion Road.
- Proximity of the building to Merrion Road.
- Increased height at the rear of the building may be possible subject to further analysis, clever architectural design, and sympathetic consideration to residential amenity.

## 4.0 Planning History

### 4.1. Appeal Site

**ABP Ref PL 29S 238750:** Permission granted (1<sup>st</sup> September 2011) for material change of use from car showroom to office.

**P.A. Ref. 4658/18:** Permission granted (23<sup>rd</sup> July 2019) for demolition of the existing two storey office and restaurant building (2,368m<sup>2</sup>) and the erection of a part 4, part 6 storey (over two storeys of basement) building with a GFA of 10,395m<sup>2</sup>, comprising office (net area 5,481m<sup>2</sup>) and restaurant (net area 455m<sup>2</sup>) use, parking, substation and ancillary accommodation and works. The building takes the form of two distinct blocks (a north and south block) which are linked by a central stair and lift core. The south block, fronting Merrion Road, extends to a height of 17.075m. The north block extends to a height of 25.1m.

**P.A. Ref. 4603/19:** Permission granted (20<sup>th</sup> March 2020) for amendments to 4658/18. The amendments consisted of alterations to the core to increase usable space, enlargement of basement levels to remove restaurant and car parking from level -1 and provide increased office space (1118m<sup>2</sup>) and gym (181m<sup>2</sup>) with 40 car-parking spaces at level -2, alterations to car and cycle parking arrangements, provide café/restaurant and office breakout space at ground level, and other minor alterations to plant, layout, elevations etc.

**P.A. Ref. 3027/20:** Permission granted (15<sup>th</sup> December 2020) for amendments to 4658/18 and 4603/19. The amendments consisted of relatively minor alterations to plant and lift/stair cores, enlargement of basement levels by 270m<sup>2</sup>, alterations to materials/finishes, reduction in café/restaurant area, minor alterations to floor layouts, elevations and parking arrangements.

#### 4.2. Former AIB Bank Centre site

There is a significant planning history relating to the former AIB Bank Centre site to the east, which can be summarised as follows:

**ABP. Ref. No. PL29S.237503:** An Bord Pleanála refused planning permission (7<sup>th</sup> February 2011) for a mixed use development comprising the demolition of all six blocks (c.15,700 square metres) and the erection of 6 no. seven to nine storey buildings with two basement levels with a gross floor area of c.52,000 square metres. Permission was refused for three reasons relating to:

- Inappropriate scale, massing and height which would result in a radical change in the urban form and the established character of Ballsbridge.
- The proposal represents an overdevelopment and over intensification of use on the subject site and would detract from the visual character of the area.
- The proposed buildings because of scale, massing and height and proximity to the boundaries would be overbearing and seriously injure the amenities of property in the vicinity.

**ABP Ref. No. PL29S.246717:** On 3<sup>rd</sup> October 2016 the Board upheld the decision of Dublin City Council to demolish four office blocks on the site and to erect 2 four/six-storey office buildings together with two new café/retail units on the subject site. The decision of Dublin City Council was the subject of numerous third-party appeals. The

Board upheld the decision of the Planning Authority but included Condition No. 2 which required the following:

*'The development shall be amended by the omission of the recessed upper level in its entirety at floor six in Blocks 1 and 2. Revised roof plans containing details of any proposed roof plant equipment and/or roof gardens in these areas should be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.'*

**Reason:** *To protect the amenities of neighbouring, residential, commercial and heritage properties located within this transitional area'.*

**ABP. Ref. No. 300232-17:** An Bord Pleanála refused planning permission (2<sup>nd</sup> May 2018) for the provision of a 5th floor (6th storey) over basement level on Block 1 Granted under PL29S.246717 and all associated site works. The reason for refusal was as follows:

*Having regard to the planning history of the subject site and specifically condition number 2 of An Bord Pleanála appeal number PL 29S.246717, which required the omission of the recessed upper level in its entirety at floor six in Blocks 1 and 2, it is considered that there has been no material change in circumstances which would warrant or justify the incorporation of an additional storey on Block 1. It is, therefore, considered that the proposed development would adversely impact on neighbouring residential, commercial and heritage properties in the area and would, therefore, be contrary to the proper planning and sustainable development of the area.*

#### 4.3 Horse Show House site

There is also a history of Board decisions relating to the proposed redevelopment of the 'Horse Show House' public house at 32-36 Merrion Road as follows:

**ABP Ref. No: 29S.116735:** Permission refused by the Board for the demolition of the public house and for the provision of a four-storey building with basement and plant area at roof level on the grounds that the proposed development due to its height, scale, design and proximity to a List 1 building (No. 32 Merrion Road) would be seriously injurious to the amenities of the listed building.

**ABP Ref. No: 29S.200574:** Permission refused (25<sup>th</sup> March 2003) for demolition of existing public house building and associated out building, and the construction of a

five-storey office building with Car park at basement level and plant at roof level and for the restoration of an existing Protected Structure at 32 Merrion Road, in use as an office building, including the demolition of rear extensions and the construction of two new extensions at basement level. Permission was refused on the following grounds:

*The site of the proposed development is located within an established streetscape of two and three storey buildings and incorporates number 32 Merrion Road, a protected structure. It is considered that the proposed development, by reason of its height, scale and design, would be visually incongruous and out of character in the streetscape and would materially and adversely affect the integrity and setting of the protected structure. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.*

## 5.0 Policy Context

### 5.1. National Policy/Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking

5.1.2 Following the theme of 'compact urban growth' and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**, hereafter referred to as 'the Building Height Guidelines', outlines the wider strategic policy



considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 The **Architectural Heritage Protection Guidelines for Planning Authorities**, hereafter referred to as the 'Architectural Heritage Guidelines', sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

## 5.2. Development Plan

5.2.1 The operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The site is zoned as 'Z6', the objective for which is '*To provide for the creation and protection of enterprise and facilitate opportunities for employment creation*'. It states that these 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. Outside the canal ring, office uses are 'open to consideration' in this zone.

5.2.2 Chapter 6 of the Plan deals with the 'City Economy and Enterprise' and outlines the need to develop Dublin as a dynamic city region and the national economic engine. Section 6.5.2 states that a choice of good quality cost-competitive commercial space is critical and there is a need to redevelop outdated office stock. The following economic/enterprise policies and objectives are relevant to the current appeal:

**CEE1** promotes Dublin and the city centre as the national economic growth engine, promotes competitiveness and existing/new jobs.

**CEE3** promotes a pro-active approach to the economic impact of major planning applications with regard to economic development and employment.

**CEE4** promotes global links and competitiveness, jobs which provide quality of life.

**CEE11** aims to promote and facilitate the supply of commercial space including offices, where appropriate, as a means of increasing choice and competitiveness, and to consolidate employment provision in the city.

5.2.3 The building directly to the east of the site (No. 32 Merrion Road) is included as a Protected Structure, as are the RDS and Pembroke Town Hall buildings on the opposite side of the road. The area along the River Dodder to the west is designated as a Conservation Area. Chapter 11 of the Plan deals with Built Heritage and Culture and section 11.1.4 outlines a strategic approach to protecting and enhancing built heritage based on the existing and ongoing review of Protected Structures, ACA's, Conservation Areas and Conservation Zoning Objective Areas. In summary, relevant policies include:

**CHC1** Seek the preservation of the built heritage of the city.

**CHC2** Ensure that protected structures and their curtilage is protected.

**CHC4** To protect the special interest and character of all Conservation Areas

5.2.4 Chapter 4 outlines the shape and structure of the City and provides for taller buildings in designated areas. Outside these designated areas and SDRAs it is otherwise policy to retain the remaining areas of the city to a maximum height of between 16m and 28m depending on location. Section 4.5.4.1 (Approach to Taller Buildings) outlines that the spatial approach to taller buildings in the city is in essence to protect the vast majority of the city as a low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller buildings to deliver the core strategy. Section 16.7.2 includes height limits for 'low-rise' commercial development in the 'inner city' (up to 28m), 'rail hubs' (up to 24m) and the 'outer city' (up to 16m). Relevant policies can be summarised as follows:

**SC7:** To protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence.

**SC17:** To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, including the demonstration of sensitivity to the historic city centre.

**SC28:** To promote understanding of the city's historical architectural character to facilitate new development which is in harmony with the city's historical spaces and structures

5.2.5 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 “Design, Principles & Standards” provides design principles outlining that development should respect and enhance its context.

### 5.3 Natural Heritage Designations

The Grand Canal Proposed Natural Heritage Area is located c. 1km to the northwest of the site. The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC, both located c. 1.5km to the east of the site.

### 5.4. EIA Screening

5.4.1. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. With regard to EIA thresholds, Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- 10(b): 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.)

5.4.2. It is proposed to construct an office development of 11,871m<sup>2</sup> on a site area of 0.3354 hectares, within an area which could be considered the ‘business district’ of Ballsbridge. Therefore, the size of the site is significantly below the lower threshold area of 2 hectares for ‘business district’ locations.

5.4.3. The site is currently under construction following the removal of former commercial buildings. It is largely surrounded by similar commercial development. The introduction of an office development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area. There are several Protected Structures in the surrounding area, but I am satisfied that impacts in this regard can be adequately addressed as planning issues in the context of proper planning and sustainable development of the area and without the need for EIA.

5.4.4. The proposed development is not likely to have a significant effect on any European Site (as outlined in Section 8 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be minimal.

5.4.5. Having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 (b) - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned 'Z6', which accommodates enterprise uses including offices under the provisions of the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the Dublin City Development Plan 2016-2022, 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 urban development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to avoid significant effects by reason of connectivity to any sensitive location,
- 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 of the Planning and Development Regulations 2001 (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 (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The decision of DCC to grant permission has been appealed by a third party, namely Phillip O'Reilly of Grosvenor Place, Rathmines. The grounds of appeal can be summarised as follows:

- The principles of 'proper planning and development' in Dublin are being decided by builders and developers and no longer by the prescribed planning authorities. This is just another typical example.
- The developer has already been granted permission for substantial development under recent permissions and is now seeking more.
- This historic core of Ballsbridge has buildings of significant historical and architectural merit which are under threat.
- People have lived in this area, themselves in small and unique buildings of architectural character and merit.
- The oldest and most historic building in Ballsbridge (a protected structure 2-storey brick structure over semi-basement), as well as the Horse Show House, Pembroke Town Hall and RDS buildings, would be overwhelmed by the height of the proposed 5-7 storey development which would dominate the area.
- The unique single storey historic cottages on Ballsbridge Avenue would be overwhelmed, overlooked and overshadowed, thereby denying their residential amenity.

## 6.2. Applicant Response

The applicant's response to the appeal can be summarised as follows:

- The planning system in Ireland is fair and transparent and is managed in accordance with applicable legislation and local/national policy.
- The amendment applications permitted to date (i.e. P.A. Reg Refs 4603/19 & 3027/20) have not materially increased the height, bulk or mass of the parent permission building.
- The application includes a statement from Cathal Crimmins Architect, which is intended to be read in conjunction with the Conservation Impact Assessment by Robin Mandal Architects submitted under P.A. Reg Ref 4658/18. It concludes that while the proposed project is higher, it has little additional impact on the architectural heritage of the site.
- The Visual Appraisal submitted with the application concludes that the development would be in context with emerging trends and the urban context, and this has been accepted by the Planning Authority.
- The applicant's reports have outlined that the parent permission has a positive impact on No. 32 Merrion Road and that the increased height proposed would have little additional impact. Impacts on the RDS and Pembroke Town Hall remain neutral. This has been accepted by the Planning Authority.
- The proposal would be significantly setback from the Ballsbridge Avenue properties and would be in keeping with existing development. The applicant's Daylight, Sunlight and Overshadowing Assessment has demonstrated that the proposal performs in line with BRE recommendations, and this has been accepted by the Planning Authority. The proposal would not overwhelm, overshadow or overlook the existing properties, nor harm their residential amenity.

## 6.3. Observations

A submission has been received by Cathy Morrow of Ballsbridge Avenue. It is also stated to be submitted on behalf of other residents of Ballsbridge Avenue and

contains a separate letter from Seamus Fitzpatrick, secretary of Lincourt Management. The submission supports the development of the site but objects to the current proposal on the following grounds:

- The additional height and scale is totally unacceptable, would be out of character with existing dwellings and historic buildings in the area, and would have an overwhelming impact on the area.
- The excessive proximity of the building line to the street encroaches on the historic village space.
- There is already adequate office space, and the Board should be encouraging reduced mass and environmentally enhancing schemes.
- The effects of reduced sunlight / daylight would be a major blow to the enjoyment of these homes. Inadequate analysis and information have been provided to assess these impacts, as well as overshadowing impacts on hedging and wildlife.
- The existing water feature on the site acts as a local amenity for residents and wildlife and there is no regard for impacts in this regard.
- Increased traffic will have spill-over impacts on Ballsbridge and reduce limited parking availability for residents.
- Increased footfall will impact on the privacy of residents.
- In the event of a grant of permission, it is requested that demolition/construction should not commence before 8 a.m. and traffic should be appropriately managed along Ballsbridge Avenue.
- Lack of consultation with local residents.

#### **6.4 Planning Authority Response**

None.

## 7.0 Assessment

### 7.1. Introduction

- 7.1.1. This case mainly involves a proposal to provide an additional floor level to both the 4-storey and 6-storey elements of the permitted office development, which is currently under construction. Having regard to the planning history of the site, I consider that the principle of office use has been suitably established and there is no objection in principle to the nature of the development.
- 7.1.2. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issue in this appeal relates to the increased height and scale of the development. I propose to assess this matter mainly with reference to impacts on the following:
- Visual Amenity and Built Heritage
  - Daylight/Sunlight
  - Traffic and Parking

### 7.2. Visual Amenity and Built Heritage

#### Building Height Policy

- 7.2.1. I have previously outlined Development Plan policy in relation to building height in the city. In particular, I note that section 16.7.2 of the Plan includes height limits for 'low-rise' commercial development in the 'inner city' (up to 28m), 'rail hubs' (up to 24m) and the 'outer city' (up to 16m). The appeal site is not located within the 'inner city' and therefore the 28m height policy does not apply. The Plan defines 'Rail hubs' as being '*within 500m of existing and proposed Luas, mainline, DART, DART underground and Metro station*'. Based on an approximate measurement 'as the crow flies', the distance from the appeal site to the Landsdowne Road DART station is on the margin of 500m, with Sandymount DART station being slightly further away. Given the inherent difficulty in defining a precise 'station' point from which the 500m distance should be measured, I would consider it reasonable to apply some flexibility on the matter. Accordingly, I consider that the appeal site is within a 'rail hub' where



an increased height limit up to 24m applies. The proposed 5<sup>th</sup> storey element to the front of the site (21.125m) would not exceed this limit. However, with a maximum proposed height of 28.925m for the proposed 7<sup>th</sup> storey element to the rear of the building would. The Board may wish to consider this a **new issue**.

7.2.2. In terms of national policy, the ‘*Urban Development and Building Heights Guidelines*’ promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights. SPPR 3 sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise. This is discussed further in sections 7.2.12 to 7.2.26 of this report.

Quantum of Development

7.2.3. It is proposed to increase the gross floor area of the project by 1250m<sup>2</sup>, from 10,531m<sup>2</sup> to 11,781m<sup>2</sup>, on a stated site area of 3354m<sup>2</sup>. The Development Plan outlines that ‘plot ratio’ is a tool to help control the bulk and mass of buildings and that ‘site coverage’ is a control for the purpose of preventing the adverse effects of over-development. A summary of the Development Plan standards in relation to the permitted and proposed development is outlined below.

|                      | <b>Development Plan Standard for Z6</b> | <b>Permitted Development</b>  | <b>Proposed Development</b>   |
|----------------------|---|---|---|
| <b>Plot Ratio</b>    | 2.0 – 3.0 for ‘outer city’              | 3.1   | 3.5   |
| <b>Site Coverage</b> | 60%                                     | c. 40.5% (Based on 1 <sup>st</sup> floor area of 1359m <sup>2</sup> ) | c. 40.6% (Based on 1 <sup>st</sup> floor area of 1363m <sup>2</sup> ) |

7.2.4. As outlined above, the proposed site coverage remains quite low. However, as a result of the building height and overall scale, the proposed plot ratio would significantly exceed the indicative standards. I acknowledge that Section 16.5 of the Plan allows for higher plot ratios in certain circumstances including sites adjoining major public transport termini and corridors; cases where an appropriate mix of residential and commercial uses is proposed; to facilitate comprehensive redevelopment in areas in need of urban renewal; to maintain existing streetscape profiles; and where a site already has the benefit of a higher plot ratio. These factors will be taken into consideration in my assessment below.

#### Planning History

- 7.2.5. The appeal has raised the issue of precedent as it relates to the former AIB Bank Centre, and I have also outlined the relevant planning history of the Horse Show House site. And while I would acknowledge that each case is different and should be judged on its merits, I consider that this planning history is relevant to the current case.
- 7.2.6. For the former Bank Centre site, the development permitted by the Board in October 2016 (ABP Ref. PL 29S.246717) is now at an advanced stage of construction. It consists of 2 blocks which are 4-storey (parapet level c. 20.6m OD) facing onto Merrion road at a setback of c. 20m, with a further 5<sup>th</sup> storey level setback c. 35m from Merrion Road at a parapet height of c. 24.68m OD. A proposed 6<sup>th</sup> storey level (setback further again, c. 45m from the road and with a parapet height of 28.195m OD) was omitted by the Board in order to protect the amenities of neighbouring residential, commercial and heritage properties located within this transitional area.
- 7.2.7. A subsequent appeal case (ABP Ref. 300232-17) involved a decision wherein DCC had granted permission for the effective reinstatement of a similar 6<sup>th</sup> storey level for Block 1 with a parapet level of 28.58m OD and a setback of c. 40m from the road. However, the Board refused permission on the basis that there had been no material change in circumstances which would warrant or justify the incorporation of an additional storey on Block 1, and that the proposal would adversely impact on neighbouring residential, commercial and heritage properties in the area.
- 7.2.8. While the Horse Show House site decisions are older, they are even more comparable to the current case given the respective site locations either side of No.

32 Merrion Road. The first-mentioned case (ABP Ref 29S.116735) involved the refusal of a proposal for a 4-storey building, while the more recent proposal (ABP Ref 29S.200574) proposed a 3-storey office building at the front of the site with two upper floors set back behind the rear wall of the No. 32 Merrion Road. In these cases, the Board's decisions to refuse permission were clearly based on excessive height and scale and the adverse impact on the character of the area, particularly the adjoining protected structure (No. 32).

- 7.2.9. In comparison to the above cases, the current case proposes to increase the front element of the site facing onto Merrion road to 5<sup>th</sup> storey level with a parapet level of 26.075m OD and a setback of just c. 7m from Merrion Road. The higher element to the rear of the site would be increased to 7 storeys with a parapet height of 33.8m OD, setback c. 23m from Merrion Road. Therefore, while I again accept that each case should be dealt with on its merits, it is notable that the proposed development would significantly exceed the height levels previously refused by the Board, and furthermore, that the maximum height levels currently proposed would occur in closer proximity to Merrion Road than lower levels previously refused.
- 7.2.10. The appeal site shares similar characteristics to the former AIB Bank Centre site. They are in close proximity along the northern side of Merrion Road opposite the RDS campus, and both sites occupy prominent locations at the junctions with Ballsbridge Park and Serpentine Avenue. The planning authority's view that the appeal site is suitable for increased height based on its strategic corner location could, therefore, be equally applied to the Bank Centre site. Furthermore, the Bank Centre site is a much larger site and benefits from more generous separation from surrounding properties and the public realm, which, if anything, would be more suitable to increased height than the appeal site. The appeal site also clearly shares similarities with the Horse Show House site, particularly in relation to its size and direct relationship adjoining the opposite side of No. 32 Merrion Road.
- 7.2.11. I note that the Board's decisions on the Horse Show House site occurred in the period up to and including 2003. However, the Former Bank Centre site decision under ABP Ref 300232-17 occurred in May 2018, which was after the adoption of the NPF (16<sup>th</sup> February 2018) but before the introduction of the Building Height Guidelines in December of that year. I acknowledge that the Guidelines have built on NPF principles and supported a general presumption in favour of increased height.

However, this applies to a general policy approach only, and the site-specific nature of each proposal requires more detailed assessment as will be outlined in the following sections.

### Assessment

- 7.2.12. Section 3.1 of the Building Height Guidelines outlines the broad principles that planning authorities must apply in considering development proposals for buildings taller than prevailing building heights in urban areas. In this regard I would generally concur that the proposal assists in securing the NPF objectives of focusing development in key urban centres and fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres. In this case the proposed development is not in line with building height policy of the development plan in force. The DCC Development Plan 2016-2022 pre-dates the Guidelines and, therefore, it must be considered whether the implementation of the pre-existing policies and objectives of the plan align with and support the objectives and policies of the NPF. This will be considered with reference to the criteria outlined in Section 3.2 of the Guidelines, which sets out the criteria that a development proposal must satisfy at various scales.
- 7.2.13. *At the scale of the city/town*, I note that the appeal site is within a walk of c.700m (less than 10 minutes) from two DART stations (Landsdowne & Sandymount). It is also located directly adjacent to bus stops on either side of Merrion Road. Accordingly, I am satisfied that the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- 7.2.14. In terms of integration with the character of the area, I note that the applicant has prepared a Visual Appraisal report including the preparation of photomontages from 13 viewpoints. I would concur that several of the viewpoints are sufficiently distanced and/or obscured to avoid any significant visual impacts at the scale of the city.
- 7.2.15. The site is relatively small and has limited potential to make a contribution to place-making through the incorporation of new streets and public spaces.
- 7.2.16. *At the scale of the district/neighbourhood/street*, I consider that View 1 highlights the advanced building line of the proposal in relation to the existing village streetscape to the west of Ballsbridge Park, which is further emphasised given the significant width

of the Ballsbridge Park/Merrion Road Junction. The advanced building line gives the proposal a particularly prominent visual presence and I consider that the increased height at 5<sup>th</sup> and 7<sup>th</sup> storey level would form discordant features which would not successfully integrate with the village streetscape to the west. View 2 provides another view of this junction relationship at a different angle. While the increased height is not particularly prominent from this view, I would again highlight the prominent building line and the open nature of the junction, which cumulatively demonstrate the overall bulk and scale of the proposal. The applicant's Architectural and Urban Design Report (p. 18) provides a comparison between the permitted and proposed development from View 2, which I feel demonstrates a significant increase in scale and visual impact as a result of the increased height at both levels.

7.2.17. View 3 demonstrates the impact in the context of development to the east, including No. 32 Merrion Road (Protected Structure). It is better demonstrated in the Architectural and Urban Design Report (p. 20) which provides a comparison between the permitted and proposed development. I consider that this is the most significant viewpoint in the assessment. It is taken at an angle which best demonstrates the full cumulative scale of the building, including the building core and the proposed front and rear blocks. It also demonstrates the relationship to the closest adjoining development, which is particularly sensitive given that No. 32 is a protected structure. In this regard, I consider that the form and massing of the permitted development would already form a significant backdrop impact on the setting No. 32. And while I acknowledge that an increase of one level only is proposed, and that the statement from the applicant's conservation architect contends that there will be 'little additional impact', I consider that the proposed height increases would be significant and would result in an excessive scale and bulk which would be unacceptable.

7.2.18. The general design policies of the development plan seek to ensure that new development should respect and enhance its context, while heritage policy CHC2 seeks to ensure that the special interest of protected structures is protected, and that development will conserve and enhance their curtilage. Furthermore, the Architectural Heritage Protection Guidelines acknowledge that the setting of an ACA or Protected Structure can be adversely affected by development proposals, even if outside the curtilage and attendant grounds of Protected Structure. In this policy context, I consider that the proposed development would seriously detract from the

architectural interests and setting of No. 32 by reason of the excessive height and scale proposed and its unacceptable, dominating impact on the protected structure. I feel that this would be consistent with the previous Board decisions for the redevelopment of Horse Show House to the east of No. 32 (ABP Refs 29S.116735 and 29S.200574).

7.2.19. View 11 also demonstrates the relationship between the proposed development and No. 32. Again, the comparison between permitted and proposed development is shown in the Architectural and Urban Design Report (p. 22). And while this angle does not capture the full scale of the proposal, I feel that it does demonstrate that the 5<sup>th</sup> storey level to the front of the site will significantly exacerbate the abrupt transition in height/scale in relation to No. 32.

7.2.20. In the wider neighbourhood context, I note that the RDS campus and the former Pembroke Town Hall buildings are protected structures, and that the area also contains many other buildings of significant architectural character. I consider that the RDS and Pembroke Town Hall buildings are significantly distanced and separated from the appeal site by Merrion Road, which helps to mitigate any direct visual impacts on the setting of these protected structures. Nonetheless, I consider that the excessive scale and height of the proposed development would have a negative indirect impact on the overall character and setting of these structures and the wider neighbourhood, which is of significant architectural heritage value.

7.2.21. In terms of the mix of uses/typologies in the neighbourhood, I consider that the additional office space proposed would be minimal when considered in the context of the extent of existing and permitted office development in the area.

7.2.22. *At the scale of the site/building*, the Guidelines state that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. This is discussed further in section 7.3 of this report.

7.2.23. In terms of *Specific Assessments*, Section 3.2 also highlights that further assessment may be required in relation to micro-climatic effects, bird/bat flight lines, telecommunication channels, air navigation, urban design, and relevant environmental assessment requirements. I have had regard to the need for any such further assessment in my assessment.

## Conclusion

- 7.2.24. In conclusion regarding visual amenity and heritage, I consider that the proposed development would exceed the height limits and indicative plot ratio for the site as per the current development plan. It would also exceed the building heights previously refused by the Board on similar sites in the area. And while I acknowledge that the Building Height Guidelines post-date both the development plan and previous Board decisions, I do not consider that this general policy approach should necessarily justify the current proposal. The key determinant should be a site-specific assessment of the proposal in its context, which has not changed significantly since the previous Board decisions.
- 7.2.25. In this regard, and notwithstanding the extent of permitted development on the site, I consider that the proposed development would result in an excessive height and scale of development which would create a discordant and obtrusive feature in the wider Ballsbridge neighbourhood, which is part of an important corridor and contains prominent protected structures and several other buildings/streetscapes of architectural character. In particular, the proposal would create an overbearing and dominant feature as an enclosed backdrop to No. 32 Merrion Road (Protected Structure) which would seriously detract from its setting and architectural interest, as was the case in the Board's decisions regarding the Horse Show House site.
- 7.2.26. I have considered the possibility of permitting one or other of the proposed 5<sup>th</sup> and 7<sup>th</sup> storey levels. However, I do not consider that the omission of either of these levels would satisfactorily address the concerns outlined above.

### **7.3. Daylight/Sunlight**

- 7.3.1. Section 3.2 of the Guidelines states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions

above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

7.3.2. The Development Plan also highlights the value of daylight and sunlight in 'Standards for Residential Accommodation' (Section 16.10) and states that development '*shall be guided by the principles of*' the BRE Guide. It states that a sunlight/daylight analysis of the different units may be required and modifications to the scheme put in place where appropriate.

7.3.3. At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

#### Information & Assessment

7.3.4. The application included a 'Daylight, Sunlight & Overshadowing Study' prepared by 'Integrated Environmental Solutions'. The report is based on the recommendations of the BRE guide 'Site Layout Planning for Daylight and Sunlight' but highlights that the recommendations are not suitable for rigid application in all contexts.

7.3.5. I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). I acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK) but I consider that this updated guidance does not have a material bearing



on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party appeals/observations which have raised concerns in relation to daylight and sunlight.

#### Standards for the proposed development

- 7.3.6. I acknowledge that Section 2.1.1 of the BRE Guide outlines that the guidelines for new development may be used for any non-domestic buildings where daylight is required. However, I consider that the provisions of Section 3.2 of the Building Height Guidelines relate mainly to daylight standards for proposed residential units rather than offices as currently proposed. Furthermore, given that the proposed additional accommodation would be elevated at 5<sup>th</sup> and 7<sup>th</sup> storey level above any significant obstructions, and would consist of large, well-lit, open spaces, I consider it reasonable to conclude that there would be no concerns regarding daylight/sunlight availability. Accordingly, I am satisfied that no further assessment is required in this regard.

#### Impacts on surrounding properties

- 7.3.7. The impact of the proposed development on the daylight/sunlight available to the Ballsbridge Avenue properties is one of the grounds of appeal in this case. The BRE guide acknowledges that, in designing new development, it is important to safeguard the daylight to nearby buildings. It states that the guidelines are intended to be used for rooms in adjoining dwellings where daylight is required but may also be used for any existing non-domestic building where the occupants have a reasonable expectation of daylight, which would normally include schools, hospitals, hotels and hostels, small workshops and some offices.
- 7.3.8. The applicant's assessment identifies sensitive receptors as being the Ballsbridge Avenue residential properties to the west, the RDS Members Club/CDET Office to the south, and the Zurich Insurance offices to the north. I note that the properties to the east of the site are not included in the assessment. However, No. 32 Merrion Road would appear to be used as office/storage associated with the adjoining public house (No. 34-36) and, accordingly, I am satisfied that these uses would not have a reasonable expectation of daylight.

- 7.3.9. The assessment includes a shadow study which demonstrates that there will be some additional shading of the dwellings on Ballsbridge Avenue in the mornings of March and December, and on the Zurich Insurance offices in the afternoons and evenings of March and December. It also includes a 'light from the sky' (VSC) analysis for the windows of the relevant surrounding properties. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight. The applicant also refers to section 2.1.6 of the BRE Guide, which states that a lower VSC of 15-27% will require special measures (larger windows, changes to room layout) to provide adequate daylight.
- 7.3.10. For the Ballsbridge Avenue residential properties, the assessment demonstrates that VSC values for 8 out of the 11 windows studied would be greater than 27% and/or greater than 0.8 times their former value. In the 3 cases that were less than 27%, I note that they were only marginally so, with all values being greater than 24%.
- 7.3.11. The study shows that the properties on the southern side of Merrion Road (i.e. the RDS Members Club/CDETB Office) will experience little impact, with VSC values for all windows exceeding 33% and retaining at least 90% of their former value.
- 7.3.12. For the Zurich building to the north, the assessment demonstrates that VSC values for 8 out of the 17 windows studied would be greater than 27% and/or greater than 0.8 times their former value. For the 9 cases that were less than 27%, the applicant's report highlights that they all exceed 17% VSC and contends that this should be expected in an area with modern high-rise buildings; that a VSC in excess of 15% should be sufficient where larger than conventional windows exist; and that these commercial spaces would expect a degree of artificial lighting.
- 7.3.13. The applicant's assessment acknowledges that not all the points tested comply with BRE recommendations, but concludes that this can be classified as a 'minor adverse impact' and that, overall, the development performs in line with BRE recommendations.

### Conclusions on Daylight/Sunlight

- 7.3.14. While I have highlighted the advisory nature of the BRE recommendations, I also acknowledge that their application has been interpreted as being mandatory in recent caselaw relating to the use of SPPR3 of the Building Height Guidelines where building heights are proposed to exceed development plan provisions. While the current case would exceed such height provisions and would require the application of SPPR3, I would highlight that it does not involve residential development, which is perhaps more typically relevant in the context of the BRE Guide.
- 7.3.15. I acknowledge that the proposed development would result in VSC values that would be less than 27% for 3 residential windows along Ballsbridge Avenue. However, I would accept that the degree of non-compliance is marginal and that the windows would still retain relatively high values over 24%. I also acknowledge that 9 of the windows in the Zurich building would not comply but I would accept that lower values could be accepted for large commercial office spaces such as this with larger than normal windows. I also note that the BRE Guide effectively accepts that its recommendations are not applicable to all offices. Therefore, while the impact of the proposed development would not fully comply with BRE recommendations, I do not consider that a refusal of permission would be warranted on these grounds, particularly given my more substantive concerns about the impact of the development on visual amenity and built heritage.

### **7.4. Traffic & Parking**

- 7.4.1. As previously outlined in this report, the appeal site benefits from an accessible location in close proximity to a range of public transport options. The application also includes a Mobility Management Plan aimed at encouraging sustainable transport options and reducing the demand for car travel and parking. Furthermore, the Traffic Impact Assessment Report demonstrates that the percentage impact of the development would be considerably below the threshold that would require a further transport assessment according to TII guidelines.
- 7.4.2. The application proposes to retain 39 no. car-parking spaces at basement level, which does not increase the number previously permitted. Therefore, the proposal remains below the maximum number of spaces allowable under development plan

standards (i.e. 1 per 200m<sup>2</sup> or 59 spaces). It is proposed to provide 139 no. staff bicycle spaces and 10 no. visitor spaces. For Zone 2 areas, the development plan standards indicate that 1 cycle space is required per 100m<sup>2</sup> for 'enterprise and employment', while 1 space is required per 150m<sup>2</sup> for 'restaurants and cafes'. I am satisfied that the proposed development would comply with and exceed these requirements.

- 7.4.3. The planning authority has not raised any objection to the proposed development on grounds of traffic or parking, subject to the clarification and agreement of minor parking arrangements by condition. I would concur that the proposed development is not likely to have any significant impacts on existing traffic and parking arrangements in the area. In the event that the Board decides to grant permission, I am satisfied that any outstanding issues regarding parking arrangements could be satisfactorily addressed by condition.

## 7.5. Other Issues

- 7.5.1. I note that the 3<sup>rd</sup> Party observation raises concerns about overlooking and privacy of the properties on Ballsbridge Avenue. However, given the elevated nature of the proposed additions at 5<sup>th</sup> and 7<sup>th</sup> storey level, I do not consider that any direct overlooking would occur. I would also consider that any additional footfall associated with the proposed development could not reasonably be considered to adversely impact on the privacy of these properties, which are in fact largely screened from Ballsbridge Park by mature hedging.
- 7.5.2. The 3<sup>rd</sup> Party observation has also raised concerns about construction-related impacts relating to hours of working and traffic. However, I am satisfied that these are unavoidable elements of urban development and I am satisfied that these matters could be satisfactorily addressed through the agreement of construction management plans in the event that the Board decides to grant permission.
- 7.5.3. Concerns have been raised about the impact of the development on wildlife and the loss of the water feature at ground level. I would highlight that the current proposal does not involve significant alterations at ground level and, therefore, does not alter the situation whereby permission has already been granted for the removal of the pond feature. Furthermore, having regard to the urban nature of this location, I do

not consider that the increased height and scale of the development would result in any significant impacts for wildlife.

## 8.0 Appropriate Assessment

- 8.1.1. The application includes a 'Screening for Appropriate Assessment' report prepared by RPS Consultants. It concludes that the proposed development will have no likely significant effect on any European site either alone or in combination with other plans or projects, and that an Appropriate Assessment is not required.
- 8.1.2. The proposed development involves the provision of additional floors to a permitted office development, resulting a gross floor area of 11,871m<sup>2</sup>. The site has been previously developed and is currently under construction. It has a stated site area of 3354m<sup>2</sup>. It is proposed to connect to the existing surface water and wastewater network serving the area. The surrounding area is predominantly composed of artificial surfaces and is characterised by a mix of commercial and residential development of varying scale.
- 8.1.3. None of the submissions or observations received in connection with the application or the appeal have raised the issue of Appropriate Assessment.
- 8.1.4. The nearest Natura 2000 sites are in the Dublin Bay area and include the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC (both c. 1.5km to the southeast). I acknowledge that there are several other Natura 2000 sites in the wider surrounding area, including more distant sites within Dublin Bay. Having carried out AA screening for other developments in the Dublin city area I am conscious that the development is indirectly connected to the Natura 2000 sites within Dublin Bay via the surface water and foul water networks. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.
- 8.1.5. With regard to surface water, the development incorporates appropriate management measures to regulate discharge flows in terms of quantity and quality. There is also limited potential for surface water contamination during construction works but I am satisfied that best-practice construction management will satisfactorily address this matter. There would be significant dilution capacity in the existing drainage network and receiving water environment and there is known

potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Accordingly, I am satisfied that there is no possibility of significant impacts on European sites within Dublin Bay from surface water pressures from the development.

- 8.1.6. The wastewater emissions from the development will result in an increased loading on the Ringsend WWTP. However, having regard to the limited scale of the development and the associated discharges; the 'unpolluted' EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the likely completion of the Ringsend WWTP extension in the short term, I am satisfied that there is no possibility that the additional foul water loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 8.1.7. Having regard to the above preliminary examination, it is concluded that no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site. No mitigation measures have been relied upon in reaching this conclusion.

## 9.0 Recommendation

Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

## 10.0 Reasons and Considerations

The site is located within the historic neighbourhood of Ballsbridge in close proximity to several Protected Structures as per the Dublin City Development Plan 2016-2022, including No. 32 Merrion Road on the adjoining site to the east. Having regard to the existing character of development in the area, it is considered that the proposed increase to the height and scale of the development would form an incongruous and discordant feature which would seriously detract from the character of the area and create an overbearing and dominant feature which would seriously detract from

the setting and architectural interest of No. 32 Merrion Road. Furthermore, the proposed development would materially contravene the building height provisions of the Dublin City Development Plan 2016-2022 and the Board is not satisfied that a material contravention of the Development Plan is justified in this instance, in that the proposed development fails to meet the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 of the Urban Development and Building Height Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018. The proposed development would, therefore, adversely affect the architectural character and setting of surrounding properties, would seriously injure the visual amenities of the area, and would be contrary to the proper planning and sustainable development of the area.

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Stephen Ward  
Senior Planning Inspector

28<sup>th</sup> January 2022