



An
Bord
Pleanála

Inspector's Report

ABP-313812-22

Development	Demolition of office building; and construction of 4-10 storey block with basement & all associated site works.
Location	Carrisbrook House, 122 Pembroke Road, Ballsbridge, Dublin 4.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4120/21
Applicant(s)	Atria V Lux SARL
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	3 rd Party
Appellant(s)	Pembroke Road Association
Observer(s)	Goserv Fuels Ltd. Lansdowne & District Residents Association
Dates of Site Inspection	4 th & 17 th January 2023
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 2,044sq.m, is located at the junction of Pembroke Road and Northumberland Road, Ballsbridge, Dublin 4. There is an eight-storey-over-basement, hexagonal office building on the site – dating to the late 1960's. There is vehicular access from Pembroke Road (with a small, stand-alone security kiosk) serving the ground-level parking around, and partly beneath, the first floor of the building (45 spaces). There is a metal shed and an electricity substation building at the northern end of the site. There is pedestrian access from both Northumberland and Pembroke Roads. Vehicular access from Baggot Lane to the north, serves a gated basement, with parking for 20 cars. There are double yellow lines along most of both road frontages. Footpaths on both road frontages are approximately 3m wide. There is one mature lime tree within the public footpath on Pembroke Road. There is a further mature London plane tree on the footpath right at the boundary with 120 Pembroke Road. The office building is currently dilapidated, and the surrounding grounds unkempt. There is low plant located on the roof and the upper terrace of the building. There are extensive views from the upper floors and roof terrace of the building.
- 1.2. To the northeast the site abuts a small filling station (D4 Fuels), with access off Northumberland Road. This filling station has a small canopy covering part of the forecourt, and a triangular, single-storey, flat-roofed building hard against the boundary of the appeal site. Also, to the northeast, the site abuts Northumberland Road – the boundary with which is a low plinth wall of brown brick; inside which is a mature belt of mixed shrubs and trees. To the south, the site abuts Pembroke Road – the boundary with which is a low plinth brick wall; inside which is a mature belt of mixed shrubs and trees. To the west, the site abuts 120 Pembroke Road – a three & four-storey-over-raised-basement, late Georgian, terraced house, with part one-, two-, and three-storey series of return extensions. There is a restaurant within the raised basement level; and upper levels are in office and residential use. The house is a Protected Structure – the boundary with which is the blank gable elevation wall of brown and red brick with 2 buttresses (dating to the 1960's, when the original no. 122 was demolished), and an old stone garden wall (3-4m in height. Part of the

granite external staircase to the front door, which bifurcated at street level to serve 120 & 122, remains *in situ*. To the northwest, the site abuts the curtilage of 122 Baggot Lane – a two-storey mews building in residential use. The boundary with 122 Baggot Lane is a 2m high brick wall – inside which are two semi-mature bay laurel trees. Neighbouring 120 Baggot Lane is a two-storey mews building in office use. On the opposite side of Baggot Lane is a five-storey apartment complex – Wavendon – set back behind mature deciduous trees.

2.0 Proposed Development

2.1. Permission sought on 17th December 2021, for development comprising the following principal elements-

- Demolition of existing eight-storey-over-basement, hexagonal, 1960's office building (3,757sq.m) and clearance of the site.
- Construction of 4-10-storey over an extended basement office building (12,690sq.m – including basement level) with café/restaurant unit of 87sq.m at ground level on the Pembroke Road frontage. Access to the office accommodation is from Pembroke Road.
- Electricity sub-station at ground level – addressing Northumberland Road.
- Basement parking for 9 cars, 158 bicycles, e-scooters and a motorbike. 10 visitor bicycle parking spaces are provided at ground level on Pembroke Road.
- External terraces at 1st to 9th floor levels (590sq.m).
- Vehicular access to basement from Baggot Lane.
- Vehicular access from Pembroke Road to set-down area.
- Plant and solar PV panels at roof level.
- Connection to public watermains and sewers.

2.1.1. The application was accompanied by the following documents-

- Architectural Design Statement – dated December 2021.
- Design, Townscape and Visual Assessment – dated December 2021.

- Planning Report – dated December 2021.
- Landscape Design Rationale Report – dated December 2021.
- Arboricultural Assessment – dated December 2021.
- Appropriate Assessment Screening Report – dated 16th December 2021.
- Environmental Impact Assessment Screening Report – dated 16th December 2021.
- Statement in accordance with Article 103(1A)(a) of the Planning & Development Regulations, 2001 – dated 16th December 2021.
- Ecological Impact Assessment Report – dated 16th December 2021.
- Bat Activity Survey Report – dated 25th November 2021.
- Microclimate Assessment – dated 8th December 2021.
- Operational Waste Management Plan – dated 9th December 2021.
- Construction & Demolition Waste Management Plan – dated 9th December 2021.
- Construction Noise & Vibration Management Plan – dated 11th November 2021.
- Operational Noise Assessment of Plant – dated 10th November 2021.
- Archaeological Assessment – dated November 2021.
- Architectural Heritage Assessment – dated December 2021.
- Traffic Assessment & Mobility Management Plan – dated 13th December 2021.
- Civil Engineering Infrastructure Report – dated 13th December 2021.
- Construction & Demolition Management Plan – dated 13th December 2021.
- Outline Demolition Method Statement – dated 13th December 2021.
- Daylight Impact Report – dated 6th December 2021.
- Site Lighting Report – dated 15th December 2021.
- Sustainability Report – dated 15th December 2021.

- Site Utility Services Report – dated 15th December 2021.

2.2. Following a request for additional information, revised proposals were received on 22nd April 2022, which included the following principal alterations-

- The removal of 47sq.m of ground floor office accommodation (and roof terrace above) adjacent to no. 122 Baggot Lane.
- Removal of small corner of first, second and third floors (by way of chamfering) on that part of the building adjacent to the rear garden of 120 Pembroke Road and 120 Baggot Lane.
- Bricking-up of 4 windows adjacent to the filling station.
- Excluding access to 1st floor terrace adjacent to the filling station.
- Use of fritted glass on certain windows on ground, first and second floor level of the northwestern façade – addressing 120 and 122 Baggot Lane.

2.2.1. The submission was accompanied by the following-

- Daylight Impact Report – dated 21st April 2022.
- Draft Architectural Response Statement – dated 20th April 2022.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 19th May 2022, Dublin City Council issued a Notification of decision to grant planning permission subject to 13 conditions – the principal of which are summarised below-

1. Development to be carried out in accordance with plans and particulars submitted with the application, as amended by plans and particulars received on 22nd April 2022.
2. Development Contribution in the sum of €817,859.57.
10. Sub-condition (f) requires that basement car-parking spaces be reserved for office use; and shall not be alienated from this use by sale or letting.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planner's Report, dated 18th February 2022, is detailed, and recommends additional information.

Planner's Report, dated 19th May 2022, was satisfied the at the additional information submission addressed earlier concerns, and recommended permission subject to attached conditions.

3.2.2. Other Technical Reports

Engineering Department – Drainage Division

Report of 10th January 2022 indicated no objection to the proposal.

Air Quality Monitoring & Noise Control Unit

Undated report relating to requirements for a Construction Management Plan, noise control at night-time and general air-quality control.

Transportation Planning Division

Report of 10th February 2022 indicated no objection – subject to conditions being attached to any grant of permission.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland - non-specific reply dated 12th January 2022.

3.4. **Third Party Observations**

There are a number of observations – those from owners of no's 106 and 120 Pembroke Road, being in addition to those who continued as parties/observers to the appeal.

4.0 **Planning History**

Ref. 2208/18: Permission granted for alterations and extensions to Carrisbrook House. On appeal by a 3rd party to the Board (**PL301904-18**), permission was confirmed on 25th October 2018. The

alterations provided for an additional 2,366sq.m of office space; change-of-use of part of ground floor to café use (134sq.m); bicycle parking. Maximum height of roof plant was 33.5m. No development has been carried out on foot of this permission – which expires on 24th October 2023.

5.0 Policy Context

5.1. Development Plan

The *Dublin City Development Plan 2022-2028* is of relevance. The site is zoned 'Z6' – Employment/Enterprise. Office and café uses are 'Permissible'. Residential (other than embassy residential) is neither 'Permissible' nor 'Open for Consideration'. Neighbouring 120 Pembroke Road is zoned 'Z2' – Residential Neighbourhoods (Conservation Areas). Neighbouring 120 & 122 Baggot Lane, and the filling station on Northumberland Road, are zoned 'Z1' – Sustainable Residential Neighbourhoods. The traffic island to the southeast, on which a kiosk is located (junction of Pembroke Road/Northumberland Road/Lansdowne Road), is zoned 'Z9' – Amenity/Open Space Lands/Green Network.

120 Pembroke Road is a Protected Structure (Ref. 6637 in Volume 4 of the Plan); and is located within a designated conservation area [not to be confused with an Architectural Conservation Area (ACA)]. Section 11.5.3 states, *inter alia*- 'Designated Conservation Areas include extensive groupings of buildings, streetscapes... The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas'.

There is a Proposed Bus Connects Radial Core Bus Corridor running along the line of Pembroke Road.

Policy SC8 states in relation to 'Development of the Inner Suburbs'– To support the development of the inner suburbs and outer city in accordance with the strategic development areas and corridors set out under the Dublin Metropolitan Area

Strategic Plan and fully maximise opportunities for intensification of infill, brownfield and underutilised land where it aligns with existing and pipeline public transport services and enhanced walking and cycling infrastructure.

Policy CA6 states– ‘To promote and support the retrofitting and re-use of existing buildings rather than their demolition and reconstruction, where possible. See Section 15.7.1’. This section states- ‘Where development proposal comprises of existing buildings on the site, applicants are encouraged to reuse and repurpose the buildings for integration within the scheme, where possible in accordance with Policy CA6 and CA7. Where demolition is proposed, the applicant must submit a demolition justification report to set out the rational [sic] for the demolition having regard to the ‘embodied carbon’ of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. Existing building materials should be incorporated and utilised in the new design proposals where feasible and a clear strategy for the reuse and disposal of the materials should be included where demolition is proposed’.

Section 14.6, in relation to Transitional Zone Areas, states- ‘The land-use zoning objectives and control standards show the boundaries between zones. While zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties...’.

Appendix 3 of the Plan is a Height Strategy.

Section 3.1 states- *Locally Higher Buildings*: These are buildings that are significantly higher than their surroundings and are typically up to 50 metres in height. Higher buildings can act as Local or District landmarks. The section further

states- 'Opportunities for height will be promoted on sites identified in section 4 below and in accordance with the performance criteria set out in Tables 3 and 4'.

Section 3.2 relates to Density and states at Table 2- 'Indicative Plot Ratio for Outer Employment and Residential Area is 1.0-2.5 and 45-60%. It states further- 'Any development with a plot ratio over 3.0 must be accompanied by a compelling case'.

Section 4.0 indicates how to achieve sustainable height and density in the city.

Section 4.1 states- 'The general principle is to support increased height and higher density schemes in the city centre, Strategic Development Regeneration Areas, Key Urban Villages, areas close to high frequency public transport [my emphasis] and some other areas (as identified) considered as suitable for increased intensity of development'.

'In considering locations for greater height and density, all schemes must have regard to the local prevailing context within which they are situated. This is particularly important in the lower scaled areas of the city where broader consideration must be given to potential impacts such as overshadowing and overlooking, as well as the visual, functional, environmental and cumulative impacts of increased building height'.

'As a general rule, the development of innovative, mixed use development that includes buildings of between 5 and 8 storeys, including family apartments and duplexes is promoted in the key areas identified below. Greater heights may be considered in certain circumstances depending on the site's location and context and subject to assessment against the performance based criteria set out in Table 3'.

Key Locations include, *inter alia*-

'Public Transport Corridors': There is recognised scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including:

- ♣ Bus connects/Core Bus Corridors (CBC's)
- ♣ Luas
- ♣ Metrolink
- ♣ DART

...The capacity of public transport will also be taken into consideration in considering appropriate densities and must be demonstrated by the applicant... It is acknowledged that many sites along such transport corridors are smaller infill sites. Particular regard must be had to ensure that proposals are of a coherent scale and provide a sustainable and viable extension to the existing urban fabric’.

‘Outside of the canal ring, in the suburban areas of the city, in accordance with the guidelines, heights of 3 to 4 storeys will be promoted as the minimum. Greater heights will be considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3’. In relation to public transport proximity – 1.0km walking distance to a rail station or 500m of a bus stop is the recommendation.

The performance criteria set out in Table 3 relate to-

1. Promoting development with a sense of place and character.
2. Providing appropriate legibility.
3. Providing appropriate continuity and enclosure of streets and spaces.
4. Providing well-connected, high-quality and active public and communal spaces.
5. Providing high-quality, attractive and useable private spaces.
6. Promoting mix of use and diversity of activities.
7. Ensuring high-quality and environmentally sustainable buildings.
8. Securing sustainable density and intensity at locations of high accessibility.
9. Protecting historic environments from insensitive development.
10. Ensuring appropriate management and maintenance.

Appendix 5 of the Plan deals with Transport & Mobility.

Table 1 indicates the bicycle-parking standards for this zoning of 1 per 75sq.m of gross floor area.

Table 2 indicates the maximum car-parking standards for office use in this zoning, of 1 space per 200sq.m gross floor area within Zone 2.

Appendix 9 of the Plan deals with basement development, and sets out a list of considerations when excavation is proposed. It is the policy of the Council that a Basement Impact Assessment (BIA) shall accompany all planning applications that include a basement – to address issues of hydrogeology, structural stability, impact on adjoining properties, construction nuisance, potential contamination of excavated material, existing underground services and archaeology.

5.2. Natural Heritage Designations

The site is neither within, nor immediately abutting, and area of nature designation. There are no watercourses on the site which would link it with any such designated area. The application was accompanied by an Appropriate Assessment Screening Report. The development was screened for Appropriate Assessment by DCC, prior to issuing a Notification of decision to grant planning permission. In order to identify European Sites which could potentially be affected by the development, the Source-Path-Receptor method was adopted. The closest sites are the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay & River Tolka Estuary SPA and the North Bull Island SPA. The pathway is via sewage discharges from the Ringsend Waste Water Treatment Plant – to which sewage from this site will be discharged, as is the case for the existing building on the site. It can be concluded that the possibility of any significant effects on the identified European sites, whether arising from the development itself, or when considered in combination with other plans and projects, can be excluded. There is, therefore, no need to prepare a Natura Impact Statement for this development.

5.3. EIA Screening

The application was accompanied by an Environmental Impact Assessment Screening Report and a 'Statement in accordance with Article 103(1A)(a) of the Planning and Development Regulations, 2001. The site has an area of 0.2ha – considerably below the 10.0ha threshold set down in Schedule 5, Part 2, 10(b) of the Planning and Development Regulations 2001 (as amended), which would automatically trigger the need for EIA. Discharges will be made to the public foul sewerage network – including SuDS measures to be incorporated within the site. Demolition of the office block on the site would not have significant impacts. Any

cumulative impacts are likely to be as a result of construction nuisance when other large-scale projects in the area are undertaken at the same time. Nuisance caused can be minimised by good construction management practices. The development was screened for EIA by DCC. Having regard to the scale of development, its urban location, and the absence of any significant environmental sensitivities in the area; the proposed development will not be likely to have significant effects on the environment. The appellant argues that an EIA should have been submitted with the application, in order to assess its impact on groundwater. I would be satisfied that the commissioned reports relating to engineering and construction, by the applicant, satisfactorily address this issue.

6.0 The Appeal

6.1. Grounds of Appeal

The 3rd party appeal from the Pembroke Road Association, received by the Board on 15th June 2022, can be summarised in bullet point format as follows-

- The unique qualities of the Pembroke District relate to sightlines and building setbacks. Large deciduous trees on the public footpaths serve to amplify this. The streets are deliberately designed to form a pattern of public and private space to the benefit of all – since the 1860's. Houses on Pembroke Road were built in the mid-19th century as part of the Pembroke Estate. The stand-alone and paired houses on Northumberland and Lansdowne Roads date to the late-19th century.
- Houses on the north side of Pembroke Road form a continuous terrace. On the south side the paired houses form a gentle crescent with generous garden setbacks. Sight lines are obscured in summer by the leaves on trees; but are clearly visible in winter. The street links all the way up to the canal bridge on Baggot Street.
- The proposed development is a dreary and mundane adhesion to the elegant, charming, well-considered and well-designed primarily residential district. It is acknowledged that the current office building could be replaced. It should be possible to design a better building than this – with only a small café at ground

level. The area is over-supplied with office space. Good living space is needed in the central part of the city. This building is not a landmark. The landmark in the area is the small kiosk (even in its closed-up and dilapidated state) on the traffic island in front of the building. A mixed-use residential/office building should be proposed for this site. It should be possible to have a generous public open space in front of this building.

- The building should bring sustainable urban life to the area. There will be no life around this building after office hours.
- An Environmental Impact Statement should have been submitted to assess the weight of the building on the water table.
- The first Carrisbrook House on this site (since demolished) was a significant landmark.
- Additional office space is not required in the context of post-Covid working arrangements.
- Terraces are often included: only to be changed later to office space by way of revised planning application(s).
- Basements are of dubious standing with rising water table levels due to global warming.
- The proposal is lacking in good thinking around the use of sustainable materials.
- Reference is made to sections 16.1.4 & 16.1.10 of the Development Plan, which relate to proportions and scale of buildings, and their architectural design as a determinant in quality-of-life [I note that this Plan has been superseded].

6.2. Applicant Response

6.2.1. The response of John Spain & Associates, agent on behalf of the applicant, received on 13th July 2022, can be summarised in bullet point format as follows-

- The applicant had a number of pre-planning consultations with DCC, with a particular focus on architectural quality.

- The existing Carrisbrook House is considered to be a negative presence in the overall appearance of the streetscapes in this area. It is an under-utilisation of a prime suburban site. The existing building is at the end of its useful life.
- Development is consistent with the policies of the Draft Dublin City Development Plan 2022-2028.
- The development accords with the 2018 Urban Development and Building Height Guidelines.
- It is acknowledged that the building steps forward of the building line. However, it does so to respond to the road junction and the higher buildings which flank it. The building will create an improved relationship and greater synergy between the lower-scaled Protected Structures which line the northern side of Pembroke Road and those on the western side of Northumberland Road. The modern and elegant building greatly improves the corner site.
- The café on Pembroke Road will improve vitality on this street frontage.
- The precedent of bringing the building closer to the street has already been accepted by DCC and the Board in permission ref. 2208/18 (ABP Ref. PL301904-18).
- Trees on this site (to be removed) are not historic street trees. There will be 4 new trees planted on Northumberland Road and 11 on Pembroke Road frontages. These trees could grow to a similar scale to those being removed.
- Existing street trees in the area will result in screening of the development.
- The demolition of the building is justified by its not being included in the list of Protected Structures or the National Inventory of Architectural Heritage.
- The building will be viewed as a bookend to the terrace of houses on the north side of Pembroke Road.
- It would be possible to incorporate a piece of art/sculpture at two locations on the site, and the Board could include a condition requiring provision of such (in agreement with the Planning Authority) in any grant of permission.

- The site is zoned for employment and enterprise use. Office use is long-established on the site. The Board has previously approved office developments on nearby sites – including expansion of office accommodation on this site in 2018.
- There is no planning policy in place to restrict further office development in this area – notwithstanding changes since Covid 19. There is a strong demand for high-quality office space in this area
- Reference to being a landmark building relates to the height of the existing building at a prominent junction. The kiosk on the traffic island does not form part of the appeal site – and the building will not detract from its setting. The development will provide improvements to the public realm and will increase integration via the café use at ground floor level. The development is classified as a mid-rise one – below 50m in height: landmark buildings are greater than 50m in height. The maximum height of the parapet at the junction is 39.8m.
- The proposed development will not be visible within any of the ‘Key view and prospects’ identified in the Development Plan.
- The site is well served by bus and DART public transport.
- There is no requirement for public open space within lands zoned Z6. Should the Board consider that a contribution towards public open space in the wider area be required, the applicant would accept a condition requiring a financial contribution in lieu of public open space towards provision of or improvements to a part and/or enhancement of amenities in the area.
- The EIA Screening Report submitted with the application indicates that an EIAR is not required for a development of this scale
- The applicant must comply with Condition 1 of the permission and has no plans to change terraces to office use.
- The site already contains a basement. Section 7 of the Civil Infrastructure Report, submitted with the application, addresses the issue of groundwater and flooding. No groundwater was encountered during ground investigations. The site is not at risk of flooding from fluvial, pluvial, tidal or groundwater

sources. The development will not have any impact on flooding outside the site.

- A Sustainability Report was included with the application – in relation to new materials to be used in construction. The target energy performance of the new building is in line with the Net Zero Carbon 2030 objectives. The existing building is not appropriate for re-use from an energy-efficiency perspective. The design has placed emphasis on passive solar design, combining vertical shading fins with high-performance glazing. Solar panels are proposed for part of the roof.

6.2.2. The response is accompanied by a number of Appendices. Of note are-

Appendix 2: Consistency with the Draft Dublin City Development Plan 2022-2028.

Appendix 3: Report from IAC Archaeology

Appendix 4: Location drawing for 2 potential sites for artwork/sculptural elements.

Appendix 5: Public Transport Capacity Assessment Report

6.3. **Planning Authority Response**

The response of DCC, received by the Board on 1st July 2022, requested that the decision of the LA be upheld and conditions added relating to development contribution and bond.

6.4. **Observations**

6.4.1. There are two observations from-

1. ha Design Studio, agent on behalf of Goserv Fuels Ltd. (owners of D4 Fuels) – received on 12th July 2022.
2. Lansdowne & District Residents Association – received on 12th July 2022.

6.4.2. The relevant issues raised, where in addition to those raised by the 3rd party appellant, can be summarised in bullet point format as follows-

- The proposal constitutes over-development of the site, which would have a significant impact on the operation of the adjacent filling station, and upon its future development potential. The separation distances are insufficient, and

windows & terraces overlook the filling station. The further information response to DCC did not properly address these issues. The building would have an over-bearing and dominating presence.

- Permission has been granted on appeal, for a development on this site which does not increase the height – ref. 2208/18 (PL301904-18).
- The observer is not opposed to the increase in height of the scheme, but objects to the scale and the proximity to the filling station boundary. The transition in scale is too abrupt – where the adjoining lands are zoned ‘Residential’. The result will be that adjoining lands, zoned for residential use, will not be appropriate for residential redevelopment. There is essentially a four-storey building within 1m of the filling station.
- No assessment of over-shadowing of the filling station site was submitted. Assessment was only made in relation to existing residential buildings. The existing hexagonal office building is located 11m from the filling station.
- The development would injure the visual amenities of the streetscape.
- The plot ratio and site coverage substantially exceed what is set down in the Development Plan for Z6-zoned lands.
- There will be overlooking from 36 windows and 6-7 terraces. Only 4 windows have been omitted by way of additional information submission.
- There would be negative impacts on the filling station business during the demolition and construction phases. Unobstructed access is crucial to the filling station business.
- There does not appear to be any report on file from the Conservation Officer of DCC, on the impact of the development on Protected Structures.
- It is understood that planners have used the Ministerial Guidelines on height to allow development of this site, over and above what would be permitted by the standards of the Development Plan: however, a development of this intensity is excessive.

- This is an important gateway to the city. The site nestles amongst Protected Structures on lands zoned predominantly residential. A new American Embassy will shortly be constructed on the nearby Jury's Hotel site.
- The building only steps inwards on the west and north facades – where essential. The stepping has no design merit. The only design element which reflects the locality, is the use of brick.
- Landscaping is minimal and affords no great addition at this junction. No positive artistic or sculptural element has been proposed.
- The design is more appropriate to an inner-city location.
- If the development is allowed, it will set an undesirable precedent at this junction.

6.5. Further Responses

The 1st Party response to the 3rd Party appeal was circulated by the Board to DCC, the 3rd Party and to the Observers for comment – by letters dated 20th July 2022.

6.5.1. The response of the 3rd Party, received on 9th August 2022, can be summarised in bullet point format as follows-

- Residential apartments are needed in this scheme.
- Sightlines need to be preserved at this junction. The existing sightlines have served well for 200 years; and should not be tampered with.
- This site is on an historic route for many tourists – particularly those visiting Lansdowne Road stadium for matches and events.

6.5.2. The response of the second Observer, Lansdowne & District Residents Association, received on 29th September 2022, can be summarised in bullet point format as follows-

- The arguments made by the 1st Party do not change the original contention of the observer.
- The Council seeks to limit height at this location to 28m.

- Every building at this junction is fronted by open space and gardens. This development will set a precedent for street-front buildings.
- Landscaping proposed is minimal.
- There is no need for more office space in Dublin – a mixed-use building would be more appropriate.
- The building will result in a windy, closed-in area.
- The existing building on site is not attractive. However, one bad planning decision cannot be used to justify a further one – as in the case of the proposed building.
- The café will likely only be open during office hours.

7.0 Assessment

7.1. Development Plan and Other Guidance

- 7.1.1. The proposed development is in accordance with the zoning for the site. I note that the zoning of the access ramp was changed from ‘Z1’ to ‘Z6’ during the making of the new Development Plan – to reflect the actual use of this part of the site. The lands on either side of the access ramp remained zoned ‘Z1’, notwithstanding that the filling station is clearly a non-compliant use, and remains zoned for residential use. 120 Pembroke Road, and the Georgian terrace of which it forms part, are zoned ‘Z2’ – residential conservation area. It has been suggested by the appellant that the site would be more suitable for mixed-use development. However, such an application is not before the Board for consideration; and in any event, residential use is neither ‘Open for Consideration’ nor ‘Permissible’ on lands zoned ‘Z6’.
- 7.1.2. The development will be in accordance with Policy SC8 in relation to development of the Inner Suburbs (as set down in Section 5.1 of this Report).
- 7.1.3. Policy CA6 of the Plan seeks to promote the retrofitting and re-use of existing buildings. The applicant has submitted a justification for the need to demolish the building on site – contained within a ‘Sustainability Report’. The issue of re-use and recycling of C&D waste is addressed in the ‘Construction & Demolition Waste Management Plan’. The existing building had a ‘C3’ energy-rating. It has been

empty for a number of years, and is deteriorating over time. The proposed building will be designed to be as energy-efficient as possible; with a provisional estimate of BER 'A2' rating. It is stated that the nett saving in new carbon use, over loss of embodied carbon (in the building to be demolished), will be realised in a short space of time, arising from the energy-efficiency in heating, lighting and plumbing within the new building. The building will be fully-insulated; incorporate passive solar gain elements; have solar panels on the roof (40kW); incorporate energy-efficient lighting; utilise air heat-pump technology; rainwater harvesting; water control on sanitary ware and taps. The development is in accordance with the Government of Ireland 'Climate Action Plan 2023'; in that it will provide for a more energy-efficient building on the site; where 45% reduction in emissions is sought by 2030, within the construction sector, for commercial/public buildings. I note that it was proposed to retain and extend this office block in 2018 – and permission expires on 25th October 2023.

- 7.1.4. Section 14.6 of the Plan relates to 'transitional zones' – where two different land zonings are located side by side. The section refers to avoidance of abrupt transitions in scale. The applicant has attempted to address this issue with a four-storey height section immediately adjacent to 120 Pembroke Road; and then via stepping back the building to the side and rear, where it addresses houses and gardens on Pembroke Road/Baggot Lane and Wavendon apartment block (69 Northumberland Road), and to a small extent from the filling station on Northumberland Road. Notwithstanding these proposals (with minor amendments by way of additional information submission to DCC), I would consider that the change in scale is too abrupt on this restricted site – particularly when viewed as an extension to the Georgian terrace on this side of Pembroke Road. The applicant refers to the building as 'book-ending' the terrace: however, I would consider that such a massive book-end is neither required nor appropriate. The owner of the filling station has referred to the impact on the future development potential of the filling station site (zoned for residential use). I would agree with the contention that the bulk and scale of the proposed building, in such close proximity, with windows and terraces directly addressing the filling station site, would seriously detract from the future development potential of the adjoining site – notwithstanding minor alterations proposed by way of additional information submission to DCC. The change in scale,

in relation to the two-storey mews buildings on Baggot Lane, is too abrupt; and terracing arrangements at the back of the building are insufficient to maintain the amenities of these buildings. I would consider that the change in scale would not have such a significant impact on Wavendon apartments – given the set-back distance, their location on the opposite side of Baggot Lane, and the presence of mature deciduous trees within the grounds of the apartment block complex.

- 7.1.5. Appendix 3 of the Plan is a Height Strategy. There is an acceptance that buildings above 50m in height are landmark structures. The proposed building falls just short of that height – being 39.7m to parapet level, with a further set-back floor and roof plant – to an overall height of 46.5m. This is considerably taller than the existing office block on site at 23.8m to parapet level, with a further set-back floor and roof plant to an overall height of 28.5m. The difference in height between existing and proposed is 18.0m. This is a substantial difference; where Carrisbrook House is already significantly taller than buildings on adjoining sites. Lansdowne House (a taller office building) is located on the other side of Northumberland Road. Reference to storeys is of little relevance for comparison purposes. This can be illustrated by the fact that the existing eight-storey building has an overall height of 28.5m; whilst the proposed ten-storey building has a height of 46.5m. If the existing eight-storey building had two storeys added (in proportion), then it would be approximately 35.6m high. Modern buildings have a requirement for greater floor-to-ceiling heights. However, height alone is not the issue here – the size and bulk of the building must also be considered. The existing hexagonal block is set back from the road frontages and is screened to some degree by mature planting within the site (and somewhat by mature trees within the public footpath on Pembroke Road).
- 7.1.6. It is proposed to replace 3,757sq.m of office space with 12,690sq.m of new floorspace. The existing building represents 29.6% of the floor area of the proposed new building. This is reflected in the increase in plot ratio from 1.84 to 6.20. The Development Plan gives an indicative plot ratio of 1.0-2.5 for sites such as this one. As can be seen, the figure of 6.2 is substantially above the indicative 2.5 upper limit. In addition, site coverage for this area is indicated as being 45-60%. The existing development would fall below this band, whilst the proposed development would be substantially above the upper limit of this band. However, plot ratio and site coverage are 'indicative' only, and proposals which fall outside of this guidance can

be considered on their merits where, for instance, they adjoin major public transport corridors; as is the case with this site. Those developments with a plot ratio greater than 3.0, must be accompanied by a compelling case. I do not believe that such has been established in this instance, notwithstanding the substantial volume of information which accompanies the application. I note that a considerable amount of the policy in the Plan in relation to increased density is directed at residential development; and is of limited relevance to non-residential forms of development such as this one— particularly when reference is made to encouraging mixed uses; with residential amongst them.

- 7.1.7. Section 4 of Appendix 3 refers to sustainable height and density within the City. Innovative development comprising buildings of 5-8 storeys is promoted in a number of areas – amongst which is along public transport corridors. Particular regard must be had to ensure that proposals are of a coherent scale and provide a sustainable and viable extension to the existing urban fabric. I consider that the proposed scale is not coherent – where a large building is to be brought close to the edge of the site – without the benefit of setbacks from roads. Mature street and site trees on Pembroke Road, Northumberland Road and Lansdowne Road are a defining feature of this part of the City – be they evergreen or deciduous. They serve as a screen for large buildings such as Carrisbrook House, Lansdowne House and the Ballsbridge Hotel. Even when deciduous trees are without leaf, they still perform an important function in lessening the visual impact of larger buildings, when taken in conjunction with the setback of such buildings from the edge of the public footpath. I note that nearby Lansdowne House, which is taller and larger than Carrisbrook House, is set back from the street frontages on Northumberland and Lansdowne Roads, and benefits from mature planting along Northumberland Road and semi-mature planting on Lansdowne Road, to screen the building somewhat from view.
- 7.1.8. In relation to residential conservation area zoning 'Z2', which zoning relates to 120 Pembroke Road (immediately to the west of the appeal site) and its associated terrace; and to houses flanking Northumberland Road – I note that no part of the site is within such a zoning. The Plan encourages development which enhances the character and setting of Conservation Areas. Whilst I have argued elsewhere in this report that the development is over-large and would detract from the amenities and future development potential of adjoining and nearby sites, I would not consider that

this development would have such a detrimental effect on architectural conservation, as to warrant refusal of permission on this ground. I would similarly consider the same to apply to the Protected Structure status of no. 120 Pembroke Road – where the applicant has attempted to address the height of 120, with a four-storey element immediately adjoining on the Pembroke Road frontage; and where the proposed development would not impact on the Protected Structure status of this building *per se*.

7.1.9. Table 3 of Appendix 3 sets out a list of 10 performance criteria for assessing proposals for enhanced height, density and scale. As referenced elsewhere in this section, much comment in relation to increased density relates to residential development; and so is of limited relevance in assessing a building such as this one. [For the convenience of the Board, I have included a copy of Table 3 in the photograph pouch which accompanies this Inspector's Report]. Each of the 10 criteria are commented upon below-

1. *To promote development with a sense of place and character.* I would consider that the design of the proposed building, of itself, does achieve this objective to some extent. However, the objective refers to- 'respect and/or complement existing and established surrounding urban structure, character and local context, scale and built and natural heritage and have regard to any development constraints' and also to 'have sufficient variety in scale and form and have an appropriate transition in scale to the boundaries of a site/adjacent development in an established area'. The proposed development does not accord with these requirements due its excessive height, scale and proximity to boundaries.
2. *To provide appropriate legibility.* The building does make a positive contribution to the legibility of the area by strongly defining the road junction.
3. *To provide appropriate continuity and enclosure of streets and spaces.* This has been achieved on the Pembroke Road frontage, but not on the Northumberland Road frontage. The objective requires that the development- 'not produce canyons of excessive scale and overbearing of streets and spaces'. The proposed block is located too close to the edge of Northumberland Road, and the setback is insufficient to lessen the impact on

visual amenity of the bulk of this block – particularly when approaching from the city along Northumberland Road, when trees would be leafless. It will take a substantial time for the proposed 4 trees, to be planted on this frontage, to have any impact on screening the building from view. The Visual Assessment which accompanies the application contains 14 views. There is no view of the proposed block from Northumberland Road between Views 1 & 2 – whereas there is one from Pembroke Road between Views 5 & 7 (View 6). I consider that the visual impact of this block will be particularly severe when approaching along Northumberland Road from the direction of the city centre. The only tree of any scale on the Northumberland Road frontage (a sycamore), is to be felled to allow for construction of the block. There are no footpath trees where the site abuts Northumberland Road – although there are on the other side in front of Lansdowne House. The objective goes on to state- ‘provide adequate passive surveillance and sufficient doors, entrances and active uses to generate street-level activity animation and visual interest. This has been achieved on the Pembroke Road frontage, but not on the Northumberland Road frontage.

4. *To provide well connected, high quality and active public and communal spaces.* This objective relates more to residential or mixed-residential schemes. A small outdoor terrace is to be provided at ground level in front of the café on Pembroke Road. Because of its proximity to the street, the development is well-integrated with public transport and the footpath network. It is a requirement to- ‘provide for people friendly streets and spaces...’. I would contend that this has not been achieved on the Northumberland Road frontage.
5. *To provide high quality, attractive and usable private spaces.* This objective is of more relevance to residential and mixed-use residential developments. Terraces and balconies throughout the building will provide outdoor spaces for office workers.
6. *To promote mix of use and diversity of activities.* This objective has not been achieved within this scheme, where only 87sq.m of café space is proposed within an overall office development of 12,690sq.m. The objective refers to a mix – including housing, commercial and employment development as well as

social and community infrastructure'. I would acknowledge that the use of Carrisbrook House is/was entirely office. However, within such a significant expansion as is now proposed, the development does not meet with the requirements of this objective, in any but the smallest way.

7. *To ensure high quality and environmentally sustainable buildings.* I would be satisfied that this objective has been achieved in the design of the building as a structure. However, reference is made to the need to 'minimise overshadowing and loss of light' and to 'not compromise the ability of existing or proposed buildings and nearby buildings to achieve passive solar gain'. The proposed building would not meet with the requirements of these criteria in relation to buildings and gardens to the west, northwest and north, on Pembroke Road and Baggot Lane; and also to the filling station site on Northumberland Road and to the public footpath adjoining the site on Northumberland Road.
8. *To ensure sustainable density, intensity at locations of high accessibility.* The proposed development meets the requirements of this objective – when taken in isolation; but not when adjoining development and the public realm are taken into consideration.
9. *To protect historic environments from insensitive development.* Reference is here made to impact on Protected Structures. I would be concerned that the bulk and height of the building would have a negative visual impact on the terrace of Georgian buildings on the north side of Pembroke Road – all of which are Protected Structures.
10. *To ensure appropriate management and maintenance.* Appropriate proposals have been put forward to meet the requirements of this criterion.

In summary then, whilst the proposed development meets some of the performance criteria set out in Table 3, I would be concerned that it does not meet many of 10 listed – particularly in relation to impact on adjoining sites and visual amenity. The proposed development should be refused permission for this reason.

7.2. Design & Layout

- 7.2.1. Much of the assessment in the preceding section of this report relates to design and layout issues. The new building has been pushed out towards the edges of the site, to the detriment of adjoining property and the public realm on Northumberland Road. Because of the width and expanse of the junction of Northumberland Road, Pembroke Road and Lansdowne Road, the building appears to best advantage from this side. The building addresses the junction – although the main entrance is actually on Pembroke Road. Whilst the building line on Pembroke Road has been maintained, the building line on Northumberland Road is well forward of the established building line. I would not consider that the filling station building (which is a small and insubstantial structure) defines the building line in this area: rather it is the majestic row of semi-detached red-brick Victorian houses – some of which are extended (as in the case of Wavendon apartments at nearby no. 69). I note that the existing Carrisbrook House office building is forward of the building line established by the houses on Northumberland Road, but this is mitigated by the limited size and footprint of the building, and the presence of now mature, on-site landscaping. The upper floor of the proposed building is set back; and roof plant is screened, which contributes in only a small way to limiting the impact of such a high and bulky building on the streetscape.
- 7.2.2. The materials used in the external finish are acceptable and provide for an attractive finish. Concrete banding and curved glazing help to define this building; as does the lightening in the shade of brick from ground towards upper floors. The presence of terraces on the rear of the building helps to break up the mass of the structure, when viewed from Baggot Lane and surrounding properties. However, I consider that the size of the block, its proximity to the site boundaries, and the steepness of the raking to the rear, would result in a serious loss of sunlight and daylight to properties located to the west, northwest and north. The degree of over-looking of houses and gardens would be entirely unacceptable – notwithstanding proposals to landscape terraces and utilise limited areas of fritted glass on this side of the block. Whilst there is overlooking of houses and gardens on Pembroke Road/Baggot Lane from the existing Carrisbrook House, the proposed development would substantially increase the degree and amount of such overlooking, to the detriment of the amenities of residents and users of these properties. Carrisbrook House (at eight

stories), is the exception at this junction of Pembroke and Northumberland Roads; and cannot be regarded as establishing a precedent for a building of this height or higher over the remainder of the site. Permission should be refused due to the increase in overlooking of nearby residential property.

- 7.2.3. The application is accompanied by a Daylight Impact Report. This Study addresses the issues of skylight and sunlight. Only 10 of the 101 rooms assessed, would be impacted in terms of skylight loss. Sunlight was assessed for impact on living rooms – the same 101 rooms (the location of which are indicated at Appendix G of the Study). Both annual and winter sunlight levels were assessed. Only south-facing windows of residential living rooms are included (in this case 27 out of the 101 identified windows is stated). [However, I note that Table 2 in relation to Annual Sunlight refers to 35 rooms and not 27: the same is the case for Table 3 in relation to Winter Sunlight]. Only a small number of rooms were deemed to be affected by loss of annual sunshine and winter sunshine. Sunlight levels on garden space was examined – with 21 outdoor areas identified as being possibly impacted – to the rear of houses on Pembroke Road and Baggot Lane. Shadow-casting imagery is included at Appendix H of the Study. Only the garden of 122 Baggot Lane (no. 2 within Figure 3) was assessed as being significantly affected – although the semi-mature trees in this rear garden already cast shadow – and so the impact is likely to be less. A part of all gardens was assessed as being able to avail of at least 2 hours of winter sunshine on 21st March – under both the existing scenario and the proposed scenario. The applicant points out that it may not always be possible to meet all minimum standards (many of which were designed for greenfield areas); and local authorities can accept shortfalls where there is need for well-designed, brownfield development. The applicant further argues that performance targets advocated in guidelines may not reflect human perception, functional use of a room or space, or occupant expectations – so that a ‘one-size-fits-all’ model may not be appropriate. Whilst accepting that this is true, the lands to the west, northwest and north of this site are zoned for residential use. There must be a reasonable assumption that residential amenity is a primary consideration in development which might affect lands so zoned. Carrisbrook House, and to a lesser extent Lansdowne House, cast shadows on properties in Baggot Lane and Pembroke Road, depending on the time of day and year – and of course on the day itself (or a part of it) being

sunny. Mature trees, of which there are many on Northumberland, Lansdowne and Pembroke Roads, will also cast shadows at certain times of year. Appendix H of the Study submitted indicates shadows cast on 21st March at 0800, 1000, 1200, 1400, 1600 and 1800 hours, for the existing and proposed scenarios. This day is taken as being a good average for both winter and summer time. Because of the position of the proposed block *vis a vis* the houses on Pembroke Road and Baggot Lane, the impact of shadowing will be up until lunchtime; thereafter the shadow of the block will move over Northumberland Road and Lansdowne Road – of lesser consideration in amenity terms. I would not consider overshadowing of the filling station to be of concern. However, this site is zoned for residential use, and overshadowing from the proposed block would impact on its future residential redevelopment potential. Planning permission should be refused, on grounds of unacceptable overshadowing of adjoining lands zoned for residential use.

7.3. **Water Supply & Drainage**

7.3.1. Water Supply

It is proposed to utilise the existing connection to the 225mm diameter water main in Pembroke Road, to service the new development. The supporting documentation submitted with the application refers to pre-consultation with Irish Water – and includes a copy of the Confirmation of Feasibility letter (dated 23rd September 2021) – Appendix II of the Civil Engineering Infrastructure Report.

7.3.2. Surface Water

There are a considerable number of combined sewers within the road network surrounding the site. At present, surface water is discharged to an 800mm diameter combined brick sewer in Northumberland Road. All sewers in the area ultimately discharge to a 1220mm diameter combined sewer in Lansdowne Road to the east. There are no flow-control devices on the existing drainage layout. Estimated greenfield run-off rate for the site is 0.958 l/s. A below-ground attenuation tank (80 cubic metre capacity) is proposed to be slung from the basement ceiling – with Hydrobrake mechanism to limit discharge to 2 l/s – on a gravity-flow basis. This will ultimately discharge to the combined sewer in Northumberland Road; with a dead-leg provision against the time when a dedicated surface water sewer is constructed

to serve the area. At least 70% of the roof area will be green-roof. A rain-water tank (24 cubic metre capacity) in the basement floor will be used for wash-down and irrigation of planted areas.

- 7.3.3. The existing office block is served by public foul sewer. It is proposed to connect the new development via an existing 225mm diameter connection to the combined 800mm diameter brick sewer in Northumberland Road, via gravity flow. Wastewater from the basement will have to be pumped from a sump. The supporting documentation submitted with the application refers to pre-consultation with Irish Water – and includes a copy of the Confirmation of Feasibility letter (dated 23rd September 2021) – Appendix II of the Civil Engineering Infrastructure Report.
- 7.3.4. The water supply and drainage arrangements were acceptable to the Drainage Division of DCC – as reflected in the requirements of condition 12 of the Notification of decision to grant permission. I would be satisfied that the arrangements put forward are acceptable and would not be prejudicial to public health. Irish Water has indicated provisional acceptance of the proposal.

7.4. **Waste**

7.4.1. Construction & Demolition Waste

There will be a significant generation of demolition waste arising from the removal of the existing office block. A Construction & Demolition Waste Management Plan' was submitted with the application. Table 4.1 estimates demolition waste at 4,364 tonnes (broken down into Reuse/Recovery, Recycle and Disposal). Table 4.3 estimates 730 tonnes of construction waste – similarly broken down. Section 4.3 states that there will be 3,183 cubic metres of excavated material (which must include basement extension and removal of the existing basement – although not specified). An Outline Demolition Method Statement accompanies the application. Asbestos-containing materials have been identified within the building. These will have to be handled by experienced and trained operatives and disposed of to a licensed waste facility. It is stated that the building does not contain any heritage items or materials worthy of salvage. The existing basement will have to be filled with demolition waste to provide a stable piling mat at existing ground level; from which it will be possible to install the contiguous pile-wall retention system around the extended basement area.

Limestone bedrock is located 6-9m below existing ground level – so removal is not likely to be required. The application is accompanied by a Construction & Demolition Management Plan. A temporary delivery/collection bay (14m long) will be provided within the carriageway on Pembroke Road for the duration of the construction phase.

7.4.2. Operational Waste

Waste management facilities are provided as basement level; with dedicated lifts to bring waste bins to doors out onto Northumberland Road for collection. The application is accompanied by an ‘Operational Waste Management Plan’, in which estimated volumes arising, storage and disposal issues are addressed. Leaving bins for collection on Northumberland Road is acceptable, as there is space within the curtilage of the site – thereby not obstructing users of the public footpath.

7.5. **Traffic & Parking**

7.5.1. Traffic

The application is accompanied by a Traffic Assessment & Mobility Management Plan. Facilities on the site will encourage workers to bicycle or walk to work. The site is located on busy bus routes on Northumberland Road and Pembroke Road. Pembroke Road is identified as being a proposed Bus Connects Radial Core Bus Corridor. The site is within easy walking distance of Lansdowne Road DART Station. The 1st Party response to the grounds of appeal, included (at Appendix 5), a Public Transport Capacity Assessment Report, indicating that public transport capacity existed in this area. The site is within walking distance of the city centre.

The access ramp to the existing basement is to be retained. Its width of 5m is not sufficient to allow of two-way traffic flow; so a traffic-light system will be installed to control access and egress. The amount of basement parking is to be halved, so the impact of the development on traffic on Baggot Lane will be lessened – even allowing for additional servicing vehicles using the basement. Ground level parking at the existing office building is to be removed (some 45 spaces). This must be regarded in a positive light, as a means to reduce commuting to work by private car. The applicant is proposing to retain the vehicular access off Pembroke Road – to provide for one car/small van set-down/drop-off point. The necessity for reversing manoeuvres within the site boundary limit the usefulness of this facility; whilst at the

same time taking up space which could be better used for landscaping and amenity. It should be omitted from any grant of permission to issue from the Board. All levels of the building are connected with the basement, to which service vehicles will have access. In addition, there is on-street parking immediately adjacent on the north side of Pembroke Road.

There is a Proposed Bus Connects Radial Core Bus Corridor running along the line of Pembroke Road. The application was referred by DCC to Transport Infrastructure Ireland (TII) for comment. The response received did not make any specific recommendations. The development will not encroach on the road or the public footpath. There is a possibility that deliveries and collections at construction stage might impact on the construction of the bus corridor, should both proceed at the same time, as it is proposed to provide a 14m long delivery/collection bay on Pembroke Road – immediately adjacent to the site. This would be a matter for management by DCC and TII – depending on when it might be proposed to commence either or both development(s).

7.5.2. Parking

Basement parking is to be provided for 9 cars. The existing basement has parking for 20 cars. Bicycle access is to be via a dedicated doorway and lift off Northumberland Road – for 158 basement spaces. The basement will also provide for scooters and electricity-charging points. 10 visitor bicycle parking spaces are provided at ground level on Pembroke Road. [I note that sections 7.73 & 7.75 of the Planning Report submitted with the application, would seem to contradict the above figures; but from study of drawings submitted, I believe the figures quoted in the said sections 7.73 & 7.74 to be a printing error]. Parking provision is in accordance with the requirements of Appendix 5 of the Development Plan. Condition 10(f) required that the basement parking spaces not be separated from the office use through sale or letting; something which would appear to be reasonable.

7.6. **Ecology**

The application is accompanied by an Ecological Impact Assessment Report. An habitat survey, a bird survey and a mammal (excluding bats) survey were undertaken in July 2021. No high-impact, invasive plant species were encountered

on the site. Habitats on the site are man-made; and include flower beds, shrubs and trees in belts along the two road frontages – of low ecological value – and now somewhat overgrown. It would not be expected that an urbanised site, such as this one, would cater for many bird or mammal species. New landscaping at ground level and on terraces will provide some small amount of habitat – for insects and birds, predominantly.

A bat survey was undertaken on 15th September 2021 [separate report submitted by the applicant]. Two records of a Common Pipistrelle and a Nathusius Pipistrelle were made. No bats were recorded emerging from buildings on site. Vegetation on site offers low bat roost potential. Mitigation measures put forward related to times for tree-felling and the types of external lighting to be used.

The application was accompanied by an 'Arboricultural Assessment'. It identified 12 mature deciduous/evergreen trees on the site (one of which was dead), along with a number of shrub/hedge species. All on-site trees are to be removed to facilitate the construction works. There is no possibility of retaining any of them, due to proposed basement excavation works. This is unfortunate, as there is a mature, multi-limbed sycamore within the Northumberland Road screen belt which, even in its leafless winter state, provides good screening of the existing building. It is proposed to replace the existing belts of screen planting with 4 trees along Northumberland Road (2 outside the curtilage of the site) and 9 trees along Pembroke Road (3 of them outside the curtilage of the site). Arising from the need to extend the basement beyond the building line on Pembroke Road, there is little room left for trees and their roots. It will not be possible for those within the site curtilage to ever reach the dimensions of existing roadside trees on Pembroke Road and Northumberland Road, or indeed some of the existing mature trees on the site. A slightly-raised landscaped area along the Pembroke Road frontage will allow for some external seating, bicycle-parking and limited planting. No such landscaped strip is proposed for the Northumberland Road frontage. Terraces at upper levels will be landscaped with shrubs/branching trees and smaller plants. A 'Landscape Design Rationale' study identifies a mature London plane tree within the public footpath, on the boundary with 120 Pembroke Road. This tree is identified as ST2 in drawings; and is stated to be in good condition. It is a very large specimen (taller than the adjacent 4-storey Georgian terrace) with a crown spread which extends into the appeal site.

The root spread is likely to similarly encroach into the appeal site. ST1 within the public footpath on Pembroke Road (close to the junction with Northumberland Road) is stated to be a small leaf lime tree – in poor condition. I would not agree with this statement. It would appear from drawings that it is to be removed (as drawings show a new *acer campestre* tree within the public footpath and beneath its crown spread. The loss of ST1 would be significant in visual terms. The expansion of the basement might impact on its root spread, as the canopy spread intrudes a little into the appeal site. This mature tree would provide a crucial screening function of any building on this junction – regard being had to the amount of time it would take for any proposed planting to reach anything like the height of this tree. It ought to be retained, and its root spread protected during any construction phase. I note that it is within the footpath, and therefore, within the control of DCC – and not of the applicant. I note that there is no report from the Parks & Landscape Services Department of DCC on this file.

I would be satisfied that the proposed development will not have any significant impact on the ecology of the area – with the exception of my remarks in relation to the mature lime tree within the public footpath on Pembroke Road.

7.7. Other Issues

7.7.1. Flooding

The application was accompanied by a Site Flood Risk Assessment (contained within the Civil Engineering Infrastructure Report for Planning – at Section 5). The site is approximately 4.5m OD; and is located some 370m from the Dodder River. Substantial flood protection works have been (and continue to be) carried out on the Dodder in this area. CFRAMS Flood Maps submitted, show potential flooding on the roadway to the southeast and east of the site – but not including the site itself for a 0.1% Annual Exceedance Probability (AEP) storm event – ie. one-in-one-thousand-year event. The site is, therefore, calculated to lie within Flood Zone C – where flooding is least likely. The proposed office and café are not highly vulnerable development use classes – unlike say, residential or hospital use. Site investigations were carried out in June 2018. Two trial pits were excavated at ground level. Two boreholes revealed made ground, silt/clay and boulder clay strata. No water was

encountered in boreholes and trial pits opened on the site – and the water table was not encountered. The ground floor level of the building will be at 4.75m OD – providing a freeboard of 0.5m above the predicted 1% AEP storm event. The current basement extends to approximately 1,050sq.m – to be extended to approximately 1,500sq.m. Depth will be approximately 3.5m below ground level. It will be constructed as a watertight box to withstand hydrostatic groundwater pressures, and to ensure against flooding. The top of the basement access ramp on Baggot Lane is at 4.69m OD – giving a freeboard of 0.44m above the 1% AEP.

Pipes within the development will be over-sized to protect against a 100-year storm event. Other SuDS infrastructure will provide on-site storage of rainwater during flood events. Discharge to the public combined sewer will be throttled to 2 l/s.

7.7.2. Construction Issues

Hours of construction are variously stated to be 0700-1800 or 0800-1800 Monday to Friday and 0800-1300 or 0800-1400 on Saturdays. Condition 7 of the Notification of decision to grant planning permission made reference to 0700-1800 hours Monday to Friday and 0800-1400 on Saturdays. I would be satisfied that the DCC hours should be repeated in any grant of permission to issue from the Board. The owner of the filling station is concerned that there will be disturbance to business during the construction phase. The duration of nuisance will be limited. Northumberland Road is a busy thoroughfare. Full access for vehicles to the observer's premises will have to be maintained at all times.

The application is accompanied by a Construction Noise & Vibration Management Plan. As the existing basement is to be removed, and a new and extended one constructed, the issue of vibration is of some relevance – particularly as the basement will immediately abut a Georgian terrace of houses, a filling station (with underground storage tank(s)) and mews buildings. I note that the operator of the filling station did not raise any concerns in relation to the impact of the construction phase on underground fuel tank(s). Control over hours of construction is likely to be the most effective means of lessening nuisance experienced by neighbours. The construction period will be limited in duration. Best practice site management in relation to selection of plant, screening of works, and liaison with neighbours, will limit the extent of nuisance caused. Conditions 9 & 11 of the Notification of decision

to grant permission, related to construction & demolition and operational noise. Similarly-worded conditions relating to noise should be attached to any grant of permission from the Board.

Dust nuisance is most likely to be caused during the demolition phase, which will be of limited duration. Dust mitigation measures are included at section 7.2 of the 'Outline Demolition Method Statement'; and include sheeting-off of areas during heavy demolition work; truck spraying, road-sweeping and wheel-washing (if required). Dust monitoring will be undertaken during the construction phase – and deposition limits of 350mg/sq.m/day will be adhered to.

7.7.3. Basement

Appendix 9 of the Development Plan requires a Basement Impact Assessment with all applications for permission which require excavation of a basement. It is proposed to demolish the existing basement (approximately 1,050sq.m) of this office block (apart from the access ramp); and to extend the area of the new basement to approximately 1,500sq.m. The single-level basement will be approximately 3.5m deep. Whilst the application is not accompanied by any document specifically titled 'Basement Impact Assessment', the information required is provided within the 'Civil Engineering Infrastructure Report for Planning', the 'Construction and Demolition Management Plan' and the 'Outline Demolition Method Statement' documents, which accompany the application. I have elsewhere in this report commented upon the likely impact of basement extension on a footpath tree on Pembroke Road.

7.7.4. Development Contribution & Bond

Condition 2 of the Notification of decision to grant planning permission, required payment of a Development Contribution of €817,819.57. A similarly-worded condition should be attached to any grant of permission to issue from the Board.

In responding to the 3rd Party appeal in relation to absence of open space within this development, the 1st Party response to the grounds of appeal indicated that there was no requirement to provide for open space for lands zoned 'Z6'. Notwithstanding this, the applicant indicated a willingness to make a contribution towards such, if the Board was minded to attach such a condition – 'the where and how much' could be agreed with the planning authority. In view of the fact that there is no legal

requirement to provide public open space, I would not consider that the Board should attach any such condition, should it be minded to grant permission.

Condition 3 of the Notification of decision to grant permission required a bond from the developer for completion of the development. This would appear to be reasonable – particularly where the applicant is replacing the entire footpath network on both Northumberland and Pembroke Roads. A similar condition should be attached to any permission to issue from the Board.

7.7.5. Archaeology

The application is accompanied by an Archaeological Assessment Report. The remains of no. 122 Pembroke Road and the original Carisbrook House have been removed from the site. A basement and access ramp were constructed in the late 1960's, which would have obliterated any archaeological remains which might have existed on this site. The site is not located within an area of archaeological potential; and is not located in close proximity to any known archaeological site.

7.7.6. Provision of Public Artwork

The 1st Party response to the grounds of appeal, indicated two locations at ground floor level, which might be suitable for public artwork – either four service doors on Northumberland Road, or on Pembroke Road where the partial granite remains of the flight of external stairs leading to the front door of the now-demolished no. 122, is located. This was not an original part of the proposal; but was put forward to meet concerns expressed by the 3rd Party appellant in relation to public artwork at this prominent junction. As the applicant has expressed a willingness to provide such, a condition reflecting this requirement should be attached to any permission to issue from the Board, as a means of enhancing ground level public and visual amenity.

7.7.7. Operational Noise

A baseline noise survey was carried out in November 2020 – using 4 monitoring points – one at roof level, two on site boundaries on Baggot Lane and Pembroke Road, and a fourth on the other side of the road junction (east of the site). The results are included in a Technical Note (dated 10th November 2021), which accompanied the application. Noise from rooftop plant will be most noticeable at night-time. Given the proposed office use, most of the plant will only operate during

business hours. Some of the plant to service the building will be located at basement level. This location alone will serve to act as a screen for noise – notwithstanding that the basement may be vented to Pembroke Road. There are no proposals for plant to be located on terraces on various levels throughout the building. Rooftop plant will be located behind a screen, which will also act to attenuate noise. Its elevated nature above surrounding properties will further help to mitigate any noise emissions – as is the case at present, where plant for the existing office building is located at upper terrace and roof level (but without the benefit of any surrounding screening). An assessment of plant noise was undertaken for noise-sensitive locations in the immediate vicinity (indicated at Figure 3 of the Technical Note). It was concluded that the sound pressure level from rooftop plant would not exceed background levels. It would be possible to attach a condition to any grant of permission relating to noise emissions from the operational phase of development – particularly in relation to tonal or impulsive characteristics.

7.7.8. Signage

The application is not accompanied by any details of proposed signage. Condition 5 of the Notification of decision to grant permission related to the need for permission for any signage – apart from exempted development signage. This would appear to be reasonable, particularly for a building at such a prominent location. A similarly-worded condition should be attached to any grant of permission to issue from the Board.

7.7.9. Microclimate Impact

The application is accompanied by a 'Microclimate Assessment'. This report largely focuses on the potential for wind speed amplification. Wind direction in the area is predominantly from the southwest. Lansdowne House is located downwind of the prevailing wind. Its height, when taken in conjunction with the separation distance from the proposed building, will result in wind skimming over the two buildings rather than creating a downflow to street level. Wind hitting the building will be deflected both upwards and downwards, with most wind estimated to be deflected upwards.

7.7.10. Architectural Heritage

The application is accompanied by an 'Architectural Heritage Assessment'. The existing hexagonal office building, dating to the late 1960's, is stated to be of little

architectural value. The building is not a Protected Structure, and neither is it included in the National Inventory of Architectural Heritage (NIAH). One of the Observers to the appeal notes that there is no report from the Conservation Officer of DCC on this file. There is no indication as to whether any comment was sought from the Conservation Officer. Pembroke Road is the older thoroughfare – with Northumberland Road being cut in the 1830's. There was a nursery on the site – later replaced with a Victorian villa (Carisbrook House with mews building on Baggot Lane). The villa was a two-storey-over-raised basement structure, with a shallow, fully-hipped roof. An old photograph shows the gable end of 122 Pembroke Road being weather-slatted: which finish was a good deal more attractive than the late 1960's brown- & red-brick gable erected against 120, when 122 was demolished. The villa, mews and 122 Pembroke Road (the last of the terrace of Georgian houses on the north side of this road) were demolished to facilitate the building of the hexagonal office building. Only a part of the external staircase leading up to the *piano nobile* of 122 now remains on the Pembroke Road boundary of the site. Lansdowne House (an office block), on the opposite side of Northumberland Road, also dates to the late 1960's. Nearby houses on Pembroke Road and Northumberland Road are within residential conservation areas and all are Protected Structures.

The building is stated not to be one of the better exemplars of the works of McDonnell & Dixon Architects – built by contractors G & T Crampton Ltd. It is constructed in concrete, with brick infill panels. There is some fair-faced blockwork and split blockwork at ground level (which may be later). There is a central access/service core which serves identical, open-plan offices. There is modest timber panelling in the reception area on the ground floor. There is some plant at basement level; and more at roof terrace level and on the roof itself.

In 2018, permission was granted by DCC, and by the Board on appeal, to radically alter the appearance of this office building by way of extensions – which permission has not been carried out. Recent site and structure investigations have contributed to the dilapidated state of the site and building – both from within and without.

7.7.11. External Staircase to 120 Pembroke Road

There is a quantity of pipes and a boxed metal extraction duct protruding into the site at the level of the external staircase to the front door of 120 Pembroke Road – seemingly serving the restaurant in the raised basement. This array of services is currently screened by the security hut at the vehicular entrance on Pembroke Road. The proposed development will not impact on the services; but will expose them to view. It would be possible to screen them with planting or decorative fencing.

7.7.12. Site Lighting

The application is accompanied by a ‘Site Lighting Report’: this details exterior lighting proposals. Existing public lighting columns on Pembroke and Northumberland Roads will be retained. Modelling indicates that there will not be excessive light spillage onto surrounding property.

8.0 **Recommendation**

Having regard to the preceding assessment, I recommend that permission be refused for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

1. The proposed development, by reason of its height, bulk and scale, would not meet a number of the 10 performance criteria for assessment of proposals for enhanced height, density and scale; set down in Table 3 of Appendix 3 of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and development of the area.
2. The proposed development would result in increased levels of overlooking of adjoining properties to the west, northwest and north on Pembroke Road, Baggot Lane and Northumberland Road, which are zoned for residential use in the current development plan for the area. The development would seriously injure the amenities and depreciate the value of property in the vicinity.
3. The proposed development, arising from its height, bulk and scale, would result in unacceptable levels of overshadowing of adjoining property which is

zoned for residential use. The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity.

4. The proposed development is located too close to the pavement on Northumberland Road – regard being had to its height, bulk and scale. The development would seriously detract from the visual amenities of an area, characterised by generous set-back distances from public footpaths, where there are mature trees (both within sites and within public footpaths), which serve to partially screen taller buildings from view. The proposed development would appear particularly prominent when approaching along Northumberland Road from the direction of the city centre, and would set an undesirable precedent for similar-type development in the area.

**Michael Dillon,
Planning Inspectorate.**

26th January 2023.