



An
Bord
Pleanála

Inspector's Report

ABP-320767-24

Development	Change of use from offices to residential units with internal and external façade changes and all associated site works.
Location	Numbers 6, 7 & 8 Windsor Place, Dublin 2.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3401/24
Applicant(s)	Dublin Letting and Management Ltd.
Type of Application	Planning permission
Planning Authority Decision	Grant permission subject to 9 no. conditions
Type of Appeal	Third Party
Appellant(s)	Martin Casey and Tom Carroll Brockpem Management Ltd
Observer(s)	Ken Harbourne
Date of Site Inspection	26 th February 2025
Inspector	Sarah O'Mahony

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1.0 Site Location and Description

- 1.1. The 180m² site is situated in Dublin city centre, 200m southeast of St. Stephen's Green and accessed from the R138 / Pembroke Street Lower to the east via a shared cul-de-sac referred to as Mackie's Place. It is situated within a gated mixed-use development of residential and commercial properties referred to as Windsor Place.
- 1.2. The overall scheme within the gated property comprises three detached blocks roughly set out in a triangular shape around a shared access road and courtyard with a fourth separate block to the northeast. Each block has approximately 10 no. units with primarily commercial uses on the lower floors and residential above. The buildings are two to three stories with a mansard roof set back behind a parapet. There are some variations however with a fourth storey present in one building as well as elements of pitched roofs and gable breakfronts.
- 1.3. Car parking is provided in the courtyard, around the perimeter of the site and to the rear of the northeast block. There is also a secondary vehicular entrance at the southwest of the site connecting to Laverty Court.
- 1.4. The subject site comprises unit nos. 6, 7 and 8 Windsor Place which are situated in the southeast block of the triangle complex. They are currently in use as offices and are a mix of two and three storey units with smaller offices on the ground floor and open plan spaces on the upper levels.

2.0 Proposed Development

- 2.1. Planning permission is sought for development which comprises the following:
 - Change of use of 3no. existing office units to 6no. residential units as follows:
 - a) No.6 - change of use from office to residential use to include 2 studio apartments, including internal modifications and external terraces within the existing building envelope, along with associated façade changes;
 - b) No. 7 - change of use from office to residential use to include a two-bedroom + study townhouse, including internal modifications and the modification of the existing

dormer roof to accommodate a new residential level and external terrace along with associated façade changes;

c) - No. 8 change of use from office to residential use to include 3 one-bedroom apartments including internal modifications and external balconies within the existing building envelope, along with associated façade changes;

d) all associated site works and services.

3.0 Planning Authority Decision

3.1. Further Information

3.1.1. The Planning Authority requested three points of further information summarised as follows:

- Demonstrate sufficient legal interest.
- Clarify the type of tenancy proposed and whether short-term letting is proposed.
- Provide additional cycle parking.

3.1.2. The Applicant responded by submitting a solicitor's letter to demonstrate sufficient legal interest in the property and rights of way etc. The response stated that the proposed residential units would be dwellings for long term leasehold tenancies or sold as residential units. Short-term letting is not proposed. Lastly, no additional bicycle parking is proposed however the response highlighted the extent of existing cycle parking within the site as well as the general secure and gated character of the overall scheme.

3.2. Decision

3.2.1. A notification of decision to GRANT planning permission was issued by Dublin City Council (the Planning Authority) on 13th August 2024 subject to 9 conditions including no. 4 as follows:

“4. The residential units shall not be sublet or used for short term letting without a prior grant of planning permission.

Reason: In the interest of clarity, in the interest of consistency of the development objectives for the site location, and in the interests of the proper planning and sustainable development of the area.”

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The Planners report recommendation to grant permission is consistent with the notification of decision which issued.
- The report considered that the principle of development was acceptable and complied with the zoning objective for the site. It also noted the planning history of the wider complex which previously introduced residential uses. Further information was sought as set out above which was considered acceptable.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

3.3.2. Other Technical Reports

- Transportation Planning Division: Two reports received, one requesting further information and the latter assessing the response. The second report notes the constraints to providing additional cycle parking and concludes with no objections to the proposed development subject to standard conditions.
- One report was received from the Drainage Department who noted no objection subject to compliance with relevant codes of practice.

3.4. Prescribed Bodies

- Submission received from Transport Infrastructure Ireland submitting that a Section 49 supplementary development contribution should be applied in the event of a grant of permission as the site is situated within the Luas Cross City zone.
- The application was also referred to Irish Water and the National Transport Authority who did not comment.

3.5. Third Party Observations

3.5.1. 5 no. observations were received from the following who are all stated to operate businesses or own property within the Windsor Place complex:

- Martin Casey and Tom Carroll of Arekibo,
- Robert Bourke of Javabell Ltd,
- Michael Slattery & Associates,
- Brockpem Management Ltd, Management Company of Windsor Place,
- Wallace Myers International

3.5.2. The following issues are raised in the submissions, the majority of which object to the proposed development:

- Concern that intention is for short term lets and associated impacts for security, noise and traffic. Existing residential units are long term lets.
- Construction phase disturbance and nuisance. Concern regarding feasibility of construction in a restricted space.
- Impact to existing businesses as a result of disturbance.
- Balconies and elevational changes are out of character with established neo-Georgian architecture.
- Balconies would enable undue overlooking.
- No consent from management company for works outside the envelope of each building.
- Pressure on services e.g. drainage, water, parking and waste disposal.
- Poor property management.

4.0 Planning History

The Windsor Place complex has a long and varied planning history including multiple applications throughout the 1990s and 2000s for alterations to existing units. The most recent planning history relating to the subject units is set out below:

- 2593/97: Permission granted to retain existing satellite dish at no. 6 Windsor Place.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the CDP). The site is zoned Z1 for sustainable residential neighbourhoods where the objective is *to protect, provide and improve residential amenities*.
- 5.1.2. Much of the surrounding adjacent land is zoned Z8 Georgian Conservation Area while the lands to the east and southeast are designated conservation areas and Architectural Conservation Areas. For clarity however there is no conservation designation on the site itself.
- 5.1.3. Chapter 15 of the CDP sets out development management standards for residential development. In relation to apartment uses, the majority of the design standards in Chapter 15 align with the Apartment Guidelines noted below. There are some deviations however such as encouraging all developments to meet or exceed 50% of units being dual aspect or 33% in prime city centre locations.

5.2. Section 28 Guidelines for Planning Authorities: Design Standards for New Apartments, 2023

- 5.2.1. The guidelines provide quantitative and qualitative standards for apartment development across a range of thresholds depending on the number of units proposed and the site's context. It also sets out Specific Planning Policy Requirements (SPPRs) to be adhered to across a range of parameters including unit mix, car parking and minimum floor areas.

5.3. Section 28 Guidelines: Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024

- 5.3.1. The guidelines, hereafter referred to as the Compact Settlement Guidelines, set out a context to create higher density settlements to underpin sustainable development principles. Specific Planning Policy Requirements (SPPRs) are set out including SPPR 1 which refers to minimum standards for separation distances between residential units and opposing windows in habitable rooms.

5.4. Natural Heritage Designations

The Grand Canal proposed Natural Heritage Area (pNHA) is situated 450m southeast of the site. South Dublin Bay Special Area of Conservation and pNHA and the South Dublin Bay and River Tolka Estuary Special Protection Area are situated 2.7km east of the site.

5.5. EIA Screening

See completed Forms 1 and 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 based on the nature, size and location of the proposed development. No EIAR is required. A formal determination or notification is not required in these cases.

6.0 The Appeal

6.1. Grounds of Appeal

Two appeals are received. One from Martin Casey and Tom Carroll, stated to be co-owners of Arekibo Communications Limited which operates from Windsor Place and a second from the Brockpem Management Ltd who are stated to be the management company for Windsor Place. The grounds of appeal are set out below:

- Concern that the intended use is for short term lets. The appeals note the Applicant's stated intention for long term lets or sale of each unit however it contends

that enforcement of this would be difficult and one suggests that a refusal of permission is therefore the appropriate route. It further outlines issues arising from short term lets on the operation of the neighbouring businesses such as increased noise and waste disposal associated with the increased turnover of guests as well as diminished security from increased dispersal of the gate access code. One appeal asks An Bord Pleanála to clarify how the management committee could enforce any infringements of planning conditions restricting the type of tenancy.

- The appeals submit that the proposed building alterations, particularly the balconies, roof and changes to finishes would impact on the existing neo-Georgian architectural character.
- Balconies would create overlooking and noise, affecting the privacy and operation of businesses. Existing balconies are situated to the rear of courtyards and therefore do not impinge on the quiet character of the area, facilitating a place of work. Request made to remove the balconies or relocate them to the rear of the courtyard.
- Consent is not forthcoming for any works or disturbance to the common areas under control of the management committee. One appeal submits that the Applicant's response to the further information request in this matter is insufficient to demonstrate a right to use external common areas for enabling construction works. It considers that the erection of scaffolding '*sitting on or oversailing*' the common ground would cause '*potentially serious problems for the security and safety of other owners and users of the complex*'.
- Concern outlined regarding construction stage impacts and disturbance particularly regarding ongoing access and parking during the construction phase. One appeal questions if a condition regarding construction hours also applies to deliveries/removals. The other appeal considers that the Applicant's 3 or 4no. parking spaces should be outlined on a drawing as these are not situated immediately adjacent to the subject units and therefore would require construction staff and materials to traverse the common courtyard.
- One appeal is concerned that '*the relationship between the applicant and the tenants during their work will be tested and deteriorate as the works continue*'. The appeal goes on to ask '*Can An Bord Pleanála set out an arbitration process to*

ensure that the parameters for issue resolution are defined before the works, if granted, commence? The tenants and owners want to ensure we can continue running our businesses without unnecessary interruption or conflict. Nor do we need to incur unnecessary costs to deal with any infringements if they occur.'

- Financial contribution – the appeal requests an additional monthly financial contribution to be paid to the management committee to maintain the complex during the construction phase including window cleaning and waste usage. It requests that this is binding and aligned with the infringement process referred to above.
- The development would create additional pressures on existing services including car parking, drainage, rubbish/waste disposal and water services.

6.2. Applicant Response

- The existing complex is a mixed use residential and commercial complex, therefore the principle of development is justified. Further, the proposal complies with the residential zoning of the property which seeks to deliver additional housing in the city centre. The Appellant has not highlighted any conflict from existing residential and commercial uses in Windsor Place.
- The Applicant reaffirms their position that the short term lets are not proposed, as per the further information response. They accept condition no.4 as well as the fact that any change to the type of tenancy would require planning permission. The response contends that this matter has been dealt with by imposition of condition no. 4.
- The response submits that no overlooking would occur from the balconies as they are both offset from opposing buildings and not directly opposite and are also inset within the envelope of each building. It also contends that they are an occasionally used space at weekends or evenings when the offices are closed, further limiting overlooking opportunities, and are further unlikely to be used during working hours as the tenants are likely to be at their own place of work. In this regard the response submits that the balconies and change of use would reduce overlooking opportunities to neighbouring business premises.

- Proposed ground floor residential use would increase passive surveillance during out of office hours.
- Regarding architectural impacts, the response outlines how the site and Windsor Place are not subject to any conservation or architectural designations but do abut same. In this regard it submits that if Windsor Place was of high architectural merit then the adjacent conservation protections would be extended into the site during the development plan process. The response contends that the complex is pastiche Georgian rather than neo-Georgian and has limited architectural value. Existing variations and inconsistencies in Windsor Place are outlined to negate the Appellants claim that consistency and coherency is required. In this regard the response submits that the proposed works would add variation but are subtle and respectful in their design and would not be incongruous with the area. The proposed zinc finish was chosen taking reference from the tone and colour of the existing slate roof.
- Regarding construction impacts, the response highlights the dynamic and evolving city centre location. It submits that prohibiting the proposed works, as the Appellants are seeking, would effectively sterilise the site and Windsor Place, undermine redevelopment potential of Windsor Place and impact adjoining properties such as Dwellings at Mackie's Place and Loreto College. The response outlines the Applicants willingness to accept a condition requiring the preparation of a Construction Management Plan as set out in condition nos. 5 and 7 of the notification to grant permission. The response also outlines the likely 12 month construction timeline which it submits is short term and temporary and that a point of contact would be assigned for the duration of the works.
- Regarding consents for enabling works to the common areas, the response highlights the further information response submitted previously including that the Applicant has rights of way to and from the property at all times. The response also however submits that issues relating to consent are civil matters and not planning matters and highlights Section 34(13) of the Planning and Development Act 2000 (As amended) which states "*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*"

- Regarding the Appellants proposed 'Infringement Process', the response submits that this is not a planning matter and further, that the Appellants fundamental opposition to the principle of residential development and the proposed design is unlikely to be resolved by way of mediation or arbitration.
- Lastly regarding the requested monthly financial contribution, the response considers this is not a planning matter and disagrees with the request as it seeks payment of funds to a private entity. The response refers back to the construction management plan and considers this is an appropriate mechanism to outline how the works could be delivered without undue impacts to the existing and neighbouring tenants.

6.3. Planning Authority Response

Request made to uphold the decision and in the event of a grant of permission, to attach specified conditions regarding financial contributions and a naming and numbering scheme.

6.4. Observations

One observation is received from Ken Harbourne who is stated to be the managing director of Wallace Myers, a firm operating from Windsor Place. It raises the following issues:

- Visual impact.
- Impact to privacy due to proximity of balconies to buildings opposite.
- Request to relocate the balconies to the rear elevation.
- Concern that use will be for short term letting and request to provide a clear enforcement method.
- Construction phase impacts and disruption.

7.0 Assessment

7.1. Introduction

7.1.1. The proposed development comprises changing the use of 3no. office units, situated within a mixed-use gated complex, to residential use together with some internal and external alterations including provision of balconies. The following documentation was received with the application along with standard drawings:

- Appropriate Assessment Screening
- Daylight Performance Assessment
- Housing Quality Assessment
- Engineering Statement including drainage, water supply, wastewater and structural alterations.

7.1.2. The site is situated on lands zoned Z1 'Sustainable Residential neighbourhoods' where the objective is *to protect, provide and improve residential amenities*. The existing complex comprises both commercial and residential uses and therefore I consider the principle of development is met.

7.1.3. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Short term lets
- Residential standards
- Impact to commercial amenity
- Architectural impact
- Impact on services
- Construction impacts
- Financial contribution

- Other matters

7.2. Short term lets

- 7.2.1. The appeals are concerned with the type of tenancy which the residential units would be used for. They submit that it is the Applicant's intention to provide short term lets however the Planning Authority sought further information on the matter and the Applicant responded saying that was not their intention. This is again repeated in the appeal response. The Planning Authority attached condition no. 4 to the notification to grant permission which stated: *The residential units shall not be sublet or used for short-term letting without a prior grant of planning permission.* However, the Appellants consider that enforcement of this is difficult and requested An Bord Pleanála's position on the question of how the management company could enforce any infringements of this policy.
- 7.2.2. In the first instance, every application must be assessed on its own merits. Permission was sought for short term lets and the Applicant has clearly stated it is not intended to utilise the units for this purpose as well as an understanding that planning permission is required for same. I do not consider it reasonable therefore to refuse permission on the basis that the units might potentially be used for short term lets during some unknown point in the future.
- 7.2.3. Secondly, I consider that the appropriate enforcement route would be for the management company to submit a complaint to the enforcement section of the Local Authority who are the only competent Planning Authority to enforce a breach of planning related conditions. There is clear legislation set out in the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (As amended) for dealing with such matters insofar as breaches of the planning codes are identified.

7.3. Residential Standards

- 7.3.1. It is proposed to subdivide each of the 3no. buildings providing 6no. in total as follows:
- No. 6 Windsor Place is a two-storey unit and would be subdivided into 2no. studio units, one on each floor as follows:

- Unit no. 1 - 40m²
- Unit no. 4 - 43m²
- No. 7 Windsor Place is a three-storey unit and would be converted into 1no. 2-bed unit with study/office as follows:
 - Unit no. 2 - 92m²
- No. 8 Windsor Place is a three-storey unit which would be subdivided into 3no. 1-bed units, one on each floor as follows:
 - Unit no. 3 – 54m²
 - Unit no. 5 – 45m²
 - Unit no. 6 - 54m²

- 7.3.2. Existing entryways and lobbies will remain in place and in the case of nos. 6 and 8 Windsor Place which are to be subdivided, own door access would be provided internally from a shared/semi-public lobby and stairwell.
- 7.3.3. 6no. new recessed terraces are proposed within the envelope of each building on the northwestern façade facing in towards the Windsor Place complex.
- 7.3.4. Each unit will be dual aspect while proposed unit no.4 will be triple aspect. Floor to ceiling heights will be the same as that currently in place: 2.72m on the ground floor, 2.76m on the first floor and 2.4m on the second floor. This complies with the CDP standards in Chapter 15.
- 7.3.5. A Housing Quality Assessment is received which assesses the layout of each unit in accordance with the recommendations set out in the Apartment Guidelines. It outlines how compliance is reached for all aspects of the development with the exception of two criteria: The terrace depths for all units should be 1.5m but 1.2m is proposed and there would be an additional shortfall in private open space for two units. Unit no. 3 is a 1-bed requiring 5m² but 3.6m² is proposed and in Unit no. 5, 5m² is also require but 4.4m² is proposed.
- 7.3.6. I note paragraph 3.39 of the Apartment Guidelines states that a relaxation of private amenity space standards may be considered in part or whole, on a case-by-case basis, subject to overall design quality for building refurbishment schemes. I consider these deviations are acceptable in this case having regard to the retrofit nature of the

development as well as its city centre location and proximity to high quality public open spaces such as St Stephens Green, the Iveagh Gardens and Merrion Square, all of which are within a 10-minute walk from the site.

- 7.3.7. Communal open space is not expressly provided for the proposed development. I note the existing courtyard which serves both the existing commercial and residential units as well as the aforementioned public amenity spaces. I also note paragraph 4.12 of the Apartment Guidelines which states '*For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality*'. Having regard to the scale of the development and the proximity of the site to a range of existing high quality public open spaces, I consider this deviation to be acceptable.
- 7.3.8. I note the further information request and response regarding the presence of a number of existing bicycle parking stands immediately outside of each unit and consider this is acceptable with no requirement for additional parking. I also note that there are 4no. parking spaces in the ownership of the Applicant and consider this is an acceptable rate of parking for the 6no. units given the city centre location of the site and accessibility to high quality public transport.
- 7.3.9. I also note the Daylight Performance Assessment received with the application which concludes that all units will be served with adequate levels of daylight.
- 7.3.10. I have assessed the development for compliance with the Apartment Guidelines and consider the following SPPRs to be met: SPPR1, SPPR2, SPPR3, SPPR4, SPPR5, and SPPR6. SPPR7 is not relevant as it relates to shared accommodation/co-living type developments.
- 7.3.11. I have also assessed the proposed development against the requirements of the Sustainable Residential Development and Compact Settlement Guidelines. SPPR 2 relates to private open space and provides a relaxation of standards for building refurbishment schemes while SPPR3 relates to car parking and part (i) recommends in city centre locations that parking should be minimised, substantially reduced or wholly eliminated. The remaining outstanding matter in the guidelines to be discussed is compliance with SPPR1. This policy requirement refers to separation distances between opposing habitable rooms, defined in the guidelines as primary

living spaces and therefore do not apply between opposing residential and commercial premises.

- 7.3.12. One observation received states that the Observer is the MD of a business which is a 'long-term tenant wholly occupying number 26 Windsor Place'. No. 26 is therefore clearly an entirely commercial premises with no habitable spaces to be affected by substandard separation distances.
- 7.3.13. It is not clear from the remainder of the documents on file exactly which windows on nearby properties serve residential or commercial properties. SPPR1 only applies to above ground floor windows so I therefore consider a potential worst-case scenario is where windows on the front elevations of nos. 23, 24 and 25 Windsor Park above ground floor serve residential uses and habitable rooms. No. 27 is excluded from this worst-case scenario as there are no windows in the existing or proposed layout facing no. 27.
- 7.3.14. At its narrowest point, there is a separation distance of 6.7-6.8m between the opposing facades of nos. 24/25 and nos. 7/8 Windsor Park. The orientation of the respective blocks however which means there are no directly opposing windows. There also would not be any new overlooking as the site comprises an existing building with existing overlooking opportunities and no new floorspace is proposed. It is in this context that I consider the layout and separation distances to be acceptable.
- 7.3.15. I note the layout does not meet SPPR1 standards however I also note that SPPR1 states:

'There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.'

As there would be no significant impact to privacy in this case, I consider the proposed layout to be acceptable.

- 7.3.16. In conclusion, I consider that the proposed layout meets the required residential standards and would provide an acceptable degree of amenity for future occupants without restricting the amenity of any residential units potentially existing in the buildings opposite.

7.4. Impact to Commercial Amenity

- 7.4.1. As set out previously, I consider the proposed development is unlikely to impact on the privacy of existing residential units and also now consider the same is to be said regarding commercial properties. The proposed balconies would not provide for any new overlooking or reduce existing separation distances. Additionally, even when regard is had to remote working opportunities, I agree with the Applicants argument that the residential units and particularly the balconies are most likely to be utilised outside of general working hours.
- 7.4.2. In a worst-case scenario where a residential unit is occupied 24/7, I consider that the existing overlooking opportunities between the existing commercial premises would not be exacerbated if some of those units were converted to residential use as no new overlooking opportunities would be created and existing separation distances would not be affected.
- 7.4.3. The following section of this assessment deals with construction stage impacts and therefore I will only assess operational stage noise and the impact of that on existing businesses in this section. The appeals submit that a residential use would result in additional noise impacting the quiet working environment of Windsor Place. I do not agree however, as there are already residential units in place. While the ratio of residential to commercial units would change, I do not consider noise likely to be generated by another 6no. residential units is such that it would impact the amenity of a workplace. This is particularly the case in the city centre location and context of the site where short term lets are not proposed. I acknowledge there is a slight backland character to Windsor Place in that it is not fronting onto a busy main thoroughfare, however adjoining land uses comprise dwellings and a school therefore I do not consider that 6no. additional dwellings would significantly change the existing noise levels experienced within the complex.

7.5. Architectural Impact

- 7.5.1. Proposed elevational alterations comprise inserting terraces on the front elevation and changing the roof of No. 7 Windsor Place from the parapet and setback mansard arrangement currently in place, to a flat roof clad in zinc. It is also proposed to carry out a range of fenestration alterations including increasing the window head

heights on the front and rear elevations, increasing window cill heights and widening windows on the rear elevation (to accommodate kitchen countertops) and installation of a rooflight on the rear elevation. The increased head heights on the front elevation would align with a brick soldier course above the head height of adjacent windows maintaining the existing symmetry.

- 7.5.2. The appeals contend that the alterations would detract from the established character of Windsor Place which is described as neo-Georgian but disputed in the Applicant's response which considers it to be pastiche and subject to many variations, lacking coherency or consistency.
- 7.5.3. The terraces are set back within the existing building and therefore would not protrude beyond the front façade. The wall plate would remain in place however one wider horizontal opening would replace previous windows. The same cill height will be retained while the head height of the opening would increase slightly to accommodate the space currently occupied by a brick soldier course as described already. In this regard the openings maintain the general position and layout of the windows currently in place but would be widened and amalgamated into one opening.
- 7.5.4. The demolition drawing (no. 2348 S01 2100) and contiguous elevation (drawing no. 2348 P01 2001) demonstrate the extent of the proposals which I do not consider to be inappropriate or out of keeping with the existing architectural character. Retaining the existing round headed doors and vertical emphasis windows as well as the existing horizontal lines present throughout the scheme, where windows and balconies will still align across the contiguous elevation, is an acceptable design solution in my opinion.
- 7.5.5. I note requests to relocate the terraces to the rear of each unit however I consider that the merits of providing passive surveillance to the courtyard outside of general office hours is beneficial to the overall complex. In this context together with the conclusion set out above where I do not consider that the terraces would detract from the architectural character of the complex, I do not consider it necessary to redesign the terraces.
- 7.5.6. For similar reasons I also consider that the proposed window alterations are acceptable and would not detract from the visual amenity of architectural character of Windsor Place. The most tangible difference, in my opinion, would be removal of

the brick soldier course heading above the existing windows but I note that the new height would align with the top of the bricks and therefore would again maintain the horizontal lines. Additionally, I have had regard to the existing mix of materials and finishes throughout the scheme where brick and render are provided in different measures to the various units, as well as the existing mix of fenestration which is not uniform throughout as I noted square and round headed windows as well as circular windows during the site inspection. In this regard I consider the proposed alterations would not detract from the visual amenity or architectural character of Windsor Place.

- 7.5.7. I also note that the site is situated adjacent to property which is zoned Z8 Georgian Conservation Area while the lands to the east and southeast are designated conservation areas and Architectural Conservation Areas. The only changes visible from these areas would comprise alterations to fenestration on the rear façade which are minor alterations in my opinion, and ones which affect a plain rendered wall with little architectural merit. The works would not therefore, in my opinion, result in much of a tangible change to the current fenestration. The change in roof style and finish would be more noticeable however I think the degree of change would be minor in the context of wider development. The ridge height will not be increased and the proposed zinc is an acceptable material choice in my opinion.
- 7.5.8. To conclude, I do not consider that the proposed alterations would negatively impact the adjacent conservation areas.

7.6. Impact on services

- 7.6.1. The appeals consider there would be an impact to existing services such as car parking, drainage, rubbish/waste disposal and water services.
- 7.6.2. The application included a letter from chartered engineers which outlines how the development is already connected to the public water mains and foul sewer. It also outlines the likely consumption of water and generation of wastewater for both the existing office use and the proposed residential uses and concludes that as the residential use would comprise much lower volumes of both elements, there is not likely to be any impact to those services. I accept that conclusion and have no objection to it.

- 7.6.3. I do not consider that the 6no. residential units are likely to result in any significant generation of car parking demand. I note the existing 4no. spaces and as outlined earlier in my report, this complies with the relevant standards and therefore do not consider it likely that existing car parking would be impacted by the development.
- 7.6.4. No additional footprint is proposed, with external works limited to the roof shape and fenestration. Therefore no change is proposed to the existing regime with no additional floorspace, therefore there is not likely to be any change to the existing drainage regime.
- 7.6.5. Waste management does not appear to be discussed in the application documentation, however I note that the proposed development is to change the use of existing commercial properties which generate waste in their own right. I also note that there are existing residential properties within the wider Windsor Place complex which generate domestic waste and therefore the principle of managing domestic waste is established within the complex. I recommend a condition is attached requiring a Waste Management Plan to be agreed with the Planning Authority in advance of the commencement of development as it is a concern which is also raised in the appeals and required in the apartment guidelines.
- 7.6.6. In conclusion, I do not consider it likely that the proposed development would impact on the existing built services or material assets of Windsor Place.

7.7. Construction Stage Impacts

- 7.7.1. The appeals consider construction stage impacts to be unacceptable as it would impact on the operation of existing businesses. I have had regard to the Applicants response however highlighting that there would be a likely 12 month construction period and that a point of contact would be appointed to be available throughout.
- 7.7.2. I consider these matters, together with the preparation of a Construction Management Plan (CMP) to be the most appropriate avenue to deal with construction stage impacts such as noise, dust, traffic management and positioning of skips and scaffolding etc.
- 7.7.3. One appeal questioned if the Local Authority's condition regarding construction hours could be amended to include delivery/material removal times however I do not consider this is necessary given the scale of works proposed. Large concrete pours

are not likely to be required in this instance nor is it likely that roads would be blocked to erect cranes etc and therefore I do not consider it reasonable to amend the standard condition which simply restricts site development and building works.

- 7.7.4. One appeal also submits that there would be a negative visual impact to the operation of businesses as a result of the works. I do not agree however once again having regard to the scale of works proposed as well as the short 12 month timeframe for the construction phase.

7.8. Financial Contribution

- 7.8.1. One appeal requests the insertion of a monthly financial contribution to deal with any issues arising during the construction stage such as washing windows from excessive dust etc. The Applicants response outlines how payment of a financial contribution to a private entity is not acceptable and also considers the preparation of a CMP should be sufficient to ensure significant construction impacts do not occur.
- 7.8.2. I agree with the Applicant's response regarding the CMP. I have also had regard to the Dublin City Council Development Contribution Scheme 2023-2026 and note there are no provisions to apply such a financial contribution. There are also no provisions for such a contribution under Sections 48 or 49 of the Planning and Development Act 2000 (as amended) and therefore I do not consider it to be appropriate to impose such a condition. I consider the correct approach to dealing with construction impacts is to agree an appropriate methodology and outline of processes and procedures through a CMP.
- 7.8.3. Also in relation to financial contributions, I note the Planning Authority's appeal response recommending the provision of financial contributions in the event of a grant of planning permission. However the notification of decision to grant did not include any such contributions. I therefore consider it appropriate not to apply the contributions.

7.9. Other matters

- 7.9.1. The appeals raise a number of issues which, in my opinion, are civil matters and not planning matters. The first relates to consent for works on the common external areas as it is stated that the Applicant owns the building envelope only while the

common areas are in the ownership of a management company for the overall Windsor Place complex. The appeals submit that ancillary construction enabling works such as the erection of scaffolding or placement of skips would take place on such areas. Both appeals state that consent will not be forthcoming for any such works.

- 7.9.2. The Applicant submitted a solicitors letter which highlights rights of way to traverse these common areas but does not clarify if the Applicant has a right to impede them or impose on them, albeit temporarily, during the construction stage.
- 7.9.3. I note the Applicant's response and reference to Article 34(13) of the Planning and Development Act 2000 (as amended) which infers that a grant of planning permission alone does not convey a right to undertake works. I also note that no physical works are proposed to the common area. The alterations proposed are all within the envelope of each of the 3no. buildings and no ancillary landscaping or underground services alterations are proposed. In this regard, I consider the matter appears to relate solely to the construction methodology and the feasibility of achieving the works either with the management company's consent or without it, and subsequently not infringing on any common areas. In my opinion this issue is an insufficient basis upon which to refuse permission as it is a civil matter and not a planning one.
- 7.9.4. I note the Planning Authority's recommended condition no. 7 requires submission and agreement of a Construction Management Plan prior to commencement of development to include details of the intended construction practice for the development. I consider this is an acceptable avenue to resolve the matter as it permits the works while also safeguarding the amenity of adjoining properties by subjecting the construction process to an agreed approach.
- 7.9.5. The second issue arises where one of the appeals seeks a condition which would impose an 'Infringement process' stated to be akin to an arbitration process setting out the parameters of defined issue resolution. The requirement for this is stated to be due to concerns that the relationship between the Applicant and tenants could deteriorate during the construction phase. I also consider this to be a civil matter and not within the remit of planning.

- 7.9.6. The fifth schedule of the Planning and Development Act 2000 (As amended) sets out a list of criteria for conditions attached to a grant of planning permission and I do not consider that the requested condition meets any of those criteria. This is also summarised in the Development Management Guidelines 2007 under Section 7.3: Basic Criteria for Conditions where it states that conditions must be relevant to planning. I therefore do not consider it appropriate to attach such a condition.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. South Dublin Bay Special Area of Conservation and the South Dublin Bay and River Tolka Estuary Special Protection Area are situated 2.7km east of the site.
- 8.3. The proposed development comprises change of use from offices to 6no. residential units with internal and external façade changes and all associated site works
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- 8.6. The small scale and domestic nature of the works in a serviced urban area,
- 8.7. The distance from the nearest European site and lack of connections, and
- 8.8. Taking into account screening report/determination by LPA and the Applicant,
- 8.9. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.10. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission is granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having regard to the location and character of the site and surrounding area in an urban area together with the provisions of the Dublin City Development Plan 2022-2028 including the Z1 zoning of the site as well as the Section 28 Guidelines for Planning Authorities: Design Standards for New Apartments and Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development would not seriously injure the visual or residential amenity of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 17th day of July 2024, 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>
2.	<p>The residential units shall not be used for short term letting without a prior grant of planning permission.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development,</p>

	<p>including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and amenity.</p>
4.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
5.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: In the interest of public health.</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.

Sarah O'Mahony
Planning Inspector

26th March 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	320767-24		
Proposed Development Summary	Change of use from offices to residential units with internal and external façade changes and all associated site works.		
Development Address	Numbers 6, 7 & 8 Windsor Place, Dublin 2.		
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	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10(b)(i): Construction of 500 dwellings	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Threshold = 500 units Proposal = 6 units	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The urban site is serviced and forms part of an existing mixed use scheme with residential and commercial uses in place. A change of use permission is sought with no additional floorspace.</p> <p>A short-term construction phase would be required and the development would not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance due to its scale. The development, by virtue of its type and nature, does not pose a risk of major accident and/or</p>

	disaster, or is vulnerable to climate change. Its operation presents no significant risks to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The development is situated in an urban area and the scale of the 6no. units are not considered exceptional in the context of surrounding development. No additional floorspace is proposed.</p> <p>It is not likely to have any cumulative impacts or significant cumulative impacts with other existing or permitted projects.</p> <p>The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan. It is situated adjacent to an architectural conservation area and a Georgian conservation area but would not significantly impact the character or architectural integrity of those spaces.</p>
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development and the nature of the works constituting a change of use with no additional floorspace and limited elevational and internal alterations, on serviced land, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	

Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____

Date: _____