



An
Bord
Pleanála

Inspector's Report ABP 312392-21

Development	Construction of cafe structure, internal alterations at basement, retention of smoking area and canopy structures and associated site works.
Location	The Lansdowne Hotel, 27/29 Pembroke Road, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3652/21
Applicant(s)	Hillquarter Investments Limited.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Hillquarter Investments Limited.
Observer(s)	Joe and Sharon McCann Padraig and Terry Browne Gerard Carty Eva Byrne

Garrett O'Neill

Simon Nugent

Fiona Slevin, on behalf of ULSARA
(Upper Leeson Street Area Residents
Association).

Date of Site Inspection

28th October 2022

Inspector

Brendan Coyne

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1.0 Site Location and Description

- 1.1.1. The site, which has a stated area of 0.155 ha, is located on the southern side of Pembroke Road in Dublin 4. The site contains two semi-detached, three-storey over basement buildings, which are amalgamated and used as a hotel called the 'Lansdowne Hotel'. Both buildings, Nos. 27 and 29 Pembroke Road are listed in Dublin City Council's Record of Protected Structures. The building's front elevations are rendered on the basement and upper ground floors, and red brick on the first and second-floor elevations. Sliding sash windows with granite sills and fanlights over the main entrance doors make up the front elevation windows. Granite staircases provide access to the main entrance doors. The foreground of the hotel contains a sunken courtyard at basement level, a tarmacadamed car parking area, and an external seating area containing several temporary structures, including a coffee dock. The front boundary features two vehicular entrances and is defined by a wrought-iron railing atop a stone base. A loading bay is located on the public road between both vehicular entrances serving the site. Mature trees are planted along the front and side boundaries, and landscaping planter boxes are located around the external seating area. As outlined in red, the site extends to Pembroke Lane to the south by way of a narrow passageway. The rear gardens of several residential dwellings border the site's rear/southern boundary. A courtyard at the rear of the hotel is used as an outdoor seating area. A bar known as 'The Den' operates at the basement level of the hotel, which provides access to the rear outdoor seating area.
- 1.1.2. The character of the surrounding area is residential and commercial. The adjoining property to the east, No. 31 Pembroke (a Protected Structure) is occupied by a law firm and the neighbouring property to the west, Nos. 23-25 comprises an apartment building called 'Berkely House Apartments'. Both buildings are Protected Structures. Pembroke Lane to the rear/south is a narrow road characterised by mews dwellings. Baggot Street is located c. 100m to the northwest. Major sporting and cultural attractions in the area include the Aviva Stadium and the R.D.S. event centre.

2.0 Proposed Development

2.1. Application as lodged to the Planning Authority on the 07/10/2021

2.1.1. Permission sought for the following (as described in public notices);

- A new single-storey cafe structure and associated covered pergola structures located on both sides of a new landscaped and terraced garden within the existing forecourt and car park at the front of the Lansdowne Hotel.
- A proposed external wheelchair lift located beside the front entrance of No. 29 Pembroke Road with associated alterations to a front window to facilitate access.
- Internal alterations at basement level to facilitate access from the wheelchair lift and provide an accessible W.C.

2.1.2. Permission is also sought for the retention of the following (as described in public notices);

- The use of the existing smoking area and sunken garden at the rear of the hotel for public use.
- The glazed canopy structures and associated landscaping works.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council REFUSED permission for the proposed development and development seeking retention permission. The reasons for refusal were as follows;

1. The proposed development and development to be retained, due to noise and general disturbance would be seriously injurious to the residential amenity of residential property on Pembroke Road and on Pembroke Lane and would therefore be contrary to the Dublin City Council Development Plan 2016 - 2022 land use zoning objective Z2 'to protect and or improve the amenities of residential conservation areas' and be contrary to the proper planning and sustainable development of the area.
2. The proposed retention of the various glazed canopies to the rear of the Protected Structures would materially intensify the substantial permitted

development already established behind the Protected Structures and the cumulative impact of such incremental alterations would seriously erode and injure the legibility, architectural character and setting of the Protected Structures and would contravene Policy CHC2 of the Dublin City Council Development Plan 2016 – 2022.

3. The proposed construction of the new zinc-roofed canopies, timber clad coffee deck, stepped terraces and wheelchair platform lift would, as currently designed, give rise to a significant and injurious adverse visual and physical impact on the architectural character and setting of the Protected Structures and adjacent Protected Structures and would contravene 11.1.5.3 and Policy CHC2 of the Dublin City Council Development Plan 2016 - 2022.
4. The proposed development to be retained would materially contravene condition No.3 of planning permission An Bord Pleanála planning reference PL29S.111990 and would therefore be seriously injurious to the residential amenity of the area and be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The basis for the Planning Authority's decision includes the following:

- The proposal consists of a symmetrical landscaping plan that will formalize the hotel's outside for public use.
- Steps will descend to an outdoor area in front of the entrance to 'The Den', the hotel's basement bar. This area will be screened using a series of hedging.
- Six pergola structures, three on each side, are proposed. They measure c. 3m x 3m.
- The pergola on the western side will house a 2.7m x 2m structure for the preparation and sale of coffee.
- The remaining pergolas will be used to cover the seating areas.
- A hedge is proposed to screen the public areas from the car parking area.

- 6 no. car parking spaces will remain.
- An external wheelchair lift is proposed, which will be located beside No. 29's front entrance and include associated alterations to a front window to facilitate access, internal alterations at the basement level to enable access from the lift, and an accessible W.C.
- While the improvements to the property's front open area are welcome, as is wheelchair access, there are issues with the proposed development.
- The proposed pergolas would increase the hotel's usable external public area.
- Given that the site is zoned 'Z2', the objective of which is 'to protect and or improve the amenities of residential conservation areas', the extension of the hotel to the front of the property, which is in close proximity to neighbouring residential property, will neither protect nor improve the amenities of this residential conservation area due to noise and disturbance.
- Regarding the proposals to the front of the Protected Structure, the Planning Conservation Division, in their report states;

The proposed construction of the new zinc roofed canopies, timber clad coffee deck, stepped terraces and wheelchair platform lift wood, as currently designed, give rise to a significant and injurious adverse visual and physical impact on the architectural character and setting of the protected structures and adjacent protected structures and would contravene Section 11.1.5.3 and policy CHC2 of the Dublin City Council Development Plan 2016-2022.

- Permission is sought for the retention of the use of the existing smoking area and sunken garden at the rear of the hotel for public use, together with the retention of the glazed canopy structures and associated landscaping works.
- The smoking area has direct access to the bar. This area measures c. 24 sq.m. and is covered with a glazed roof.
- The sunken garden area has a floor area of approx. 35 sq.m. and is partially covered by a glazed roof. This area is approx. 6m from the shared boundary with the rear gardens of residential properties along Pembroke Lane.

- Having regard to the observations submitted and the proximity of the structures to the residential properties on Pembroke Lane, the use of this area will neither protect nor improve the amenities of this residential conservation area.
- The proposed use of this area would be contrary to Condition No. 3 of P.A. Ref. 1081/99, which stated;

The landscaped area to the rear of the hotel including that referred to in condition number 2 above shall not be used as an outdoor extension of the hotel use or for the sale or consumption of drink or food.

Reason: To protect the amenities of properties in the vicinity.

- Regarding the development to be retained to the rear of the Protected Structure, the Planning Conservation Division, in their report, stated the following;

The proposed retention of the various glazed canopies to the rear of the Protected Structure is not supported, as these compound the already significant permitted development of the site to the rear of the Protected Structures and interfere with and have an adverse impact on the legibility and architectural character and setting of the Protected Structure. Such persistent, incremental change can give rise to a cumulative adverse impact on the architectural character and setting of the Protected Structure. In addition, if these canopies are conducive to behaviour that gives rise to interference or disturbance of the amenities enjoyed by the residents of the many mews houses to the rear of the subject site, in what is a Z2 Residential Conservation Area, they should not be retained.

- The development has been screened for appropriate assessment. A full Appropriate Assessment is not required.

3.3. Other Departmental Reports

3.3.1. Conservation Officer

- Refusal recommended.
- Nos. 27 and 29 Pembroke Road are recorded as Protected Structures in the Dublin City Council Development Plan 2016-2022.

- The Protected Structures are located within 'Z2' zoned lands, the objective of which is 'to protect and or improve the amenities of residential conservation areas'.
- There are a large number of long-established mews dwellings located on Pembroke Lane to the rear of the site.
- The entirety of Pembroke Lane is located within the Z2 planning zone and Residential Conservation Area.
- Many of the front gardens along Pembroke Road have been given over to car parking. This is a disappointing feature, particularly as tarmac is the predominant hard surface material used, as is the case at the subject site.
- The subdivision of the original historic plots at the rear and the removal of the historic mews buildings, the construction of new mews houses on narrower plots on Pembroke Lane to the rear of the subject site, and the intensive redevelopment of the remainder of the rear plot with a rear extension of bedrooms and other ancillary accommodation have already significantly diminished the legibility and amenity of the Protected Structures.
- The proposed works could set an unacceptable precedent for similar actions relating to other Protected Structures and the irreplaceable loss of historical or important fabric.
- Reference to Section 11.1.5.3 of the Development Plan where 'interventions to Protected Structures should be to the minimum necessary and all new works will be expected to relate sensitively to the architectural detail, scale, proportions and design of the original structure. This should take into account the evolution of the structure and later phases of work, which may also contribute to its special interest'.
- Reference to Policy CHC2 of the Development Plan 2016-2022, which seeks 'to ensure that the special interest of protected structures is protected...'
- The quality of the drawings provided is poor.
- It is difficult to differentiate between what existing fabric is part of the previously permitted development or part of the historic fabric and what elements are part of the unauthorised development for which retention planning permission is sought.

- It is a reasonable expectation of the Planning Authority and members of the public that a clearly drawn record is provided that differentiates between existing unauthorised works for which planning permission is sought and proposed new works (which have not yet been constructed), particularly when the proposed works pertain to Protected Structures.
- Key dimensions and levels are missing in places and illegible in others.
- Proposed demolition works are not indicated, nor the significance of the fabric which is to be removed.
- The existing west contiguous elevation section drawing 21-274-PDA-003 does not concur with the 3D visualisations provided.
- The 1:50 diagrams provided for the proposed wheelchair lift installation are entirely inadequate and do not indicate the impacts on the historic entrance steps.
- The proposed canopies in the front garden are inadequately described or dimensioned, nor is any indication provided to describe the foundation/ground arrangements of these structures.
- No sectional details are provided for the proposed substantial stepped terraces proposed in front of the Protected Structures to indicate structural details for retaining walls, steps, terraces and the surface materials or the actual extent of material that would have to be excavated to form the sunken garden.
- For the period of COVID only, support is given for selected temporary measures that are required to keep commercial premises in business, but only if they do not have a physical impact on the fabric of the Protected Structures, and they shall be permitted on a temporary basis only, i.e., as determined by the planning officer or until the national COVID-19 restrictions cease to exist, whichever occurs first, at which date the permission shall cease.
- The proposed retention of the various glazed canopies to the rear of the protected structures is not supported, as these compound the already significant permitted development to the rear of the site and interfere with and have an adverse impact on the legibility and architectural character and setting of the Protected Structures.

- Persistent, incremental changes can give rise to a cumulative adverse impact on the architectural character and setting of the Protected Structure.
- If the canopies are conducive to behaviour that gives rise to interference or disturbance of the amenities enjoyed by the residents of the houses to the rear of the subject site in a Z2 residential conservation area, they should not be retained.
- The unsightly storage visible in front of No. 29 (the location of the proposed wheelchair platform lift) contravenes Condition No. 4 of ABP Ref. 29S.111990 which stipulated that '*the front forecourt of the building shall not be used for any storage in connection with the use of the building*'. No alternative location has been indicated for these items if a wheelchair platform lift is pursued.
- The proposed construction of the new zinc roofed canopies, timber-clad coffee deck, stepped terraces and wheelchair platform lift would, as currently designed, give rise to a significant and injurious adverse visual and physical impact on the architectural character and setting of the Protected Structures and adjacent Protected Structures and would contravene Section 11.1.5.3 policy CHCH 2 after Dublin City Council Development Plan 2016-2022

3.3.2. Transportation Planning Division

No objection subject to Conditions. Comments include the following;

- There are no changes to the existing boundary treatment along Pembroke Road or the existing entry and exit vehicular entrance points onto the public road.
- The location of the proposed tables, pergola structure, cafe and associated canopies within the existing car park area reduces the car park capacity to 6 no. car parking spaces from an overall potential capacity of 10 no. car parking spaces if all the tables, structures etc. were not present.
- The site is located within Area 2 of Map J of the Dublin City Development Plan and within close proximity of the border with Area 1.
- The Development Plan allows for a maximum of 1 no. car park space per 3 rooms for hotels and guest houses.
- As the hotel exists and no additional rooms are proposed, the above maximum car parking standards do not apply to this application.

- The existing hotel is within a central location which is highly accessible by public transport, and a low car parking allocation would be acceptable in principle for any proposed hotel within such a location. Therefore, the reduction in available car parking spaces is acceptable considering the size, central location and proximity to public transport.
- The location of a public loading bay on Pembroke Road directly outside the hotel entrance is noted.
- The Applicant has not indicated the provision of cycle parking.
- Table 16.2 of the Dublin City Development Plan specifies a minimum of one bicycle parking place per twelve hotel rooms and one per 150 sq.m. for restaurants and cafes in Area 2 of Map J.
- The Applicant should be conditioned to provide bike parking for the hotel in consideration of the loss of vehicle parking places, as well as cycle parking for the proposed cafe in accordance with Development Plan standards.

3.3.3. **Drainage Division**

- No objection subject to standard Condition.

3.3.4. **Environmental Health Officer**

- No objections.
- Standard conditions are recommended regarding noise control and air quality control during construction and operation.

4.0 **Planning History**

P.A. Ref. 3635/21 Permission GRANTED for the retention of the coffee dock container structure and associated open awning structures located within the front forecourt of the Lansdowne Hotel for a temporary period of two years.

Final Grant Date: 13th January 2022. Noted Conditions include the following;

3. This Planning Permission is granted for a limited period of 2 years from the date of this grant at which date the Permission shall cease and the structure shall be removed and the land returned to its former state unless a further

Permission has been granted before the expiry of that date. Reason: In the interests of the proper planning and development of the area, and so that the effect of the development may be reviewed having regard to the circumstances then prevailing.

4. All of the temporary canopies shall be removed from site within one month of the final grant of permission. Reason: In the interest of the setting of the protected structure.

5. The following conditions of the Transportation Planning Division shall be complied with:

a) A minimum of 4 no. cycle parking spaces shall be provided. Cycle parking shall be conveniently located and well lit. Cycle parking design shall allow both wheel and frame to be locked.

b) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

c) The developer shall be obliged to comply with the requirements set out in the Code of Practice. Reason: In order to ensure a satisfactory standard of development.

P.A. Ref. 2909/01 Permission REFUSED for alterations to the existing extension to the rear of the Hotel building and retention of the staff and laundry facilities at the third floor level, and the re-arranged storage space at roof level all to the rear of the Lansdowne Hotel (a protected structure). Decided: 07th February 2002. The reasons for refusal were as follows;

1. It is considered that the proposed development consisting of alterations to the existing extension and retention of the staff and laundry facilities at the third floor level and the re-arranged storage space at roof level would contravene materially Condition No. 1 of the An Bord Pleanála decision (No. PL29S.111990) of the 1st November 1999.
2. Having regard to the extent and bulk of the proposed development consisting of alterations to the existing extension and retention of the staff and laundry facilities at the third floor level and the re-arranged storage space at roof level,

it is considered that it would significantly detract from the setting of Numbers 27 and 29 Pembroke Road which are protected structures located in a terrace of protected structures. The proposed development and retention would, therefore, be contrary to the proper planning and development of the area.

P.A. Ref. 1750/00 and ABP Ref. PL29S.122915 Permission REFUSED ON APPEAL for the retention of alterations and extension to previously approved extension (reg. ref. no's 1081/99, PL. 29S.111990) to the rear of the existing listed hotel building. The development consists of staff and laundry facilities within the newly constructed extension at the 3rd-floor level to the rear of the hotel, together with storage space within an extension at an additional 4th-floor level above the previously approved extension. Also included are alterations to the existing roof garden including a decorative enclosure to the water tanks, all at the rear. Appeal Decision Date: 20th July 2001. The reasons for refusal were as follows;

1. The proposed development would contravene materially a condition attached to an existing permission for the development of an extension, namely condition number 1 attached to the permission granted by An Bord Pleanála on the 1st day of November, 1999 under appeal reference number P.L. 29S.111990
2. The site of the proposed development is located in an area designated in the current Dublin City Development Plan as a Conservation Area and consists of an extension to a protected structure under the Local Government Planning and Development Act, 1999. It is considered that, by reason of the excessive scale, bulk, height, roof form, and design, the proposed development would damage the architectural integrity of the overall site which contains two protected structures, would be out of character with the pattern of development in the area, would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and development of the area.

P.A. Ref. 1081/99 and ABP Ref. PL29S.111990 Permission GRANTED ON APPEAL for a 2 storey extension over existing kitchen to the rear of existing (List 2) Hotel. The extension comprises of 4 no. bedrooms together with enclosed water storage at roof level. Alterations and new roof to existing boiler house incorporating enclosed water

storage all at the rear. Appeal Decision Date: 1st November 1999. Noted Conditions include the following;

2. The landscaping indicated on the first floor plan on the drawings submitted to the Planning Authority shall be modified by the omission of the proposed paving on the higher part of the flat roof over the semi-basement conference centre and the substitution of soft landscaping in accordance with details to be agreed with the Planning Authority for this paving. Landscaping in accordance with the amended agreed scheme shall be completed within three months of the proposed extension being completed.

3. The landscaped area to the rear of the hotel including that referred to in Condition number 2 above shall not be used as an outdoor extension of the hotel use or for the sale or consumption of drink or food.

P.A. Ref. 2506/98 Permission REFUSED for an extension to the rear at 1st, 2nd and 3rd floor levels containing 5 guest bedrooms. (List 2 building). Decided: 13th January 1999.

The reasons for refusal were as follows:

1. The proposed development would materially contravene an objective of the 1991 Dublin City Development Plan for the area, namely the land use zoning objective A2 ' to protect and or improve the amenities of a residential conservation area ' by reason of its excessive size, site coverage would result in an overdevelopment of the site contrary to the proper planning and development of the area.
2. The proposal by reason of its excessive height and bulk would result in an overdevelopment of the site and overlooking of the surrounding residential properties and would seriously injure the amenities of property in the vicinity contrary to the provisions of the development plan and would be contrary to the proper planning and development of the area.

P.A. Ref. 2894/97 and ABP Ref. PL29S.105570 Permission REFUSED ON APPEAL for a three-storey extension containing nine guest bedrooms at the rear. Appeal Decision Date: 08th June 1998.

The reason for refusal was as follows

It is considered that the proposed development, taken in conjunction with existing development on the site, would constitute overdevelopment by reason of excessive scale and would seriously injure the amenities of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and development of the area.

P.A. Ref. 1796/96 Permission GRANTED for 4 no. new entrance piers and Lansdowne Hotel name sign. Final Grant Date: 22nd October 1996.

P.A. Ref. 0515/96 Permission GRANTED for a new reception area with four bedrooms and two bathrooms over to the side. Final Grant Date: 19th June 1996.

P.A. Ref. 1729/91 Permission GRANTED to erect a ground floor extension to a rear bedroom wing at the hotel. Final Grant Date: 17th December 1991. Noted Condition includes:

1. The existing yard area to the east of the proposed bedroom block shall not be used by the guests or staff of the hotel for the purposes of eating or drinking, neither shall it be used as a beer garden.

Reason: In the interest of residential amenity of adjoining property.

5.0 Policy and Context

5.1. Development Plan

Dublin City Council Development Plan 2016-2022 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is zoned 'Z2 – Residential Neighbourhoods (Conservation Areas)' where the objective is "To protect and/or improve the amenities of residential conservation areas".

Protected Structures: The subject buildings, Nos. 27 and 29 Pembroke Road, are listed in Dublin City Council's Record of Protected Structure (Ref. No. 6570 and 6571, respectively).

- 5.1.1. The following provisions relating to Protected Structures are noted:

Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

Policy CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

(a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest

(b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances

(c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials

(d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure

(e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works

(f) Have regard to ecological considerations for example, protection of species such as bats.

Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

Section 11.1.5.3 Protected Structures – Policy Application

Policy 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...

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting...
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
5. The repair and retention of shop- and pub-fronts of architectural interest.

Development will not:

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

Section 11.1.5.6 Conservation Area – Policy Application

The following policies relating to Public Houses and Performance Spaces are noted:

Policy CHC24: To ensure the continued development of Dublin as a culturally vibrant, creative and diverse city with a broad range of cultural activities provided throughout the city, underpinned by quality cultural infrastructure.

Policy CHCO28: To discourage an over-concentration of large public houses in any particular area to ensure a balanced mix of cultural uses, including venues for live music, theatre, film and dance, whilst protecting the residential amenities of city centre residents.

Policy CHC37: To protect and support Dublin city's existing cultural assets by facilitating the enhancement and/or growth of existing cultural spaces, including performance and entertainment spaces, while protecting the existing amenities of an area.

Section 16.32 Night Clubs/Licensed Premises/ Casinos/Private Members' Clubs

Section 16.2.1.3 Inclusive Design

5.2. Natural Heritage Designations

5.2.1. The nearest Natura 2000 European Sites to the appeal site are as follows:

- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approx. 1.9km east of the site.
- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approx. 1.9km east of the site.

5.2.2. The Grand Canal Proposed Natural Heritage Area (Site Code: 002104) is located c. 0.3 km northwest of the site.

5.3. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal was received from Marston Planning Consultants, representing the Applicant Hillquarter Investments Limited, against the decision made by the Planning Authority to refuse permission for the proposed development. The following is a summary of the grounds of appeal, relating to the reasons for refusal accordingly.

6.1.2. Re. Reason for Refusal No. 1

- The proposed elements to be retained and subject to the first reason for refusal are located at the rear of the hotel.
- The proposed elements to the front of the hotel were refused solely on the basis of the impact on the Protected Structure.

- The elements to the rear of the hotel (to be retained) are located in close proximity to existing hotel bedrooms, which form part of the hotel.
- As a result of their close proximity, usage of this area ceases at 10:00 PM to safeguard the amenity of hotel guests and the amenity of adjoining residents at Pembroke Lane and Pembroke Rd.
- A strict start time restriction could be placed on non-residents using the space to the rear of the hotel.
- The space to the rear of the hotel is monitored by hotel management and staff.
- The television has been removed from the area to the rear, and the Applicant is willing to accept a condition of permission limiting the time of use of this space and prohibiting its use for the erection and use of a television. This would be in the best interests of both hotel guests and nearby residents.
- It is in the interests of the ongoing successful day-to-day operation of the hotel to ensure that the partially covered area to the rear of the hotel does not result in guest disturbance or disturbance to residences on adjoining lands.
- It is a priority of the management team and the hotel staff that there is very active management and day-to-day monitoring of activities at the rear of the hotel, including noise levels and the duration of use.
- The Board is referred to the fact that the outdoor space is set back 15 metres from the adjacent residential properties at Pembroke Lane and that there is acoustic screening erected along the southern boundary of the site. This, coupled with the bamboo hedging and glazed roofs, further alleviate any potential noise impacts and disturbance arising from the hotel.
- The capacity of the space to the rear of the hotel is minimal, with seating for a maximum of 20 people and it is not intrinsically linked to the bar, which operates at the lower ground floor level.
- The Applicant would be willing to accept a condition which permits temporary permission associated with the use of the rear of the building.
- The Applicant already undertakes active engagement with the adjoining residence so that any incidents can be managed promptly.

- Time constraints and a lack of television from this space, accompanied by a higher degree of hotel management, will ensure its use is highly ancillary and quiet to the degree that it will not conflict with the Z2 zoning objective of the area.

6.1.3. Re. Reason for Refusal No. 2

- Reference to Policy CHC2 of the Dublin City Council Development Plan 2016-2022.
- It is evident from a review of the site's planning history that the rear of the Protected Structures that form the hotel has evolved over time.
- The Council's Conservation Officer report incorrectly concluded that the proposed retention elements would exacerbate the already significant permitted development to the rear of the Protected Structures. This opinion is based on the fact that what is permitted already has a negative impact on the legibility, architectural character, and setting of the Protected Structures. The Applicant contends that this conclusion is unfounded and incorrect.
- The other elements to the rear of the hotel are permitted, and the two reversible elements to the rear will have no negative impact on the Protected Structure's character and setting.
- The canopy elements are generally only visible from the hotel's upper floors.
- The canopies are not overly high, and their glazed nature allows for transparent views into the back of the hotel while also mitigating potential noise.
- The canopies read as a modern and reversible additions to the rear of the Protected Structures. As a result of their open nature, the canopies do not visually close off the rear of the building, and the rear of the building continues to read as an external space, albeit now partially enclosed with a lightweight roof.
- The canopies are not dominant or visually obtrusive.
- The rear of the hotel and the low-level glazed canopies are not visible from the public street or road.
- The canopies are not obtrusive and do not negatively impact the curtilage of the Protected Structures.

- The canopies enhance the hotel's existing facilities, ensuring the long-term viability of the use within the Protected Structures at this location.
- The long-term maintenance of Protected Structures in active use is the cornerstone of building conservation best practices.

6.1.4. Re. Reason for Refusal No. 3

- The proposed works to the front of the hotel have been carefully designed and considered, including inputs from the projects architects, landscape architects and building conservation specialists.
- The Dublin City Council Planner's report states that the improvements to the front of the building and the proposed wheelchair access are welcomed.
- The reason for refusal appears to be based on the Conservation Officer's report, which states that the proposed works, as currently designed, would have a significant and injurious adverse visual impact on the architectural character and setting of the Protected Structures and would contravene Section 11.1.5.3 and Policy CHC2 of the Dublin City Council Development Plan 2016-2022.
- The proposed development at the front of the hotel would visually improve the front of the hotel by providing an attractive and significantly improved entrance and setting to the Protected Structures that are visible from the Lansdowne Hotel while utilising high-quality materials and finishes.
- Anyone viewing the hotel from the street would not be able to establish the proposed sunken area that will be stepped down to the front, and the only changes beyond the significant tidying up of this space would be the roof form of the pergolas and the hedging across the centre of the site.
- The setting of the Protected Structures, as viewed from the street, will remain substantially the same if not improved.
- The proposed development will have a positive impact on the setting of the Protected Structures on the following grounds;
 - The proposal retains the existing boundary railings, the two entrances of Pembroke Road, and the existing mature and semi-mature trees.
 - New grass areas, planting and hedging, are provided that define the car parking area and the patron's area directly in front of the hotel.

- The existing hard surfaces within the forecourt area to the front of the hotel would become a less dominant feature with less car parking.
- The landscaping proposals, as well as the proposed pergolas, will result in an improved layout when viewed from Pembroke Road, as well as an enhanced amenity for patrons.
- The landscaping will screen the outdoor seating area from Pembroke Road.
- The proposal enhances the presentation of the Protected Structures as viewed from the public street, as set out in the Conservation Architect report submitted with the application.
- The proposal complies with policy CHC2 and Section 11.1.5.3 of the Development Plan.
- In the event the Board agrees with the Conservation Section of Dublin City Council about the impacts of the interventions at the front of the Protected Structure, the Applicant would welcome a condition attached to any decision to grant permission that sought the omission of one of the proposed pergolas nearest to the Protected Structure.
- The nature of the design of the pergola is temporary and not a permanent fixture from a planning and conservation perspective. The Planning Authority failed to consider this.

6.1.5. Re. Reason for Refusal No. 4

- The Planning Authority stated that "the proposed development to be retained would materially contravene Condition No. 3 of ABP Ref. PL29S.111990.
- The Applicant has sought permission and retention permission for the proposed development, which seeks to regularise the use of the rear of the hotel, i.e. it seeks the "retention of the use of the existing smoking area and sunken garden at the rear of the hotel for public use together with retention of the glazed canopy structures and associated landscaping works".
- Material contravention in planning terms is associated with a Development Plan rather than a specific condition attached to an individual planning application.
- The Planning Authority has misapplied the use of the term in this case.
- There is no such thing as a material contravention of a condition of permission.

- Retaining the elements at the rear of the hotel would not have a negative impact on the residential amenity of neighbouring residences.
- The retention of the elements to the rear of the hotel would not negatively impact the residential amenity of adjoining residences.
- The Board is reminded that when the Condition first arose in 1991, there was no extension to the back of the hotel, and the potential impact on neighbouring properties from any unusual use of this space in an uncontrolled manner was significantly greater. This is no longer the case, and the back of the hotel has been extended at lower ground and on either side of the rear elements.
- Any development catering to the public has the potential to generate noise that could impact the amenity of neighbouring properties.
- Any hotel will generate noise, and it is the management of the public by the operators of the premises and the mitigation measures that are put in place that control the situation to prevent unacceptable noise levels.
- It would be unreasonable to refuse permission for the rear element because it might result in unacceptable noise disturbance of neighbouring properties.
- The nature and scale of the proposed rear elements can easily be regulated by careful management of the patrons and premises and by way of Conditions.
- The function room, with its associated noise and music inside, has operated at the rear of the hotel for many years.
- Before the pandemic, the function room held weekly traditional Irish music concerts catering for tourists with no adverse impacts on neighbouring properties.
- There is no reason why the Condition imposed in 1999 should now be upheld.

6.2. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

6.3. **Observations**

6.3.1. Observations were received from the following parties;

- Joe and Sharon McCann of No. 3 Ambassador Court, Pembroke Lane, Dublin 4.

- Padraig and Terry Browne of No. 2 Ambassador Court, No. 29 Pembroke Lane, Dublin 4.
- Gerard Carty of No. 31a Pembroke Lane, Dublin 4.
- Eva Byrne of No. 31a Pembroke Lane, Dublin 4.
- Garrett O'Neill of No. 33 Pembroke Road, Dublin 4.
- Simon Nugent of No. 31 Pembroke Lane.
- Fiona Slevin on behalf of ULSARA (Upper Leeson Street Area Residents Association), P.O. Box 8411, Ballsbridge, Dublin 4.

6.3.2. Issues raised are summarised as follows;

- The area adjoining the hotel is predominantly residential, which the area's zoning objective is designed to protect.
- The hotel is an anomalous use in a predominantly residential area.
- The proposed development is inappropriate for this location and conflicts with the Z2 zoning of this residential conservation area.
- All activity should be confined to the front of the hotel.
- The buildings facing Pembroke Road, which are three storeys over garden level, offer considerable shelter and protection of residential property to the rear
- The rear gardens of mews houses along Pembroke Lane adjoin the rear of the hotel.
- Concerns regarding noise and disturbance from the development to the rear of the hotel.
- The Applicant has not submitted a justification to support the proposed development
- The proposed mitigation measures described by the Applicant are unworkable.
- The sunken area at the rear of the hotel is unauthorised by reason that it contravenes the Conditions imposed under P.A. Ref. 1729/91 and P.A. Ref. 1081/99 & ABP Ref. PL29S.111990.

- The Board is requested to adhere to its previous decisions as made under P.A. Ref. 1729/91 and P.A. Ref. 1081/99 & ABP Ref. PL29S.111990 whereby Conditions were imposed requiring that the yard to the rear of the hotel was not used as an outdoor extension of the hotel for use for the sale or consumption of drink or food, with the stated reason in the interest of residential immunity of adjoining property.
- The proposed works, as part of the retention application, constitute a significant change of use of the rear yard of the hotel.
- The resultant changes accommodate the gathering of large crowds, eating, drinking, and watching matches which directly impact the residential amenity of neighbouring properties.
- The curtailment of activities at 10:00 PM would not mitigate the impact of neighbouring property.
- The removal of a T.V. screen, as proposed in the submission, would make little difference.
- None of the proposed mitigation measures would offset noise pollution, which would emanate from the rear of the hotel.
- The proposal would create a dangerous precedent for other properties in the area.
- The yard to the rear of the hotel generates unacceptable levels of noise when it is full of drinking patrons on the few occasions when gatherings take place there.
- The yard to the rear of the hotel is occasionally used by guests for smoking which causes discomfort to neighbouring properties.
- Music escapes from the basement entertainment room when the soundproof doors are left open.
- Antisocial behaviour occurs in the yard to the rear of the hotel.
- The yard to the front of the hotel hosts crowds during events such as rugby matches and other types of activity at the Aviva Stadium and the R.D.S.
- The yard to the rear of the hotel is now actively advertised to the public on a billboard on Pembroke Rd

- The activities to the rear of the hotel are audible to neighbouring properties.
- The mitigation measures, such as the acoustic fence of timber slats, are entirely inadequate for absorbing sound and have since fallen away in large part.
- The referenced smoking area to the rear of the hotel constitutes a significant change of use.
- Most properties in the vicinity of the hotel are residential with ancillary outdoor amenity space.
- The hotel is the only property in the urban block offering hospitality to guests and the general public.
- The activities in the hotel take place within rooms which are soundproofed.
- The described use 'ancillary to the hotel' is wide and open to any activity.
- The unauthorised structures to the rear of the hotel were installed during the COVID pandemic.
- The proposal would create a beer garden atmosphere at the rear of the hotel creating volumes of noise.
- On the few occasions that crowds were admitted to the rear of the hotel, there was constant noise, shouting and cheering, with the high-pitched noises carrying over a wide area.
- Under the Z2 zoning of the area, residents are entitled to enjoy their rear gardens without fear of disturbance or intrusion at all times of the day and not confined to a period after 10:00 PM, to the suggested curfew time.
- It is not physically possible to contain sound except by providing a soundproof envelope that is technically sealed to avoid noise escaping.
- The measures taken by the hotel cannot provide any noise protection as the structures must remain open.
- Trees and bamboo screening do not provide soundproofing.
- The timber fence erected to screen the area from adjoining owners cannot afford any protection from noise.

- In recent weeks the timber fence has fallen away and no longer provides visual screening.
- Condition No. 1 under P.A. Ref. 1729/91 (granted on appeal) required that "the existing yard area to the east of the proposed bedroom block shall not be used by the guests or staff of the hotel for the purposes of eating or drinking, neither shall it be used as a beer garden. Reason: In the interest of residential amenity of adjoining property."
- Condition No. 3 under P.A. Ref. 1081/99 requires that "the landscaped areas to the rear of the hotel, including that referred to in Condition #2 above shall not be used as an outdoor extension of the hotel use or for the sale or consumption of drink or food. Reason: to protect the amenities of properties in the vicinity."
- Works pertaining to the provision of a smoking area to the rear of the hotel are subject to planning and would have required submission of a planning application to Dublin City Council for the smoking area to be retained.
- The outdoor amenity area to the rear of the hotel has had a significant negative impact on the residential amenity of neighbouring properties.
- The hotel's social media posts consistently invite patrons to consume alcohol in the area to the rear of the hotel.
- The gatherings in the amenity space to the rear of the hotel included match viewings with large screens, were noisy and intrusive and not "carefully managed".
- At night, double-glazed windows would not keep out the noise of reveling patrons.
- The unauthorised development to the rear of the hotel is wholly incompatible with the residential area in which it sits.
- The management of the hotel does not carefully manage and control activities to the front and rear of the hotel, as stated by the Applicant. The provision of amplified music does not minimise disturbance.
- Monitoring is ineffective, and management cannot quieten a large crowd.
- No objection to the proposed wheelchair lift. Observer queries why it doesn't serve the main entrance at No. 27 rather than the entrance at No. 29.

- The appeal states that the rear garden will have a seating capacity of twenty. However, it omits to note the number of standees might easily treble this number.
- The construction of the structures in the front garden would adversely impact the setting of the Protected Structure and create an unwelcome precedent.
- Given that the proposed pergola structures are temporary, temporary permission should have been sought.
- The Applicant fails to present evidence of how the more recent extensions might reduce noise nuisance.
- The Board is requested to consider if it's permissible to play amplified music in the function room or whether this is prohibited under the conditions of permission P.A. Ref. 2442/91.
- In 1993, permission was refused to play amplified music in the conference room.
- The relocation of the ventilation duct on the side of No. 29 is now facing the direction of houses and gardens on Pembroke Lane and is significantly noisier than the previous installation.
- Permission was never granted to the use of the outdoor space to the rear of the hotel by patrons.
- The hotel has a substantial outdoor area to the front, stretching 33m to the boundary along Pembroke Road.
- The proposal materially contravenes the current Development Plan's provisions and a condition attached to a previous permission.

7.0 **Assessment**

7.1.1. I have reviewed the proposed development and development proposed for retention as submitted to the Planning Authority and all correspondence on the file. Having examined the application details and all other documentation on file and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are the reasons for refusal as cited by the Planning Authority. These can be addressed under the following headings;

- Impact on Residential Amenity

- Impact on Protected Structures
- Contravention of Conditions of a Previous Permission
- Screening for Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issues for consideration are addressed below.

7.2. Impact on Residential Amenity

- 7.2.1. The Planning Authority refused permission for the proposed development and development proposed for retention on the grounds that it would cause noise and general disturbance, which would seriously injure the residential amenity of dwellings along Pembroke Road and Pembroke Lane. The Planning Authority reasoned that the proposal would be contrary to the Dublin City Council Development Plan 2016 - 2022 land use zoning objective 'Z2', which seeks 'to protect and or improve the amenities of residential conservation areas'.
- 7.2.2. The Applicant contests this reason for refusal, as detailed in Section 6.1.2 above. Several observations were received in response to the appeal expressing concerns regarding noise and disturbance from the existing development to the rear of the hotel and how it adversely impacts the residential amenity of dwellings in the immediate vicinity. Further details of these observations are provided in Section 6.3 above. In the interests of clarity, the proposed development and development proposed for retention to the front and rear of the hotel will be addressed separately below accordingly.
- 7.2.3. Proposed development to the front of the hotel
- 7.2.4. The proposed development to the front of the hotel provides for the construction of a new single-storey coffee dock/cafe structure and a pergola structure along the eastern boundary, and a second pergola structure along the western boundary. The proposed coffee dock/cafe structure replaces an existing coffee dock container located along the eastern boundary. I note that the Planning Authority recently granted permission under P.A. Ref. 3635/21 for the retention of the coffee dock container structure and associated open awning structures located within the front forecourt of the Lansdowne Hotel for a temporary period of two years (Final Grant Date: 13th January 2022).

Condition No. 4 of this permission requires that "all of the temporary canopies shall be removed from site within one month of the final grant of permission", with the stated reason "in the interest of the setting of the protected structure".

- 7.2.5. The proposed pergolas under the subject application replace existing canopies over outdoor seating along the eastern and western boundaries. Elevation drawings detail that timber cladding with steel supports would be provided for the proposed café structure, and zinc roofs would be provided for the proposed pergola structures. The pergola structures are not enclosed, i.e., do not have side panels. Both rows of pergolas, which incorporates the coffee dock along the eastern boundary, have an overall depth of c. 9.6m, a width of c. 3.4m and an overall height of 3.5m above ground level. As detailed on the existing site layout plan, the forecourt outdoor seating area and coffee dock container extend c. 18m from the front elevation of the hotel, and the proposed forecourt seating area extends c. 15.4 from the front elevation of the hotel, as measured on the proposed plan.
- 7.2.6. Both rows of pergolas provide 3 no. hipped roofs, finished with zinc cladding. The proposed pergola structures are located on both sides of a new landscaped and terraced garden within the existing forecourt at the front of the hotel. The proposed plans details that the new landscaped and terraced garden will be stepped and incorporate outdoor seating. The Applicant states that the proposed terrace and outdoor seating will be used as an external area for the bar and restaurant of the hotel. Proposed landscaping measures include c. 2m high screen hedging between the pergolas and the car parking area to the front of the hotel and along the side boundaries. Other landscaping measures include hedging, soft landscaping and tree planting around the inner stepped terrace. The proposed landscape plan details the proposed ground finishes, which include retro brick paving, granite cobble strips, gravel to the car parking area and tarmac to the internal vehicular access route. The proposal would maintain 6 no. car parking spaces to the front of the hotel.
- 7.2.7. Proposed works include the installation of an external wheelchair lift located beside the front entrance of No. 29 Pembroke Road and the replacement of a window opening on the front elevation with a new door to serve the proposed wheelchair lift. The proposed wheelchair lift would provide access to the basement/lower ground floor and reception/upper ground floor levels. Proposed internal alterations include

reconfiguring the existing toilets to provide an accessible W.C. at lower ground floor/basement level.

7.2.8. The Applicant provides in the documentation submitted a justification for the proposed development. In summary, the Applicant states the following;

- The front area of the hotel has outdoor seating for patrons on two levels, which have existed since the 1980s.
- The proposed new landscaped design, prepared by Chelsea Garden show award-winning Paul Martin Designs, will allow for seating, soft planting, and hard landscaping to be incorporated into the approach to the hotel and an external area for the use of the bar and restaurant.
- The area is in use at present with the intention that the proposed works will improve the hotel's visual appearance and the area's functional uses.
- The proposed works would ensure the viability of the Lansdowne Hotel, which caters for a broad range of visitors.
- The proposed works will be carefully managed by the hotel.

7.2.9. The site is zoned 'Z2 – Residential Neighbourhoods (Conservation Areas)', with the objective "to protect and/or improve the amenities of residential conservation areas". The subject premises, Nos. 27 and 29 Pembroke Road are listed in Dublin City Council's Record of Protected Structures (Ref. No. 6570 and 6571, respectively). I note that the use classes 'hotel', 'public house' and 'restaurant' are not listed as 'permissible' or 'open for consideration' uses under Z2 zoned lands, as set out in Chapter 14 of the Dublin City Council Development Plan 2016-2022. The proposed development would be ancillary to such uses. Notwithstanding this, it is evident from the Planning history section above that a hotel has been in operation at the subject premises since before 1990. According to the Applicant's documentation, the hotel has been operating since the 1960s. With this regard, Section 14.6 of the Development Plan states the following;

"All such uses, where legally established (the appointed day being 01st October 1964) or where in existence longer than 7 years, shall not be subject to proceedings under the Planning and Development Act 2000 (as amended) in respect of the continuing use. When extensions to or improvements of premises

accommodating such uses are proposed, each shall be considered on their merits, and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity and does not prejudice the proper planning and sustainable development of the area" .law firm

7.2.10. On this basis, regard must be had to the amenities of premises in the vicinity. The adjoining property to the east, No. 31 Pembroke comprises a law firm and neighbouring property to the west, Nos. 23-25 comprises an apartment building known as 'Berkely House Apartments'. Having regard to the scale and extent of the existing outdoor seating area at the front of the hotel, I am of the opinion that the scale and extent of the proposed outdoor seating area in front of the hotel are similar and would not significantly intensify the established use at this location. Furthermore, as noted by one of the observations, the height of the hotel structure would protect the residential amenity of dwellings to the rear of the hotel along Pembroke Lane from potential noise nuisance and disturbance. Notwithstanding this, regard must be had to the 'Z2 - Residential Neighbourhoods (Conservation Areas)' zoning objective of the site, which seeks "to protect and/or improve the amenities of residential conservation areas". Within this context, regard must be given to protecting the residential amenity of the neighbouring apartment building Berkeley House Apartments and other residential dwellings along Pembroke Road. Given that the proposed outdoor seating area will be used as an external area for the bar and restaurant of the hotel (as stated), I have concerns that the proposed development would impact the residential amenity of residents of nearby residential dwellings by way of noise nuisance and disturbance. However, consideration should also be given to the case put forward by the Applicant and the need for the proposed development to continue the hotel's viability. Furthermore, consideration should be given to the city centre location of the proposal, the existence of a late-night economy and activity along nearby Baggot Street (c.100m to the northwest) with nearby public houses, restaurants and take-aways and existing levels of background activity and noise along Pembroke Road (a regional road, the R816). On this basis, I consider it reasonable and fair that the hours of use of the outdoor seating area to the front of the hotel should be limited to between the hours of 10.00 and 22.00 daily. These hours would be consistent with the opening hours of 'The Den' bar food service, as stated on the Lansdowne Hotel website. Furthermore,

a Condition should be imposed requiring that live and/or amplified music entertainment not be played within the outdoor seating area to the front of the hotel. Such conditions would protect the residential amenity of neighbouring property and ensure the proposal accords with the Z2 zoning objective of the area. I conclude, therefore, that subject to conditions, the proposed development to the front of the hotel would not adversely impact the residential amenity of neighbouring property and should not be refused permission on these grounds, as given by the Planning Authority.

7.2.11. Development proposed for retention to the rear of the hotel

7.2.12. The development proposed for retention to the rear of the hotel comprises the use of the existing smoking area and sunken garden at the rear of the hotel for public use, glazed canopy structures and associated landscaping works. As detailed in the proposed plan, the courtyard area has a floor area of 23.9 sq.m. and the external pergola/covered seating area has a floor area of 35.1 sq.m. Both areas are located in a void between built extension wings to the rear of the hotel and maintain a setback of c. 5.5m from the main southern boundary of the site. The rear garden boundaries of houses Nos. 1, 2, and 3 Pembroke Lane adjoin the hotel's main rear/northern boundary. A separation distance of c. 13.5 m is maintained between the pergola to the rear of the hotel and the rear building line of the closest dwelling, No. 3 Pembroke Lane, as measured on the site plan. The submitted 3D drawings show a semi-covered glass canopy over the pergola, with a roof opening along the centre line between two mono-pitched canopies. A glass canopy is provided over the courtyard area.

7.2.13. The Applicant puts forward a case for the retention of the development to the rear of the hotel, as detailed in Section 6.1 above. In summary, the Applicant states the following;

- The outdoor courtyard and pergola areas to the rear of the hotel will cease use at 10:00 PM, given their proximity to hotel bedrooms and dwellings along Pembroke Lane.
- Non-residents could be restricted from using the space at the back of the hotel until a specific time.
- Hotel management and staff monitor the area to the rear of the property, including noise levels and the duration of activity.

- The TV has been removed, and the Applicant is willing to accept a condition of permission limiting the space's use and prohibiting its use for a TV.
- The site's southern boundary has acoustic screening. This, along with bamboo hedging and glazed roofs, reduces noise and nuisance.
- The space to the rear of the hotel can only seat 20 people and isn't connected to the bar on the lower ground floor.
- The Applicant would be willing to accept a condition which permits temporary permission associated with the use of the rear of the building.

7.2.14. Having regard to the planning history of the site, I note that under ABP Ref. PL29S.111990 permission was granted on appeal in 1999 for a 2-storey extension over existing kitchen to the rear of existing hotel. The extension comprises of 4 no. bedrooms together with enclosed water storage at roof level. Condition no. 2 of this permission required the first-floor landscaping to be modified by the omission of proposed paving on the higher part of the flat roof over the semi-basement conference centre and the substitution of soft landscaping. The reason for this Condition was "In the interest of visual amenity and to protect the amenities of properties in the vicinity". Condition No. 3 required that "the landscaped area to the rear of the hotel including that referred to in Condition No. 2 shall not be used as an outdoor extension of the hotel use or for the consumption of drink or food". I also note that under P.A. Ref. 1729/91, permission was granted in 1991 for the construction of a ground floor extension to a rear bedroom wing at the hotel. A Condition was imposed requiring that "the existing yard area to the east of the proposed bedroom block shall not be used by the guests or staff of the hotel for the purposes of eating or drinking, neither shall it be used as a beer garden. Reason: In the interest of residential amenity of adjoining property".

7.2.15. The site is zoned 'Z2 – Residential Neighbourhoods (Conservation Areas)', with the objective "to protect and/or improve the amenities of residential conservation areas". While the Applicant states that the outdoor space to the rear of the hotel is not intrinsically linked to the bar, which operates at basement / lower ground floor level, I note that the courtyard area provides access to the bar, as stated on the proposed plan. Having regard to a) the proximity of the pergola / outdoor seating area to residential dwellings along Pembroke Lane, b) the open roof/unenclosed design of the

pergola area, c) the direct access to the bar, and d) the stated hours of use of the courtyard/pergola areas, it is my view that the development proposed for retention would adversely impact the residential amenity of neighbouring dwellings along Pembroke Lane by way of noise nuisance and disturbance. Unlike the development to the front of the hotel, the development seeking retention permission is not located within the public domain and associated levels of background noise and activity. I conclude, therefore, that the development seeking retention permission to the rear of the hotel would be contrary to the 'Z2 – Residential Neighbourhoods (Conservation Areas)' zoning objective of the area, which seeks "to protect and/or improve the amenities of residential conservation areas" and that the proposal be refused permission on this basis.

7.3. Impact on Protected Structures

- 7.3.1. The Planning Authority refused permission for the development seeking retention permission to the rear of the hotel on the grounds that the various glazed canopies to the rear of the Protected Structures (Ref. Nos. 6570 and 6571) would seriously erode and injure the legibility, architectural character and setting of the Protected Structures and would contravene Policy CHC2 of the Dublin City Council Development Plan 2016 – 2022. Furthermore, the Planning Authority refused permission for the proposed development to the front of the hotel on the grounds that the proposed new zinc-roofed canopies, timber-clad coffee dock, stepped terraces, and wheelchair platform lift would give rise to a significant and injurious adverse visual and physical impact on the architectural character and setting of the Protected Structures and adjacent Protected Structures and would contravene 11.1.5.3 and Policy CHC2 of the Dublin City Council Development Plan 2016 - 2022. The comments contained in the Council's Conservation Officer's report are detailed in Section 3.3.1 above.
- 7.3.2. Section 11.1.5.3 of the Dublin City Council Development Plan 2016-2022 refers to Protected Structures – Policy Application. Policy CHC2 of the Development Plan 2016 – 2022 requires the following;

***Policy CHC2:** To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:*

(a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest

(b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances

(c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials

(d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure

(e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works

(f) Have regard to ecological considerations for example, protection of species such as bats.

Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

7.3.3. The layout and design of the proposed development to the front of the hotel and the development seeking retention permission to the rear are detailed in Sections 7.2.3 and 7.2.12 above, respectively. Regarding the proposed development in front of the hotel, I am satisfied that the proposed hedging surrounding the proposed outdoor seating area along its eastern, northern, and western boundaries would screen the proposal from the public realm by reason of its 2m height and c. 15m distance from the edge of the public road. I acknowledge that the 3.5m high zinc roofs of the proposed pergolas would be visible above the proposed hedging. However, I consider their form and design are not visually obtrusive and would not materially affect the character and setting of the Protected Structures and their long-established use as a hotel. Several tall mature trees along the front and side boundaries of the site provide additional screening of the hotel forecourt and proposed development thereon. I am

satisfied that the Architectural Conservation Report and Conservation Observation submitted provides an adequate assessment of the special interest of the Protected Structure, as required under Section 11.1.5.3 of the Development Plan. The Conservation Report provides a valid case for the location of the proposed wheelchair lift beside the entrance to No. 29 by reason that its location beside the front entrance of No. 27 would involve significant alterations to the existing railings and steps to get level access into the building. The proposed wheelchair lift involves the replacement of a window ope on the front elevation at the upper ground floor level and providing a new door opening adjacent to the main entrance steps to provide access to the basement level. The report details how the proposed new window ope would maintain the general appearance of a window. It is my view that the proposed changes to the front elevation relate sensitively to the architectural detail, proportions and design of the original Protected Structure in accordance with Section 11.1.5.3 of the Development Plan, while enabling inclusive access in accordance with Section 16.2.1.3 of the Development Plan.

- 7.3.4. With regard to the courtyard and pergola area to the rear of the hotel seeking retention permission, it is my opinion that the original character and setting to the rear of the Protected Structures, Nos. 27/29 Pembroke Road, have been significantly altered as a result of the permitted extensions to the rear of the hotel, as detailed in Section 4.0 above. On this basis, and by reason of their design and location within a sunken void to the rear of the hotel, I do not consider the development seeking retention permission would seriously erode or injure the legibility, architectural character and setting of the Protected Structures, as stated by the Planning Authority in the reason for refusal.
- 7.3.5. In consideration of the foregoing, I conclude that the proposed development and development proposed to be retained would not materially contravene Section 11.1.5.3 and Policy CHC2 of the Dublin City Council Development Plan 2016 – 2022, as stated by the Planning Authority.

7.4. Contravention of Conditions of a Previous Permission

The Planning Authority refused permission for the development seeking retention permission on the grounds that it would materially contravene Condition No.3 of imposed under planning appeal ABP Ref. PL29S.111990, where permission was permitted for a two-storey extension over an existing kitchen to the rear of the existing

hotel. Condition No. 2 of this permission required the first-floor landscaping be modified by the omission of proposed paving on the higher part of the flat roof over the semi-basement conference centre and the substitution of soft landscaping. The reason for this Condition was "in the interest of visual amenity and to protect the amenities of properties in the vicinity". Condition No. 3 required that "the landscaped area to the rear of the hotel, including that referred to in Condition No. 2, shall not be used as an outdoor extension of the hotel use or for the consumption of drink or food". The date of the appeal decision was the 1st November, 1999. With this regard, I acknowledge that the development permitted on appeal under ABP Ref. PL29S.111990 was assessed under a previous Development Plan, and thereby policy context of this decision may have been different. However, the location, scale and use of the courtyard and pergola areas seeking retention permission under the subject appeal and its context adjoining residential dwellings along Pembroke are not materially different to that omitted by way of Condition No. 3 under An Bord Pleanála's appeal decision under ABP Ref. PL29S.111990. On this basis, it is my view that the development seeking retention permission to the rear of the hotel would materially contravene Condition No. 3 attached to the decision permitted on appeal under ABP Ref. PL29S.111990, namely that the landscaped area to the rear of the hotel shall not be used as an outdoor extension of the hotel use or for the consumption of drink or food. On this basis, I recommend that the Board uphold the Planning Authority's reason for refusal No. 4, namely that the proposed development would materially contravene Condition No.3 of An Bord Pleanála's appeal decision under ABP Ref. PL29S.111990 and would thereby be seriously injurious to the area's residential amenity and contrary to proper planning and development.

7.5. Screening for Appropriate Assessment

- 7.5.1. Having regard to the nature and modest scale of the proposed development and development proposed to be retained, the location of the site within a fully serviced urban environment, and the separation distance and absence of a clear direct pathway to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development and development proposed to be retained would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Conclusions and Recommendations

8.1.1. Having considered the contents of the application, the provisions of the Dublin City Council Development Plan 2016-2022, the grounds of appeal and my assessment of the planning issues, I recommend a split decision in this case, (a) granting permission for the following proposed development;

- New single-storey cafe structure and associated covered pergola structures located on both sides of a new landscaped and terraced garden within the existing forecourt and car park at the front of the Lansdowne Hotel.
- A proposed external wheelchair lift located beside the front entrance of No. 29 Pembroke Road with associated alterations to a front window to facilitate access.
- Internal alterations at the basement level to facilitate access from the wheelchair lift and provide an accessible W.C.

8.1.2. and (b) refusing permission for the retention of the following;

- The use of the existing smoking area and sunken garden at the rear of the hotel for public use.
- The glazed canopy structures and associated landscaping works at the rear of the hotel.

8.1.3. The reasons and considerations for this split decision are set out hereunder

9.0 Reasons and Considerations (1)

9.1.1. It is considered that the proposed works hereunder to the front of the hotel and the proposed internal alterations at the basement level within the hotel would, subject to compliance with the conditions set out below, be consistent with the Dublin City Council Development Plan 2016-2022, would be consistent with the overall improvement of the character of the Protected Structures and the visual amenity of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area. The proposed development includes the following;

- A new single-storey cafe structure and associated covered pergola structures, which will be built on both sides of a new landscaped and terraced garden within the Lansdowne Hotel's existing forecourt and car park.

- An external wheelchair lift located beside the front entrance of No. 29 Pembroke Road with associated alterations to a front window to facilitate access.
- Internal alterations at basement level to facilitate access from the wheelchair lift and provide an accessible W.C.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The hours of use of the outdoor seating area to the front of the hotel shall be limited to between the hours of 1000 and 2200 daily.</p> <p>Reason: In the interest of the residential amenity of properties in the vicinity.</p>
3.	<p>Live and/or amplified music entertainment shall not be played within the forecourt / outdoor seating area at the front of the premises.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development</p>
5.	<p>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</p>

	<p>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. The contribution shall be paid within three months of this decision 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 the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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</p>
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11.0 Reasons and Considerations (2)

1. The development proposed for retention to the rear of the hotel would seriously injure the residential amenity of the existing dwellings adjoining the site to the rear of the hotel along Pembroke Lane by way of noise nuisance and disturbance. Such development would be contrary to the area's 'Z2 – Residential Neighbourhoods (Conservation Areas)' zoning, which seeks "to protect and/or improve the amenities of residential conservation areas".
2. The development proposed for retention to the rear of the hotel would materially contravene a condition attached to existing permission for development, namely Condition number 3 attached to the permission granted by An Bord Pleanála under planning appeal reference number PL29S.111990, which relates to the subject lands and requires that the landscaped area to the rear of the hotel shall not be used as an outdoor extension of the hotel use or for the consumption of drink or food.

Brendan Coyne
Planning Inspector

1st November 2022