



An
Bord
Pleanála

Inspector's Report

ABP-315104-22

Development

Construction of extensions,
reconfiguration of car park and all
associated site works.

Location

No. 2 Ballsbridge Park, Ballsbridge,
Dublin 4, D04 YW83

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

4729/22

Applicant

Intrust Properties Limited

Type of Application

Permission.

Planning Authority Decision

Grant, subject to conditions.

Type of Appeal

Third Party

Appellant

Liam O' Sullivan.

Observer

Irish Life Assurance Plc.

Date of Site Inspection

18th September 2023.

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of Ballsbridge Park, close to the junction with Merrion Road to the south. The irregularly shaped site measures approximately 0.44 hectares and comprises a six storey office building. The site is bounded by No.1 Ballsbridge Park to the south and No.3 Ballsbridge Park to the north which are also office buildings. Nos. 1-3 Ballsbridge Park collectively were originally conceived as a group of three similar office buildings, although No. 1 Ballsbridge Park is currently being fully redeveloped for additional office use. To the west of the site there are single storey cottage style dwellings along Ballsbridge Avenue, whilst the AIB office complex and Meta offices are to the east of the site.
- 1.2. Ballsbridge Park and Ballsbridge Avenue run parallel to each other, separated by a landscaped strip of hedgerows and mature/semi-mature trees. Several bus services are available from Merrion Road providing links to the city centre and beyond. Levels rise slightly to the east with the result being that the existing office building sits slightly above street level. Levels then drop considerably to the rear, taking into account the basement access and undercroft parking/servicing area. Dodder View Cottages and Herbert Cottages, to the east and north east of the site respectively, are designated as residential conservation areas, as well as being part of the conservation area that flanks the River Dodder.

2.0 Proposed Development

- 2.1. Planning permission is sought for extensions to the existing building to provide additional office space. The development would incorporate extensions to the east and west as well as vertical extensions to provide an additional two floors of accommodation, set back from the main facade. The works incorporate the replacement of all facades as well as internal modifications and reconfigurations. The proposed development would result in an increase in office floor area from 7,093 sqm to 16,178 sqm. Further works include the reconfiguration of the existing car park to reduce car parking capacity by 17 spaces.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission was issued by Dublin City Council on the 21st October 2022, subject to 10 standard conditions including development contributions, roof plant, construction hours, noise, transport, and drainage.

3.2. Planning Authority Reports

- 3.2.1. The Planner's Report was issued on the 19th October 2022 and forms the basis of the Council's assessment and decision, taking into account observations made by third parties. The report notes that the site is zoned Z1 but takes cognisance of the fact that the office blocks have been in place since the 1990s and accepts that office use is a long-standing, non-conforming use. The report concludes that increasing office floorspace is acceptable on the site given the Council's policies on non-conforming uses, the planning history on the site, and the commercial nature of the immediate area.
- 3.2.2. Regard is had to plot ratio and site coverage and whilst it is acknowledged that the plot ratio is above the CDP standards, it is noted that it is only marginally above the plot ratio consented on an earlier 2019 permission. Given that no upper density limit is set for any zoned lands, the Planning Authority consider that the development density and plot ratio are acceptable in principle, given the central location of the subject site, the prominent nature of the site, the height of the permitted building on this site, nearby existing and permitted buildings, and the connected nature of public transport in close proximity.
- 3.2.3. The report assesses the height of the development against the relevant national guidelines and considers the height and massing to be appropriate. Amenity impacts have also been considered, most notably daylight and sunlight impacts, and the report concludes that the development would comply with the BRE guidelines. Various transport issues have been considered including access, car parking, cycle parking, mobility management, traffic generation, and demolition and construction management plans. The Planning Authority considered these issues to be acceptable and appropriate conditions were applied.

3.2.4. The report ultimately concludes that the proposed development would provide additional office floor space in an established commercial area, that it would contribute to the animation of the area, and that it would allow for the construction of a well detailed contemporary/modern office building close to public transport and other amenities. The report considers that the proposed development would not seriously negatively impact on the residential amenity of the adjacent dwellings and would therefore be in line with the Z1 zoning.

3.2.5. **Other Technical Reports**

3.2.6. **Drainage Division (12.09.2022):** No objection, subject to conditions relating to compliance with the Code of Practice, incorporation of sustainable drainage and the provision of a separate foul and surface water drainage.

3.2.7. **Transportation Division (10.10.2022):** No objection, subject to conditions relating to Construction Management, allocation of car parking, cycle parking, recouping costs, compliance with the Code of Practice and maintaining access.

3.3. **Prescribed Bodies**

3.3.1. Iarnród Éireann and Irish Water were both consulted on the application, however no response was received.

3.4. **Third Party Observations**

3.4.1. An observation was received from Liam O'Sullivan of 13 Ballsbridge Avenue, Dublin 4 (the appellant), raising similar issues to those set out in the grounds of appeal which are detailed in section 6.1 below.

4.0 **Planning History**

Subject Site

4.1.1. **Planning Authority Reference: 2220/19:** A ten year planning permission was granted by Dublin City Council in November 2019 for works to Nos. 1-3 Ballsbridge Park consisting of an increase in floor area of the existing three office buildings by providing lateral (to the east and west) and vertical extensions.

- 4.1.2. This approval, which is similar to the works sought under the current application, applied to all three office blocks at Nos.1-3 Ballsbridge Park. The main substantive difference between this approval and the proposed development is the inclusion of an additional storey on the proposed development and the fact that the current proposal relates solely to Block 2.

Adjoining site, No. 1 Ballsbridge Park

- 4.1.3. **Planning Authority Reference 3594/22, No.1 Ballsbridge Park:** Permission was granted by Dublin City Council in August 2022 for the demolition of the existing five storey, 4,105 sq.m structure on site and the construction of an eight storey over basement office building of c. 19,154 sq.m.

20 Merrion Road

- 4.1.4. **ABP. Ref. No. 309610-21/Planning Authority Reference 3879/20:** Permission was refused by the Board in September 2023 for amendments to the previous permission (4658/18, as amended by 4603/19) to provide an increase in height from part 4/part 6 storeys to part 5/part 7 storeys. The development was refused for the following reason:

1. The site is located within the historic neighbourhood of Ballsbridge in close proximity to several Protected Structures as per the Dublin City Development Plan 2022-2028, including number 32 Merrion Road on the adjoining site to the east. Having regard to the existing character of development in the area, it is considered that the proposed increase in height and scale of the development would form an incongruous and discordant feature which would seriously detract from the character of the area and create an overbearing and dominant feature which would seriously detract from the setting and architectural interests of number 32 Merrion Road. The proposed development would, therefore, adversely affect the architectural character and setting of surrounding properties, would seriously injure the visual amenities of the area, and would be contrary to the proper planning and sustainable development of the area.

- 4.1.5. **Planning Authority Reference 3027/20, 20 Merrion Road:** Permission granted (15th December 2020) for amendments to 4658/18 and 4603/19. The amendments consisted of relatively minor alterations to plant and lift/stair cores, enlargement of basement levels by 270m², alterations to materials/finishes, reduction in

café/restaurant area, minor alterations to floor layouts, elevations and parking arrangements.

4.1.6. **Planning Authority Reference 4603/19:** Permission was granted by Dublin City Council in March 2020 for amendments to permission 4658/18. The amendments consisted of alterations to the core to increase usable space, enlargement of basement levels to remove restaurant and car parking from level -1 and provide increased office space (1118m²) and gym (181m²) with 40 carparking spaces at level -2, alterations to car and cycle parking arrangements, provide café/restaurant and office breakout space at ground level, and other minor alterations to plant, layout, elevations etc

4.1.7. **Planning Authority Reference 4658/18:** Permission was granted by Dublin City Council in July 2019 for the demolition of the existing two storey office and restaurant building and the erection of a part 4, part 6 storey office building with restaurant.

Former AIB Bank Centre site

4.1.8. There is a significant planning history relating to the former AIB Bank Centre site which sites to the east of the appeal site. The relevant history is as follows:

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

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

4.1.10. **ABP Ref. No. PL29S.246717:** Permission was granted by the Board in October 2016 to demolish four office blocks on the site and to erect 2 four/six storey office buildings

together with two new café/retail units on the subject site. The decision of Dublin City Council was the subject of numerous third-party appeals. The Board upheld the decision of the Planning Authority but included Condition No. 2 which required the following:

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

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

4.1.11. **ABP. Ref. No. PL29S.237503:** Permission was refused by the Board in February 2011 for a mixed use development comprising the demolition of all six blocks (c.15,700 square metres) and the erection of 6 no. seven to nine storey buildings with two basement levels with a gross floor area of c.52,000 square metres. Permission was refused for three reasons relating to:

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

5.0 Policy Context

5.1. Development Plan

5.1.1. The planning application was considered by the Planning Authority for compliance with the policies and objectives of the Dublin City Development Plan 2016 – 2022, which was the relevant policy document in force at the time. A new City Development Plan

came into effect on 14th December 2022 for the period 2022 – 2028, which will be considered herein.

Dublin City Development Plan 2022-2028

- 5.1.2. The Board should note that the site's zoning designation changed to from Z1 (Sustainable Residential Neighbourhoods) under the 2016-2022 CDP to Z6 (Employment and Enterprise) under the current 2022-2028 CDP. The stated objective of Z6 lands is to provide for the creation and protection of enterprise and facilitate opportunities for employment creation. The primary objective for this zone is to facilitate long-term economic development in the city. It is important that these remaining Z6 zoned lands provide for intensive employment and accommodate a wide range of local services. Proposals for development of these lands should create a high quality physical environment; coherent urban structure; provide the opportunity to develop sustainable employment use; and contribute to developing the strategic green network by providing green infrastructure, landscape protection, public open space and sustainable energy solutions.
- 5.1.3. Chapter 3: Climate Action, contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policies from this chapter are:
- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility
 - CA8: Climate Mitigation Actions in the Built Environment
 - CA9: Climate Adaptation Actions in the Built Environment
 - CA24: Waste Management Plans for Construction and Demolition Projects
 - CA27: Flood Risk Assessment and Adaptation
- 5.1.4. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter are:
- SC5: Urban Design and Architectural Principles
 - SC10: Urban Density
 - SC11: Compact Growth

- SC13: Green Infrastructure
- SC14: Building Height Strategy
- SC15: Building Height Uses
- SC16: Building Height Locations
- SC19: High Quality Architecture
- SC20: Urban Design
- SC21: Architectural Design

5.1.5. Chapter 6: City and Enterprise is of relevance. This chapter recognises that Dublin is an international city and gateway to the European Union for many businesses. The city region contributes significantly to Ireland's economy and is a major economic driver for the country. The relevant policies from this chapter are:

- CEE21: Supply of Commercial Space and Redevelopment of Office Stock

5.1.6. Chapter 11: Built Heritage and Archaeology, recognises that the city's heritage contributes significantly to the collective memory of its communities and to the richness and diversity of its urban fabric. It is key to the city's character, identity and authenticity and is a vital social, cultural, and economic asset for the development of the city. The Development Plan plays a key role in valuing and safeguarding built heritage and archaeology for future generations. The plan guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology. Whilst there are no protected structures on or immediately adjoining the appeal site, there are various protected structures on Merrion Road, including the RDS, the former Pembroke Town Hall, and No. 32 Merrion Road. Balls Bridge is listed on the Record of Monuments and places (RMP DUO18059). The relevant policies of this section include:

- BHA4: Ministerial Recommendations
- BHA9: Conservation Areas

5.1.7. Chapter 15: Development Standards, contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed, both in terms of how they

contribute to the achievement of the core strategy and related policies and objectives. Relevant sections of Chapter 15 include (but are not limited to):

- 15.4: Key Design Principles
- 15.5: Site Characteristics and Design Parameters
- 15.6: Green Infrastructure and Landscaping
- 15.14.4: Office
- 15.15.1: Archaeology
- 15.15.2: Built Heritage
- 15.18: Environmental Management

5.1.8. Relevant Appendices include:

- Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.
- Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments.

5.2. **Regional Policy**

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient economic base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

5.3. **National Policy and Guidance**

Project Ireland 2040, National Planning Framework (2018) (NPF)

5.3.1. The NPF addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places. Relevant Policy Objectives include:

- National Policy Objective 2a: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- National Policy Objective 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.
- National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

Section 28 Ministerial Guidelines

5.3.2. Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)

5.4. Natural Heritage Designations

5.4.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (004024) (c. 1.3km), South Dublin Bay SAC (000210) (c. 1.3km), North Dublin Bay SAC (000206) (c.4.8km), North Bull Island SPA (004006) (c.4.8km). The Dalkey Island SPA (Site Code 004172), and the Rockabill to Dalkey Island SAC (Site Code 003000) are located further to the south east of the site. The Grand Canal Proposed Natural Heritage Area is located c. 1km to the northwest of the site.

5.5. EIA Screening

- 5.5.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal has been lodged by Liam O'Sullivan of 13 Ballsbridge Avenue, Dublin 4, against the decision of Dublin City Council to grant planning permission for the proposed development. The grounds of appeal are as follows:
- The development would result in reduced daylight and sunlight, resulting in homes being darker and colder.
 - The development would result in a loss of privacy.
 - Surveys and environmental reports were undertaken but no surveys or contact with affected neighbours on Ballsbridge Avenue was undertaken by the applicant.
 - The additional height is unacceptable.
 - The scale of the development, which doubles the size of the existing property, is out of character with the area and fails to give consideration to nearby dwellings.
 - There is reduced office demand as more people work from home post covid. The developer should be scaling back the development rather than increasing it.
 - Ballsbridge has enough offices, and the Council should be encouraging reduced mass and more environmentally friendly schemes.
 - There would be noise and dust impacts during construction.

- Dead trees between Ballsbridge Avenue and Ballsbridge Park should be replaced.
- As Ballsbridge Park is a private road, a planning notice should have been attached to the railing dividing Ballsbridge Avenue and Ballsbridge Park. This is in contravention of planning law.

6.2. Applicant Response

6.2.1. A response has been submitted by Thornton O'Connor Town Planning of 1 Kilmacud Road, Dundrum, Dublin 14, on behalf of the applicant. The submission responds to the grounds of appeal as follows:

- Broad and anecdotal claims about office demand have been made without any empirical evidence. The application itself is evidence of demand for offices in the area, in addition to the recently approved and commenced development at No. 1 Ballsbridge Park.
- The applicant and adjoining landowner at No. 3 Ballsbridge Park expressly sought a rezoning away from Z1 (residential) to Z6 (employment and enterprise) to reflect the existing and proposed office use on the site. This would not have been the case if there was no requirement for office space in this location.
- The height and scale are broadly similar to that granted on the adjacent site at No. 1 Ballsbridge Park. The proposal is therefore not out of character and the scale has been established on the adjacent site and on the extant 2019 permission for the three buildings.
- The proposal is only one storey higher than that approved on the extant 2019 permission.
- National, regional and local policy prioritises compact and sustainable growth to be achieved by infill development, increased height and more efficient use of land.
- The proposed scheme involves the intensification of a key underutilised site in a sustainable brownfield location.

- The height proposed includes a set-back six and seventh floor and is appropriate in the context of the previously approved development and the development underway on the adjacent site.
- The site is suitable to accommodate the development given its location and availability of public transport.
- The development would create a strong defined frontage along Ballsbridge Park with an improved public realm which is a benefit for the area.
- The top floors would be set back and at a larger distance from surrounding properties ensuring that it integrates with the surrounding area whilst allowing a gradual uplift in height.
- There are two windows at 13 Ballsbridge Park that face the proposed development. The daylight and sunlight assessment demonstrates that the VSC levels would remain compliant with the BRE Guidance.
- The garden spaces would also remain compliant with the BRE in terms of sunlight.
- The landscaping separating Ballsbridge Park and Ballsbridge Avenue very successfully screens the office buildings from the dwellings.
- There are very significant existing differences in scale between Ballsbridge Park and Ballsbridge Avenue and this is typical in inner urban locations.
- The setback floors would have an immaterial impact on the adjacent homes due to existing screening, separation distances and orientation of windows.
- There are various examples where the Board have determined that existing low rise development should not set a limit for neighbouring sites, such as at Howth Road (ABP-360102-23) and the former Bailey Gibson site (ABP-PL29S.307221). Future development is therefore capable of introducing increased height in areas previously characterised by low rise, low density housing.
- The construction stage of the project would be subject to a Construction Management Plan.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority request that the Board uphold the decision to grant permission and that should permission be granted, a condition requiring Section 48 development contributions be applied.

6.4. Observations

- 6.4.1. An observation has been received from Sheehan Planning of 44 Balnagown, Palmerston Park, Dartry, Dublin 6, for and on behalf of Irish Life Assurance Plc who own the neighbouring building at Block 3, Ballsbridge Park. The observation raises the following point:

- There would be a major adverse effect on daylight and sunlight to the southeast facing façade of Block 3 Ballsbridge Park on the basis that a large number of windows are affected. The loss of light is expected to be substantially outside of BRE guidelines.

7.0 Assessment

- 7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Height and Quantum of Development
- Amenity
- Trees
- Other Matters
- Appropriate Assessment

7.2. Height and Quantum of Development

- 7.2.1. The proposal seeks to increase the height of the existing building by two storeys, in addition to lateral extensions to the east and west that would increase the quantum of office accommodation on the site. The grounds of appeal consider that the scale of

the development would be out of character with the area, particularly the cottages on Ballsbridge Avenue. It is further stated that there is reduced demand for offices as a result of the pandemic, as more people now work from home post covid, and that there are enough offices in the area.

- 7.2.2. The Building Height Guidelines (2018) advise that it is inappropriate for a development plan to include generic height limits across its functional area. It is considered that this approach undermines wider national policy objectives to provide more compact forms of urban development. It is also considered that such blanket limitations can hinder architectural innovation and urban design. The Dublin City Development Plan 2022-2028 does not set prescribed height limits and notes that the key factors that will determine height will be the impact on adjacent residential amenities, the proportions of the building in relation to the street, the creation of appropriate enclosure and surveillance, the provision of active ground floor uses, and a legible, permeable and sustainable layout.
- 7.2.3. The proposed development would have a parapet height of 35.5m. In terms of the surrounding context, the approved development under construction on the neighbouring site at Block 1 Ballsbridge Park has a parapet height of 36.8m, and the existing neighbouring building to the north (Block 3 Ballsbridge Park) has a parapet height of between 27.3m and 28.6 m. The extant 2019 permission approved a parapet height of between 31.8 and 31.9m, and this applied to all three blocks. It should also be noted that the proposed massing is largely reflective of the previous permission.
- 7.2.4. Section 3 of the guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters.

At the scale of the relevant city/town

- 7.2.5. The appeal site is located within a ten minute walk of two DART stations as well as being located close to the bus stops on Merrion Road. I consider that the site is well located in terms of connectivity and high frequency public transport.

7.2.6. The application was accompanied by a Landscape and Visual Impact Assessment (August 2022) that included a range of verified views to demonstrate the potential visibility of the development from 17 viewpoints surrounding the site. In most of the assessed viewpoints, the development would either not be visible or it would largely be screened by trees, existing buildings, or developments that are under construction/permitted. The viewpoints where the development would clearly be visible are:

- VVM8: Merrion Road at Ballsbridge Park Junction (looking east).
- VVM10: Anglesea Road at Pembroke Library (looking north-east).
- VVM12: Ballsbridge Terrace at Pembroke Junction (looking east).
- VVM13: Pembroke Road at Ball's Bridge (looking east).
- VVM15: Beatty's Avenue at Dodder View Cottages (looking south-east).
- VVM16: Shelbourne Road at Estate Cottage (looking south-east).

7.2.7. Whilst the proposed development would be visible in all of the above views, its visibility would be in the context of the other permitted and under construction developments on the adjacent sites. In views VVM8, VVM10, VVM12, and VVM13, the proposed development would clearly read as a step down in height from the adjacent schemes. VVM15 presents a direct frontal view of the proposed development as it rises above Dodder View Cottages and the wireline of the adjacent scheme continues to demonstrate a step down in height.

7.2.8. The wireline comparison to the consented scheme demonstrates that the main difference would be the additional storey and I do not consider that this makes the development significantly more visible, nor do I consider that it would cause any significant alteration to the character of the area/view beyond that established by the consented scheme and the adjacent permitted developments.

7.2.9. VVM16 presents a view where the proposed building would be viewed in relative isolation to the adjacent schemes. This view is orientated along Estate Cottages (which are noted as protected structures) from Shelbourne Road with the proposed development rising above the dwellings on the left hand side of the road and effectively terminating the view. The wireline on this view once again demonstrates that the only visible difference to the view from the permitted scheme would be the additional storey.

Whilst I accept that the additional storey would make the development slightly more visible, I do not consider that it would lead to any substantial harmful impact on the character of the area, the presented view of the protected structures, particularly in the context of the extant permission.

At the scale of the district/neighbourhood/street

- 7.2.10. As detailed above, the principal difference between the proposed development and the extant scheme is the additional storey. The Landscape and Visual Impact Assessment referred to previously has considered the impacts of the development at district and neighbourhood level and I am satisfied that the impact on views and the local area would be limited in the context of the extant permission and the development that is under construction on the adjacent site at Block 1. In terms of the appropriateness of the height at the scale of the street it is important to note that the top two floors of the proposal would be set well back from the parapet and as such would be recessive in appearance from street level. On that basis I do not consider the additional height to be problematic at street level, nor would it be highly visible.

The proposed extensions are not overly monolithic, nor are there long uninterrupted walls or facades. The proposed extensions are an improvement on the current building facades, and I consider the overall design to be an improvement on the existing building that would have positive impact on the area and the surrounding public realm.

At the scale of the site/building

- 7.2.11. This section of the guidelines require the form, massing and height of developments to be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. Impacts on daylight and sunlight are considered in detail in section 7.3 below.

Conclusions on height and massing

- 7.2.12. I have given consideration to the recent refusal of planning permission issued by the Board on the site at 20 Merrion Road (ABP Ref. 309610). However, I consider that the site specific circumstances of the appeal site are such that the same conclusions cannot be drawn. For instance, there are no protected structures adjoining or in the immediate vicinity of the appeal site, which is in a less prominent and visible location than the 20 Merrion Road scheme. Additionally, the immediate neighbouring plot to

the appeal site is currently under redevelopment to provide a building that would be taller than that proposed, the immediate context is therefore more capable of absorbing the additional height proposed without an abrupt transition in scale.

7.2.13. I consider that the proposed height is proportionate to that approved on the adjacent site at Block 1, in addition to being only one storey higher than that approved for all three blocks on the earlier 2019 permission. In my opinion, the extant permission is a material consideration that should be afforded significant weight and I do not consider the proposed height to be excessive, particularly given the immediate context, the range of heights across the three blocks, the lack of any significant townscape impacts, and the lack of any significant amenity impacts.

7.2.14. I am satisfied that the additional height is in accordance with national and local policy that seeks to secure compact growth and the efficient use of underutilised, serviced, brownfield sites. Having consideration to the criteria set out within the Building Heights Guidelines, I consider that the development would be acceptable in townscape terms, including the additional height, scale and massing, and that it would not have an adverse impact on the character of the area or properties in the vicinity.

Quantum of Development

7.2.15. The appeal site is zoned Z6 (Employment and Enterprise) in the current CDP, where site coverage standards are between 45% - 60%, and plot ratio standards are ranged between 1.0-2.5. The proposed development would achieve a site coverage of 53% which is within the CDP requirements, and a plot ratio of 3.37 which exceeds the recommended range. The CDP allows for higher plot ratios in certain circumstances including sites adjoining major public transport termini/corridors, and where a site already has the benefit of a higher plot ratio. Taking into account the location of the appeal site which is a well connected and accessible location that is well served by public transport, the existing scale and form of development on the site, and the scale of development approved under the 2019 permission, I am satisfied that the higher plot ratio is acceptable and that it would not represent an overdevelopment of the site.

7.2.16. Whilst I acknowledge the points made by the appellant regarding perceived reduced demand for offices, the applicant has clearly identified demand for offices based on the current proposal and the previous consent on the site. The CDP notes that an adequate supply of high quality office and commercial floorspace will still be a key

requirement for Dublin's economy in the future, despite the altered working patterns associated with the pandemic. The continued provision of office space is therefore an important driver in attracting investment, supporting business, and increasing employment opportunities, and the CDP recognises the need to encourage the high quality re-development of outdated office stock. Additionally, the NPF seeks a target of 50% of future population and employment growth to be focused on existing cities and their suburbs, in addition to increasing employment activity and job creation. As such, I consider that the proposal to extend and improve the existing office accommodation is in line with local and national aspirations.

7.3. Amenity

- 7.3.1. Amenity concerns raised by the appellant include that the development would result in a loss of daylight and sunlight, that there would be privacy impacts, and that there would be impacts in terms of dust and noise during construction.
- 7.3.2. A daylight and sunlight report has been submitted that assesses the scheme based on the Building Research Establishment (BRE) guidelines on daylight and sunlight. The BRE sets out the detailed daylight tests. The first is the Vertical Sky Component test (VSC). This test considers the potential for daylight by calculating the angle of vertical sky at the centre of each of the windows serving the residential buildings which look towards the site. The target figure for VSC recommended by the BRE is 27% which is considered to be a good level of daylight and the level recommended for habitable rooms. The BRE have determined that the daylight can be reduced to 0.8 times the previous value (or reduced by 20%) before the loss is noticeable. All dwellings and garden ground that have been tested remain fully compliant with the BRE and as such I am satisfied that there would be no adverse amenity impacts with regards to daylight, sunlight and overshadowing.
- 7.3.3. I note that an observation has been received on behalf of the owners of the adjacent office building at Block 3, stating that there would be a major adverse effect on daylight and sunlight to the southeast facing façade, on the basis that a large number of windows are affected. The observation states that the loss of light is expected to be substantially outside of BRE guidelines, although no evidence has been provided to demonstrate this. The BRE states that impacts on office accommodation should be taken into account where the office or use has a particular requirement for daylight,

although this has not been established or claimed in this instance and I do not consider that the BRE should be applied rigidly to commercial buildings.

- 7.3.4. Whilst I accept that there would be a degree of overshadowing to the southern façade of Block 3, I do not consider that this would be detrimental to its use or operation as an office building. Firstly, I note that these impacts have already been established and accepted as part of the extant 2019 permission (which also benefits Block 3). I also note that a limited number of windows would be affected overall, and that these windows are large, therefore letting more daylight penetrate. These impacts would generally be transient given the orientation of the facades and the positioning of the proposed extensions. I am therefore satisfied that there would be no significant adverse impact on Block 3 in terms of daylight and sunlight associated with the proposed development.
- 7.3.5. In terms of privacy, the extended façade of the development would be at least 31 metres from the nearest facade of the cottages on Ballsbridge Avenue, generally reflecting the relationship between the approved development at Block 1 on the neighbouring site to the south, and the relationship established by the 2019 permission. I consider this separation distance to be acceptable to ensure that there would be no significant overlooking or loss of privacy and this would be further mitigated by the screening provided by the trees that divide Ballsbridge Park from Ballsbridge Avenue.
- 7.3.6. I acknowledge the concerns raised regarding noise and dust disturbance during construction and I am of the opinion that this could be satisfactorily mitigated by way of planning conditions such as a Construction Environmental Management Plan.

7.4. Trees

- 7.4.1. I note the issues raised in the grounds of appeal regarding the replacement of dead trees that line the verge between Ballsbridge Avenue and Ballsbridge Park. This verge sits outside of the red line plan but within land controlled by the applicant as indicated by the blue line plan. The tree survey indicates that some of these trees are scheduled for removal. The trees and planting on this verge play an important role in screening and as such, I consider it reasonable and appropriate that replacement planting should take place. Should the Board be minded to grant permission then a condition to this effect should be imposed.

7.5. Other Matters

- 7.5.1. The grounds of appeal state that the position of the site notice was unacceptable due to its location on a private road. I note that the site notice was placed close to the appeal site on Ballsbridge Park, which is a publicly accessible road. In terms of procedural matters and the alleged irregularities in terms of the nature of the erection of the site notice, I note that both matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations.
- 7.5.2. The Board should be advised of a potential error on the site plan. The appeal site is outlined in red, indicating ownership/control of the appeal site by the applicant. The adjacent site at Block 3 is outlined in blue, indicating that this land is also within the applicant's control. However, an observation was received from Irish Life Assurance Plc also claiming to be the owner of Block 3, and this aligns with the ownership details provided for Block 3 on the 2019 permission. In any event, the physical development works are restricted to Block 2 and land entirely within the red line plan, which is not in dispute. An amended site plan clarifying the blue line could be requested by the Board, should it be considered necessary.

7.6. Appropriate Assessment

- 7.6.1. Article 6(3) of the Habitats Directive requires that any plan or project not directly connected with or necessary to the management of a European site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the sites in view of the sites' Conservation Objectives. The Board is the competent authority in this regard and must be satisfied that the development in question would not adversely affect the integrity of the European sites having regard to their conservation objectives.
- 7.6.2. The applicant has submitted an Appropriate Assessment Screening Report (dated August 2022). This report considers the closest European sites to the appeal site and evaluates and screens the proposed development to assess if full Appropriate Assessment is required. This assessment examines the implications of proceeding with the project in view of the conservation objectives for the protected habitats.
- 7.6.3. The applicant's AA Screening Report concludes that the project would have no direct or measurable indirect impacts on any European sites in close proximity to the appeal

site and that no significant impacts of the qualifying interests of any SPA or SAC is likely. Having reviewed the AA Screening Report, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.

- 7.6.4. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site.
- 7.6.5. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (004024), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), and the North Bull Island SPA (004006).
- 7.6.6. There are no watercourses running through the site. It is noted that the development would connect to public services and therefore, there is an indirect pathway to a number of European sites via the Ringsend Waste Water Treatment Plant. I therefore acknowledge that there are potential indirect connections to the European sites within Dublin Bay via the wider drainage network and the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.
- 7.6.7. I note that surface water and foul water would discharge to the combined sewer for onward treatment at the Ringsend WWTP although the increased loading would be minor in context. Therefore, having regard to the limited scale of the development, the dilution capacity of Dublin Bay and the insignificant additional loading on the Ringsend WWTP, I am satisfied that there is no potential for the development to result in significant effects on European Sites within Dublin Bay.
- 7.6.8. I note that conditions have been recommended by the Council's Drainage Team in the event of a grant of planning permission, requiring Sustainable Drainage Systems to be incorporated. However, I am satisfied that any proposals incorporated within the development, or required by condition, such as surface water management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening. Having regard to the above, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed

development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

8.0 Recommendation

- 8.1. From my assessment above, I consider that the Board should uphold the decision of Dublin City Council and grant planning permission for the proposed development based on the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the Z6 zoning objective of the site, the nature and extent of the proposed development and the benefits of bringing forward employment floorspace on a serviced urban site, it is considered that the proposal, subject to the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, would improve the public realm, would not be prejudicial to public health or the environment, and would generally be acceptable in terms of design, traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<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.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.</p> <p>Reason: In the interests of visual and residential amenities.</p>
4.	<p>(a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 ' Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'</p> <p>(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.</p> <p>Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.</p>

	Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.
6.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
7.	<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. Details to be agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of public health</p>
8.	<p>The developer shall comply with the transport requirements of the Planning Authority regarding car and cycle parking, EV charging facilities, access, repairs to public roads and the requirements of the Code of Practice.</p> <p>Reason:</p> <p>In the interests of amenity, accessibility, and to ensure a satisfactory standard of development.</p>
9.	<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 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 prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation</p>

	<p>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>
10.	<p>Details of landscaping, including appropriate tree replacement, shall be submitted to and approved in writing by the Planning Authority prior to the occupation of the development hereby approved.</p> <p>Reason: In the interest of visual amenity.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Terence McLellan
Senior Planning Inspector

7th November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315104-22			
Proposed Development Summary	Construction of extensions, reconfiguration of car park and all associated site works.			
Development Address	No. 2 Ballsbridge Park, Ballsbridge, Dublin 4, D04 YW83			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	x	10(b)(iv) - Infrastructure Projects. Threshold >2 hectares.		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315104-22	
Proposed Development Summary	Construction of extensions, reconfiguration of car park and all associated site works.	
Development Address	No. 2 Ballsbridge Park, Ballsbridge, Dublin 4, D04 YW83	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for an office extension. The existing use is office which would be continued, and the immediately adjacent uses are also offices. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants. Waste during construction and operation would be managed in line with the Construction management Plan and the Operational Waste Management Plan.</p>	No.
Size of the Development	The development would generally be consistent with the heights of surrounding developments	No.

<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>and would not be exceptional in scale in the context of the existing environment.</p> <p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments. Permitted developments and those under construction have been factored into the Visual Impact Assessment allowing a cumulative view to be taken on the proposed development in combination with other schemes.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a built up, serviced urban area and would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	No.
<p style="text-align: center;">Conclusion</p>		

<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		
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Inspector: _____

Date: _____