



An  
Bord  
Pleanála

## Inspector's Report PL29N.249258

### Development

Change of use of 34/35 and 36/37 Ormond Quay Lower to aparthotel use and construction of two new blocks (6-7 storeys) to rear of 34/35 and 36/37 Ormond Quay Lower, separated from the protected structures by an internal courtyard. Demolition of buildings at 28A, 29, 30 and 31 Great Strand Street Dublin 1, and demolition of modern extensions to the rear of protected structures at 34/35 and 36/37 Ormond Quay Lower.

### Location

34/35 and 36/37 Ormond Quay (protected structures), rear of 31 Lower Ormond Quay, rear of 25-28 Great Strand Street, and 28A, 29, 30 and 31 Great Strand Street Lower, Dublin 1

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

3333/17

### Applicant(s)

Targeted Investment Opportunities  
ICAV – Tactical Opportunities Fund

<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Derek Ryan/Yamamori Sushi Ltd.; Tony Boylan.
<b>Observer(s)</b>	Butler Ormond Management Company Ltd.
<b>Date of Site Inspection</b>	15 <sup>th</sup> January 20017
<b>Inspector</b>	Una O'Neill

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## 1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 1837sqm, is located in Dublin City Centre at 34-35 and 36-37 Ormond Quay (protected structures) and extends the width of the block onto Strand Street Great to the north, including properties 28A, 29, 30 and 31 Strand Street Great. The block, within which the site is located, is bounded to the west by Bloom Lane pedestrian street/area known as the Italian Quarter and is proximate to Millennium pedestrian bridge. To the east, the block is bounded by Liffey Street, proximate to the Ha'Penny Bridge/pedestrian bridge. The site is centrally located with access to high quality public transport facilities, including the Luas (c.140m north) and a range of services within walking distance.
- 1.2. The area in the vicinity of the site is characterised by mixed use development. Butler Court apartments (No. 31, 30 and 28 Ormond Quay) is the largest residential complex on Ormond Quay in proximity to the site, and has a rear courtyard and elevation bounded by the development site. A number of adjacent sites on Strand Street Great, notably around the Italian Quarter have been re-developed with mixed uses blocks containing retail and office use at ground floor level and upper floors and also blocks with residential at upper floor levels. The area immediately north of the subject site (on the opposite side of Strand Street Great) consists of a large vacant site that extends north across the block with a frontage also onto Abbey Street Upper and the Luas line.
- 1.3. Ormond Quay, No.34-37 is a terrace of buildings. No. 34-35 comprises a pair of 4 storey Georgian buildings, currently vacant and previously occupied by a licensed premises called Bondi Beach Club/Zanzibar. No. 36-37 Ormond Quay are a pair of 3 storey Georgian buildings, also currently vacant, and similar in height to No. 34 and 35 Ormond Quay. The façade of Nos. 34-35 are protected and the façade and roof profile of Nos. 36-37 are protected. No.34-35 has a significant rear extension associated with the licenced premises. There are no extensions existing to the rear of No. 36/37 and the site to the rear, which fronts onto Strand Street Great is a vacant site, having been cleared of previous development. This vacant site is bounded to the east by a small apartment block at 35 Strand Street Great and to the west is a vacant three storey building, No. 29-31, which forms part of the site. There

is a shared passageway beneath the adjoining building No. 28 Strand Street Great (not part of the site), which is a right of way for No. 29-31.

- 1.4. The adjoining premises to the east on Ormond Quay, no. 38 (protected structure), is occupied by Yamamori restaurant at ground level with significant rear single storey extension for the restaurant and with apartments over the front section of the building. The premises to the west, no. 33 (protected structure), is occupied by UNICEF offices. No. 32 is a beautician shop at ground level and is vacant above. No. 31, 30 and 28 comprise apartments at upper levels with rear courtyard onto which the apartments and businesses, including those on Strand Street Great, have an aspect. No. 29 comprises an office and apartment.
- 1.5. The site also contains No. 28A Strand Street Great, a two storey warehouse/shed located to the rear of No. 28 (no frontage onto either Ormond Quay or Strand Street Great), with this western backland area of the site comprising a mix of low rise warehousing/shed type buildings, the western boundary being partially formed by the adjoining courtyard.

## 2.0 Proposed Development

- 2.1. The proposed development is for an aparthotel, accommodating 165 aparthotel units, and comprises the following elements:
  - Refurbishment and change of use of 34/35 and 36/37 Ormond Quay Lower (protected structures) to aparthotel use.
  - Construction of two new blocks (6-7 storeys) to rear of 34/35 and 36/37 Ormond Quay Lower for aparthotel use and separated from the protected structures by an internal courtyard. This new build fronts onto Strand Street Great to the north.
  - Demolition of buildings at 28A, 29, 30 and 31 Strand Street Great Dublin 1, and demolition of modern extensions to the rear of protected structures at 34/35 and 36/37 Ormond Quay Lower to facilitate the proposed development.

The floor area of the new build is stated to be 7781.1sqm with the total floor area of the proposed development (new and retained) is 8565sqm.

### Supporting Documentation:

- Model of the development
- Planning Report
- Design Statement
- Schedule of Areas
- Conservation Impact Assessment
- Daylight Assessment
- Archaeological Assessment
- Landscape and Visual Impact Assessment
- Site Specific Flood Risk Assessment
- Engineering Services Report
- Draft Construction, Demolition and Operational Waste Management Plan
- Outline Construction Management Plan
- Traffic/Transport Assessment Report & Preliminary Mobility Management Plan
- Screening Report for Appropriate Assessment
- Noise Impact Assessment

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission GRANTED, subject to 23 conditions, including the following:

C3: Section 49 Supplementary Development Contribution Scheme in respect of Luas Cross City Scheme.

C4(a): Height of the western projection element of the building to the rear of 25-28 strand Street Great reduced from seven storeys to six storeys, to be achieved by the omission of an internal floor (2nd, 3rd or 4th floor) to protect amenities of neighbouring buildings.

C4(b): White render finish to façade of the rooms labelled 5-22 to the south elevation facing the front courtyard at fifth floor level shall be replaced with brickwork.

C5: Short-term letting periods of no more than two months and to be managed by a reception facility on the ground floor with twenty-four hour reception and security facilities.

C6: Aparthotel units shall not be used for the purposes of providing student accommodation. Planning permission will be required for the change of use from commercial short-term accommodation to residential.

C7: Signage proposed for the aparthotel shall be subject to a separate planning permission.

C9: Public access to the Bar and restaurant areas shall be maintained at all times during normal opening hours, in the interest of active animation of the ground floor unit and streetscape amenity.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- Having regard to the location of the subject site, the overall size of the site fronting onto both the quays and Strand Street Great and the vacant and underutilised nature of the lands in need of renewal, it is considered that the proposal meets the criteria with regard to allowing for a higher plot ratio in certain circumstances. It is noted that the extant permission has a plot ratio higher than the indicative 3.0 set out in the development plan.
- The current proposal is broadly similar in terms of scale as the permitted scheme however, the floor area proposed is greater and the overall height of the scheme is marginally higher at sixth floor level.
- It is apparent that the new build element would be visible from the Liffey Quays and in particular on the South Quays across the river from the subject site. The scale of the six and seven storey structure is substantial in the context of the existing roof line along this section of the quays although the

Butler Court scheme directly to the west of the subject site stands at six storeys in height fronting onto the quays. The new build section would be setback between 17 and 23 metres from the front façade of the protected structures.

- Having regard to the setback and in the context of the scale of the building already permitted on the site it is considered that the visual impact of the proposed development will not be unduly injurious to the visual amenities of the area when viewed from the quays. Furthermore, noting the scale of development previously permitted on the subject site, the proposed development would not unduly negatively impact on the historic setting of the Protected Structures to be retained on the site fronting the Ormond Quay Lower. It is also noted that the proposed development incorporates terraces to the front of the proposed sixth floor which subject to appropriate planting and landscaping would soften the visual impact of the proposed development.
- Notwithstanding the setbacks behind 25-28 Strand Street and 31-33 Ormond Quay Lower, the western boundary of the development is set along the site boundary for a full six storey's in height. It is noted that Condition 2 of the permitted scheme required that the western projection element be further set off the western boundary by an additional 3.3 metres in order to protect the amenities of the neighbouring buildings. In this regard, it is considered that this western projection of the building should be reduced in height by the removal of an internal floor (3rd or 4th floor) to provide for a building which would reduce the scale and impact of the western element of the aparthotel building and provide for a more appropriate transition in scale and to protect the amenities of the adjoining buildings in the immediate vicinity. This can be dealt with by way of condition.

### 3.2.2. Other Technical Reports

**Drainage Division:** No objection to the proposal subject to a number of conditions.

**City Archaeologist:** Report states that the proposed development site borders the Zone of Archaeological Potential for the Recorded Monuments DU018-020 423- (Dwelling), and is a little south of the Zone of Archaeological Constraint for DU018-115- (RiverineB Revetment) which are subject to statutory protection under Section



12 of the National Monuments (Amendment) Act 1994. Further, the site in question is located within the Zone of Archaeological Interest in the Dublin City Development Plan 2016-2022. It is recommended that a series of conditions be attached to any grant of permission.

**Air Pollution Monitoring & Noise Control Unit:** No objection subject to condition.

### 3.3. Prescribed Bodies

**Department of Culture, Heritage and the Gaeltacht:** The department has reservations regarding the scale and design of the new structures proposed to the rear of the protected structures. The proposed seven storey structures would have a significant impact on the architectural heritage of the city quays, on the setting and visual amenity of a number of protected structures, and on key views and prospects within the City Development Plan. The proposed new building would set a precedent for other ad hoc applications for large structures to the rear of historic buildings along the Quays. It is recommended that the proposed new structures are reduced in height to ensure that the parapets of the new buildings are no higher than the wall tops of the protected structures. Any new construction permitted should be phased in such a way as to ensure that conservation works to the protected structures are satisfactorily carried out and completed.

**An Taisce:** Concerns are expressed in relation to the scale of the proposed development at 7 storeys fronting onto Strand Street Great, which is effectively a rear access lane for Quay side historic properties of 3-4 storeys in height. The scale and proximity of the development to the rear of the terrace of protected structures on Lower Ormond Quay is considered excessive as seen from the Liffey Quays Conservation Area. It is stated that development to the rear is required to be subordinate in scale and character.

**Transport Infrastructure Ireland:** Submission received which states that the proposed development fall within the area set out in the Section 49 Levy Scheme for Luas Cross City Contribution Scheme. If the application is granted permission it is requested and not deemed to be exempt, it is requested that a levy be applied.

### 3.4. Third Party Observations

A number of submissions were made during the course of the application. The issues raised are covered in the grounds of appeal and observation to the appeal.

## 4.0 Planning History

The following relevant planning history is noted:

**Reg. Ref. 2446/03** - Planning permission GRANTED for re-development to provide for a 55 bedroom hotel.

**Reg. Ref. 5828/04** – Planning permission for amendments and alterations to the development permitted under Reg. Ref. 2446/03 to provide for a 73 bedroom hotel subject to 5 conditions. [Condition No. 3 reduced the total number of hotel bedrooms permitted to 64].

**PL29N.229173 (Reg. Ref. 6819/07)** - Permission GRANTED for 90 bedroom hotel in 2009. The following condition reduced the permission by 14 beds to a 76 Bed hotel:

C2: The proposed western projection of the hotel building, from the first floor upwards (refers to rooms L1/16 to L1/20 and Linen Store with reference to drawing 0647-PLA-103) submitted to the planning authority on the 21<sup>st</sup> day of December, 2007, shall be reduced such that the projection from the main building is reduced from the proposed 8.377 metres to a maximum of five metres. The landscaped roof garden in this area shall be increased in area accordingly. Revised floor plans from the first floor to roof level, incorporating the necessary revision to the internal layout of the building, shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** A reduction in scale of this element of the building is required in order to protect the amenities of neighbouring buildings along Ormond Quay and Strand Street.

**Reg Ref 6819/07x1** – Permission extended until March 2019. Height of just over 21m is in compliance with current development plan limit 28m.

**Site to North of Site on Strand Street Great:**

**Reg. Ref. 4328/08** – Planning permission GRANTED for revisions and modifications to bus interchange and hotel development.

**Reg Ref 4328/08/x1** – Extension of Duration REFUSED as the permitted development does not comply with relevant development plan (2011-2017) in terms of height, being 8 storeys and 33m in height in an area identified as having a limit of 28m.

**Reg. Ref. 6380/06** – Planning permission GRANTED for a bus interchange with hotel over.

**Reg. Ref. 6380/06/x1** – Extension of Duration REFUSED as the permitted development does not comply with relevant development plan (2011-2017) in terms of height, being 8 storeys and 33m in height in an area identified as having a limit of 28m.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

5.1.1. The subject site is located within zoning objective Z5, the objective for which is ‘to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’. Aparthotel is a permissible use within this zone.

5.1.2. The following policies are of note:

- Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- Policy CHC4: To protect the special interest and character of all Dublin’s Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness...
- Policy SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city...In particular, all new proposals

must demonstrate sensitivity to the historic city centre, the River Liffey and quays... and to established residential areas...

- Policy CEE12 (i): To promote and facilitate tourism ... and to support the provision of necessary significant increase in facilities such as hotels, apart hotels...
- Policy CEE13 (iii): To promote and support the development of additional tourism accommodation at appropriate locations throughout the City.
- Policy RD15: To require a high quality of design and finish for new and replacement shopfronts, signage and advertising...as set out in Dublin City Council's Shopfront Design Guidelines.

5.1.3. Z5, City Centre Zoning.

5.1.4. Southern part of site is within the Liffey Quays Conservation area.

5.1.5. Section 11.1.5.3: Protected Structures – Policy Application.

5.1.6. Section 11.1.5.6: Conservation Areas.

5.1.7. Section 16.7: Building Height in a Sustainable City

5.1.8. Appendix 16: Guidance on Aparthotels.

## 5.2. **Natural Heritage Designations**

North Dublin Bay SAC (0210), North Bull Island SPA, South Dublin Bay SAC (0206), South Dublin Bay and Tolka Estuary SPA (04024) are considered to fall within the zone of influence of the project and have been considered.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

Two third party appeals have been received in relation to this application, from the following:

- Owner of No. 38/39 Lower Ormond Quay, which is linked to No.35 and 36 Strand Street Great (Yamamori Sushi Ltd), and comprises a restaurant at

ground level to the rear (with skylight roof) and apartments overhead at Ormond Street side, which are within the same ownership.

- Tony Boylan, owner of apartments no. 9 and 10 Butler Court and a shop unit at no. 30 Lower Ormond Quay.

The issues raised in the grounds of appeal are summarised hereunder:

#### Building Height, Form and Scale

- Increased density and scale of development will impact negatively on Butler Court in terms of residential amenity, light, views, general environment, visual impact, noise, waste, and traffic.
- Scale of development is significantly different to that previously permitted. Application should be considered *de novo*.
- Yamamori Restaurant (shown in section B-B, rear section behind main body of building) is 6.37m in height/10m OD. Proposed building adjoining this is 24.6m OD, approx. 15m above apex of building, and is to be built on the property boundary. The building previously permitted was set back from the boundary allowing some light onto the existing rear roof, which comprises a glass structure, allowing light into the extensive rear dining area. The set back at ground level was c5.5m from the original limestone boundary wall (protected structure) which is exposed as a feature wall in the Yamamori Restaurant. The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floor plans were set back a further 3.9m-5m from the boundary providing for a courtyard at ground level. The storey height at the boundary stopped in the central block of the previous development at third floor level, so there was no seven floor building/21m height adjacent to no. 38 as is now proposed. The previous development allowed daylight and sunlight into the adjoining restaurant.
- Height will be overbearing on Yamamori Restaurant.
- Significant impact due to height of development on residential amenity of apartments at first floor level over restaurant at no.38/39. Proposed development is 17m long from rear boundary wall of no.38. therefore outward aspect of the apartments is towards an unrelieved wall that is 17m long and 22m high.

- Reference is made to PL29S.247351, whereby permission was refused for issues relating to adverse impacts on amenities of neighbouring property, including residential property, by reason of overbearing, overshadowing, and loss of daylight, notwithstanding that the development would bring back into use protected structures.

#### Impact on Daylight/Sunlight

- Development will result in loss of light to all apartments to rear of Butler Court, impinging on residential amenity and greatly devaluing the properties.
- Development will have a serious negative impact on the courtyard in Butler Court, backing out onto Strand Street Great with significant adverse impact on light, views, visual impact and general environment.
- Proposed development will impact on daylight and sunlight available to adjoining Yamamori restaurant to the east of the site and to the apartments above. Sunlight/daylight analysis has given no consideration to the vitality and viability of the adjacent established business, which is dependent on skylight and lack of overbearance for its particular ambience and amenity for daytime customers. BRE Guidance was updated to include guidance relating to commercial property in 2011. Daylight/Sunlight analysis does not include assessment of apartments over the restaurant.
- Reference is made to PL29S.247351, whereby permission was refused for the addition of a floor to a commercial building for issues relating to adverse impacts on amenities of neighbouring properties, including residential property. The appellant is of the view that due consideration was not given to the impact on the restaurant use.

#### Impact on Protected Structures

- Height, scale and density of the development will negatively impact on protected structures along the quays.

#### Extant Permission

- Proposed development represents a significantly larger, higher, and bulkier development than that previously permitted.

- The extant permission is different in scale, particularly at eastern boundary. The application should be assessed *de novo*.
- Assessment by Planning Authority indicates that scheme is broadly similar to that previously permitted. This is incorrect.
- The proposed buildings differ from that previously permitted as it is built on the entire eastern boundary; its height at this boundary is greater, internal height of the scheme is greater, and the proposed building is rotated 90 degrees from the permitted orientation.
- The bringing back into use of the protected structures is not an overriding consideration where the development would result in negative impacts on the amenities of the neighbouring property.

#### Plot Ratio and Site Coverage

- The development plan allows that plot ratio can be exceeded subject to appropriate levels of amenity internal and external to the site. The external implications on amenity of no. 38/39 Ormond Quay are significant and have not been assessed appropriately.
- The plot ratio of 4.66 and site coverage of 87.4% are both indicators that the proposal is overdevelopment of a restricted plot, regardless of its city centre location.

#### Structural Impacts

- No method statement and insufficient information in the planning application to indicate how the build will impact on neighbouring property to the east, in particular original protected structure wall at eastern boundary.

## 6.2. Applicant Response

The applicant submitted a response to the third party appeals on 17<sup>th</sup> October 2017 and also on 25<sup>th</sup> October 2017, the latter submission comprising revised drawings, taking account of condition 4 of the planning authority permission. The submissions are summarised hereunder:

#### Height, Scale and Massing

- The applicant has submitted a revised design for the western element of the development, in accordance with condition 4 of the grant of permission from Dublin City Council. The height at this section has been reduced by one floor, providing a height of five floors, with a set back of two floors. The number of rooms has been reduced from 165 to 160 accordingly.
- The western elevation has been redesigned to reduce the height, scale and massing and to provide a stepped approach to the southern elevation.
- The 160 rooms comprise a range of different sizes and typologies, catering for single people, couples and families, in accordance with Architectural Design Statement submitted.
- Balconies are provided at the sixth floor on the southern elevation and at ground and first floor level on the northern elevation, which adds visual interest to the scheme.
- Building height within the inner city area are 28m for commercial and 24m for residential. The overall height proposed does not exceed 22.22m. The height is within development plan standards.
- The revised building height to the western section, in accordance with DCC condition 4, is 16.22m, in keeping with height of surrounding properties, which are 14.8m at 25-28 Strand Street Great and 19.68m at 31 Lower Ormond Quay. Height is only marginally above that previously permitted. When viewed from the quays the proposed height is no greater than the adjacent buildings fronting Lower Ormond Quay.
- The extant permission allows for an eastern elevation of 21.2m. The extent of this elevation is broken up by an east-west courtyard, which breaks up the massing of the development and improves the overall visual amenity of the development, allowing for light penetration of the adjacent properties. In this way the proposed development does not significantly overbear the adjacent property of no. 38 but actually reduces the overall bulk and mass of the development along this elevation.
- Strand Street Great contains heights of up to 6 storeys at its western end. This eastern end is largely undeveloped and comprises 2-3 storey buildings.



The proposed 7 storey building is in keeping with overall streetscape and building line of Strand Street Great and the emerging height pattern on the street and the neighbouring streets.

- A revised visual impact assessment and CGIs are submitted with the applicants appeal response.

#### Daylight/Sunlight/Overshadowing

- A revised sunlight/daylight analysis has been submitted taking account of the reduced height. The assessment is compared against the extant permission, which is not due to expire until 2019. The revisions to this scheme improve skylight in the adjacent properties compared to the scheme as originally submitted (ref 3333/17). A sunlight/daylight is also submitted which assesses the impact if ABP applied the original condition which limited the extent of the western projection to 5m. This shows that setting this western element back further would not provide a substantial uplift in the daylight conditions, therefore it is unlikely that restricting this element further would not provide any material improvement to the daylight condition registering at the locations considered in the study, therefore An Bord Pleanála should not attach such a condition in this instance.
- A further assessment in relation to Yamamori restaurant has been submitted. With the development an average daylight factor of 6.5% will be retained, which is above the recommended BS8206 figure of 2%.

#### Impact on the Protected Structures and the Quays

- The proposed development will improve the quality of the protected structures on the quays.
- The proposal will sit within the established building line with in the quays as demonstrated in the CGI images.
- The visual impact assessment submitted states that the visual impact on the south quays is considered neutral or slightly positive as a result of the enhancement of the protected structures and a low-key presence of a new roofscape arising from the fifth and sixth floors of the proposed new buildings.

#### Structural Effects

- A note has been prepared by GDCL Consulting Engineers in relation to the structural integrity.

#### Extant Permission and Active Streetscape

- Strand Street Great is not designated as a retail street in the Dublin City Development Plan and is not therefore a street where retail frontage is required. Activity is provided for through the provision of ground floor apart hotel units.
- The proposed development is no longer linked to the site opposite on Strand Street Great. This is a standalone application and it is unnecessary to provide a pedestrian link in a well-established streetscape and building line along Ormond Quay Lower.

#### Development Plan Context

- A higher plot ratio is justified by the need to substantially regenerate this brownfield city centre site. Permission has previously been granted for development greater than 3.0.
- Site coverage is below the 90% indicative figure.

### 6.3. Planning Authority Response

- No further comment.

### 6.4. Observations

One observation has been received by Butler Ormond Management Company Ltd (Butler Court Apartments relate to Nos 28 and 30/31 Ormond Quay Lower) and Shaffrey Associates Architects of No. 29 Lower Ormond Quay, which is summarised hereunder:

#### Impact on Liffey Quays and Protected Structures

- Proposal will have adverse impact on Liffey Quays and protected structures by virtue of its height, massing and form.
- The introduction of a significantly higher element in the middle of the plot will contravene the distinctive character of the quays and is out of character with

the prevailing townscape and architectural character and contravenes Dublin City Development Plan 2016-2022, specifically policy CHC4.

- The plot depths are insufficient to allow for higher buildings mid-plot. The prominent building is the quay front building, not those behind.
- The strong visual impact of the quay building edge is a very distinctive and memorable feature of Dublin's architectural heritage.
- Butler Court has a higher building at the quay edge, with a courtyard and lower buildings behind.
- The proposal affects the setting of the conservation area.
- Scale of development is excessive and aggressive. Radical amendments required to the scheme: reduction in height such that the front buildings onto Ormond Quay remain the dominant buildings in and views along the quays. In terms of existing pattern of development higher parts of any development should be onto Ormond Quay and Strand Street Great with centre of the block lower; the maximum height along Strand Street Great, between Liffey Street and Swifts Row is currently five storeys; no development should be higher than ground level behind No. 30, 31 and 32 Lower Ormond Quay with no bedrooms or public uses at ground level in this part of the site and no overlooking of the adjacent courtyard; conditions required regarding noise and building services. The extent of change required is such as to warrant a significantly amended scheme.

#### Urban Design Issues

- Reference is made to Dublin City Development plan in relation to key views and prospects, taller buildings, policy SC17, policy SC28, section on infill development and section on backland development.
- The proposal does not comply with these development plan policies, placing a large and higher building in the centre of the plot, with excessive height, scale, bulk and massing.
- ABP report on 6819/07 relied on the previous permission 246/03 and 5825/04, which was lower than 6819/07, which itself is lower than the current proposal. The current scheme is sufficiently different to the original permitted scheme

and the Development Plan context has changed to warrant a proper de novo assessment of the scheme and its merits.

- Planner's Report did not properly assess the conservation area impacts and there is no departmental report from the Architectural Conservation Officer in either the previous or existing application. The Department of Culture, Heritage and Gaeltacht has raised concerns.
- The proposed design is awkward in form, materiality, and proportion. The courtyards are too small for the scale of the enclosing buildings and given the prevailing micro climate will be unpleasant spaces. The building is too large and jars awkwardly with the existing context.

#### Residential Amenity of Adjoining Properties

- Adverse impacts on light, views, visual aspect and general environment on Butler Court Apartments Nos 28 and 30/31 and protected structure no. 29 (dating from 1680) and the open courtyard enjoyed by these properties.
- Daylight Assessment submitted does not assess existing context but assesses development against changes to permitted development. The assessment is insufficient as the proposed new development is closer and higher than the permitted scheme, which is a significant difference, given the proximity to living rooms and bedrooms of existing apartments of No.30/31. ABP permission condition 2 reduced the scale of development adjacent to Butler Court.
- The impact of services and any proposed bar/café use should be controlled in terms of noise impacts, scale etc as given the scale of residential use in this area. Roof terraces and open courtyards can pose difficulties for adjacent residential uses.

#### Issues Relating to Planning Report

- Insufficient regard given to Liffey Quays Conservation Area designation.
- Dublin City is on the Irish State's tentative list of World Heritage Sites and includes the Liffey Quays as part of the Georgian City.

- Despite concerns raised by Department of Culture, Heritage and the Gaeltacht, there has been no assessment by Dublin City's Conservation Officer.
- The plot ratio is considered acceptable due to the vacant and underutilised natures of the lands. However, these buildings are not long vacant and are not at risk.
- The plot ratio is excessive for a site within the Liffey Quays Conservation Area and in proximity to a number of protected structures.
- The planner's assessment leans too heavily on previous proposals. This scheme is larger than previous proposals. Proposed roof terraces at the upper level will require screening which is an additional visual impact not fully assessed.
- Daylight analysis due to its premise for assessment of the previous permitted development does not consider the real impacts on the greater scale and closer proximity of the proposed development on adjacent residences.

## 6.5. Further Responses

A further response has been received from Yamamori Sushi Ltd of No. 38 Ormond Quay and is summarised as follows:

### Scale of Development

- The depth of the building behind No. 38 is 17.26m, with the building seven storeys in height. The difference in height between proposed building and the restaurant is 15m. The extant permission is set back 14m behind the rear façade of the protected structures on the subject site and the building was set back 5m from the eastern boundary.
- In comparison to the permitted development, the proposed development is disrespectful to the amenities and conservation value of the brick built return that accommodates the restaurant.

- The applicant proposed mitigation measures at the western side of the scheme, but has not proposed such mitigation at the eastern side of the scheme.

#### Daylight/Sunlight/Overshadowing

- There was no comparison in the sunlight/daylight analysis of the existing situation, of the existing permitted development and the proposed development for the premises to the east of the site. The appellant disputes the applicants statement in the response to the grounds of appeal that the main dining area will retain a predominantly daylight appearance. There will be significant shadowing and loss of light and there will be a very significant overbearing effect at the site boundary.

#### Impact on Protected Structures and Quays

- One of the most important pedestrian connections in the city is the route through the Merchant's Arch and across the Ha'penny Bridge. At the centre of the arch on the Ha'penny Bridge the viewer progressing to the north has an elevated view directly towards the proposed development, which will sit behind the protected Quay side buildings, with substantial height and an unrelieved flat elevation at a consistent 22.2m and the massing behind the front buildings will be evident. No verified view has been submitted of this view from the crest of the Ha'penny Bridge.

#### Structural Impacts

- It is unlikely that the proposed development can be constructed at proposed without impacts upon the neighbouring structure.

#### Plot Ratio

- The applicant states that a plot ratio of 3.0 was previously permitted. The appellant notes that a plot ratio of 4.66 is 150% above a plot ratio of 3.0.
- Although plot ratio and site coverage are only indicators. The proposal is a cumulative exceedance of acceptable norms indicating an overdevelopment of the subject site.

Two further responses have been received from the observers to the appeal, Shaffrey Architects and Butler Ormond Management Company Ltd and Shaffrey Associated Architects which are summarised hereunder:

#### Scale, Massing and Design

- The proposed development is bulkier and higher than the permitted scheme.
- Placing such height (25/25.7m) in the middle of the block will read very strongly and the variation in material will not relieve this flat long block with this high structure too large and ungainly in such a sensitive location.
- The scale and bulk will adversely impact on adjacent properties, particularly No.s 28, 29, and 30/31 Ormond Quay. Butler Court apartments (approx. 25 years old) relate to building No.s 28 and 30/31. No. 29 comprises an office and apartment, and this building dates from 1680, being one of the oldest buildings on the Quays.
- Reference is made to policy CHC4, section 11.1.5.6, Section 4.3 and Figure 4 (views and prospects), policies SC17 and SC18, Sections 16.2.1.1, 16.2.2.2 and 16.10.8.
- Proposal amounts to excessive height, bulk and poor architectural articulation and materiality. The proposed architecture for this prominent and sensitive location is considered of insufficient quality.
- The west elevations comprises a largely blank façade, and proposed arbitrariness of material is of concern. The architectural treatment of the southern facades behind the historic structures on Ormond Quay gives little consideration of modulation of form, or creation of shadow and depth.
- The courtyards and lightwells will be grim and inhospitable.
- The mixed palette of very basic materials and finishes will result in a poor building of excessive scale for its location, which will weather poorly over time.

#### Impact on Liffey Quays Conservation Area Objective

- Height and bulk of development will impact on quayside setting, Liffey Quays Conservation Area and protected views from the south quays (Aston

Quays/Crampton Quays/Wellington Quay) westwards towards the Four Courts.

- The applicant has not adequately discussed the significant impacts on the Conservation Area objectives pertaining to the Quays and the Development Plan refer to the UNESCO Recommendations on Historic Urban Landscapes 2011 in dealing with this kind of application is relevant.

#### Impact on Residential Amenity of Adjoining Properties

- The proposed development will have serious adverse impacts on the adjacent residences at Butler Court.
- The proposed development will introduce unprecedented scale within the middle of the block and extends to the rear windows of bedrooms and living rooms in the Butler Court apartments at No. 31 Lower Ormond Quay.
- Windows are proposed overlooking the courtyard to the rear of No.s 28, 29, 30-31 with no right to enjoy this light. The orientation, scale and footprint of this element of the proposed scheme requires to be redesigned.
- View 09 of the photomontages clearly indicates the adverse impacts of the proposed development on neighbouring properties.
- Any development north of Butler Court buildings at No.30/31 and behind adjacent properties at No.s 32 and 33 should be single storey only to a maximum height of 4m with solid brick/wall construction of high quality and materiality with no openings. A margin of planting of 750mm to 900mm is to be provided along the western edge of the proposed development to allow for planning. The maximum height of any development east of this behind/north of No.s 34/35 and 36/27 Lower Ormond Quay and onto Strand Street Great should be a maximum of three to four storeys or 10-12m.

#### Overlooking and Sunlight/Daylight

- View 3 of applicants submission dated 25<sup>th</sup> October 2017 highlights the issue of overlooking.
- Applicant has misrepresented the permitted development, as An Bord Pleanala's condition 2 requires a reduction in height to single storey.



- The sunlight/daylight analysis incorrectly labels building No. 31 as No.28. Relevant windows were not assessed.
- Sunlight/Daylight analysis is based on a comparison or permitted scheme and not with current conditions. The permitted scheme is already at the maximum acceptable level and so even modest changes in daylight/sunlight should not be allowed.

#### Noise and Other Environmental Impacts

- Adverse noise, smells, and other environmental impacts will arise from location of ground floor toilets, staff room and boiler room, and also fifth floor M&E plant for which no detail in terms of location of vents, services outlets etc have been shown.
- Any permitted development should prohibit M&E plant and services outlets adjacent to the existing residential properties.
- There should be no balconies as part of the aparthotel scheme as these could lead to adverse impacts on existing residents. The applicant should not have to rely on balconies to create architectural or visual interest as stated.

#### Limitations of Planning Assessment by Dublin City Council

- The Boards attention is drawn to previous submission by Shaffrey Architects in this regard, which has not been addressed by the applicant.

## 7.0 Assessment

- 7.1. Permission is sought for an aparthotel accommodating 165 apart units. The development involves the refurbishment and change of use of 34/35 and 36/37 Ormond Quay Lower (protected structures) to aparthotel use and the construction of two new blocks (6-7 storeys) to rear of 34/35 and 36/37 Ormond Quay Lower and fronting onto Strand Street Great, for aparthotel use. The proposed development involves the demolition of buildings at 28A, 29, 30 and 31 Strand Street Great, and demolition of modern extensions to the rear of protected structures at 34/35 and 36/37 Ormond Quay Lower to facilitate the proposed development.

- 7.2. This application was amended as part of the applicant response submission to the appeal. The amendments are proposed on foot of condition 4 of the permission issued by Dublin City Council, which stated the height of the western projection element of the building to the rear of 25-28 strand Street Great should be reduced from seven storeys to six storeys, to be achieved by the omission of an internal floor (2nd, 3rd or 4th floor) to protect amenities of neighbouring buildings. The revised plans submitted by the applicant indicate a reduction in the number of units by 5, from 165 to 160 units. The changes also resulted in the boiler room being relocated to the ground floor and the plant enclosure reduced in height.
- 7.3. It is this amended application which I am assessing.
- 7.4. I note the planning history on this site, with proposals for the redevelopment for a hotel use dating back to 2003. Permission was previously granted on the site by An Bord Pleanála in 2009 for a hotel development (the changes between the schemes are discussed hereunder). An extension of duration permission was granted and this permission is valid until March 2019. I note that circumstances in relation to the connection of this site with the site on the northern side of Strand Street Great via an elevated walkway is no longer relevant, as the permission on the opposite side of Strand Street Great has expired and was refused an extension of duration application as it did not meet current development plan standards relating to building heights. This application proposes no such link to the scheme to the north.
- 7.5. While cognisant of the history of this site, I am however assessing the current application *de novo* and have had regard to the pattern of development and planned developments in the area.
- 7.6. The following assessment sets out my considerations on the key planning issues and also encapsulates my *de novo* consideration of this application. The primary issues for assessment include;
- Extant Permission, PL29N.229173
  - Policy
  - Height and Visual Impact on Protected Structures and the Quays
  - Height and Impact on Strand Street Great
  - Height, Design and Impact on Residential Amenity

- Daylight/Sunlight Analysis
- Appropriate Assessment

**Extant Permission –PL29N.229173 (Reg. Ref. 6819/07)**

7.7. Permission was granted on the subject site for a 90 bedroom hotel in 2009 and this permission has since been extended until March 2019. I note that planning history on this site extends back to circa 2003, with the scale and mass of development changing with each application. While I am assessing this application *de novo*, in the interests of clarity and in response to issues raised in the grounds of appeal and observation to the appeal, I set out hereunder the primary differences between the extant permission and the proposed development with regard to scale and footprint. A visual comparison of the scale and footprint can be seen from the drawings submitted within the Design Statement (dated June 2017):

- The proposed footprint (Reg. Ref. 6819/07) of the western section of the extant permission to the rear of no. 31 and 32 Ormond Quay, originally comprised a block of bedrooms with a landscaped roof garden above ground and mezzanine level to the rear of 31 Ormond Quay (apartment block). The extent of this western section was amended by ABP under condition 2 of that permission, which restricted the development above the ground and mezzanine levels so that it did not extend by more than 5 metres from the western elevation of the existing building, which equated to omitting the floors above mezzanine level to the rear of no. 31 and 32 Ormond Quay and no. 28 Strand Street Great.
- The extant permission at ground and mezzanine levels (with no development above this) was set 3m off the boundary with 31 Ormond Quay and a section was permitted at the boundary with no. 32. The development as now proposed is set 3.8m from the boundary with 31 Ormond Quay (apartment block) at ground level and this increases with a staggered form to 5.6/6/7.2m at first to fourth level (previously permitted at ground and mezzanine level only). The development is 1m from the rear boundary of no. 33.
- The courtyards between blocks within the extant permission were orientated north to south, with the blocks stepping down in height at the eastern and western boundaries with neighbouring properties. The courtyards between

blocks as now proposed are orientated east-west, with the scale of the blocks not stepped down at the eastern boundary and marginally stepped down at the western boundary.

- The extant permission was set c. 4m from the eastern boundary with no. 38 Ormond Quay (Yamamori Restaurant), with this area used as a pedestrian courtyard/walkway along this boundary which linked through to Grand Street Great. The proposed development is built up to/along the boundary with no. 38 and no. 33-34 Strand Street Great (small three storey block of apartments) with no provision for a ground level connection between Ormond Quay and Strand Street Great.
- The glazed link permitted in the extant permission at first floor level (third storey) is not proposed as part of this application. I note from the planning history that this site and the site opposite on Strand Street Great were intended to be linked at first floor level and operate as one hotel with a bus interchange at ground level. This is no longer the case and I note the site on the opposite side of the street has a sold sign on it.
- The extant permission provided for six floors, with an overall height of 21m at roof level and the design provided for a stepped-up effect from the Quays to Strand Street Great. The mid-section of the block appeared to have a height of 17.7m, stepping up to 20.7m. The proposed height of the mid-section of this block as now proposed is 18.6m, stepping up to 21.6m.
- The highest part of the building in the extant permission was positioned further from the protected structure than that which is currently proposed. The extant permission at the uppermost level (excluding the roof terrace area) followed approx. the building line of the rear office block behind 22-24 Strand Street Great, across to the line of no. 35 Liffey Street, with this line representing the approx. line of the two courtyards behind Strand Street Great within this block. This current application at uppermost level provides for a step up to its highest element of 21.6m, at a distance of approx. 10.7 from the rear of the protected structures (extant permission is stepped back approx. 18m before it increases in height). It can therefore be seen that the scale of

development is greater at the Ormond Quay side of the development than the extant permission.

### **Policy**

- 7.8. The subject site is located within zoning objective Z5, the objective for which is ‘to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’. Aparthotel is a permissible use within this zone.
- 7.9. No. 34-35 and no. 36-37 Ormond Quay are protected structures, RPS no. 6069 and 6070 respectively. The façade of no. 34-35 is protected and the façade and roof profile of no. 36/37 is protected. The adjoining buildings on Ormond Quay are also protected structures, ie the building to the east no. 38 (front façade and roof profile), and the buildings to the west no. 33 (business premises), no. 32 (business premises) and no. 29 (three storey Georgian style premises). I deal with the potential impact on the protected structures and the character of the area in a separate section hereunder (section 7.11-7.17).
- 7.10. With regard to building heights, the Dublin City Development Plan 2016-2022 allows for a low-rise building context of up to 24m (commercial and residential) within this area. The proposed development has a max height of 21.6m, a plot ratio of 4.66 (indicative plot ratio in development plan for this area is 2.5-3.0) and a site coverage of 87% (indicative site coverage in development plan is 90%).

### **Height and Visual Impact on Protected Structures and the Quays**

- 7.11. With regard to height, Dublin City Development Plan 2016-2022 states that there is a recognised need to protect conservation areas and the architectural character of existing buildings and streets, and any new proposal must be sensitive to the historic city centre, the river Liffey and quays. The subject site is within the low rise category of a rail hub (within 500m of Luas) whereby the height limit is up to 24m (commercial and residential).
- 7.12. From an examination of the plans submitted, the overall height of the proposed development is 21.6m and I note the existing protected structures subject of this application are approx. 13m high. The proposed new blocks are in compliance with the overall height strategy as set out in the Dublin City Development Plan 2016-2022. However, it is important, as set out in the development plan, not only to assess

compliance of the overall height of any proposal, but to assess how a new development impacts on the historic city centre, the Liffey and the quays and in this context to consider the potential impact on conservation areas and the architectural character of existing buildings and streets.

- 7.13. The grounds of appeal considers the height, scale and density of the development will negatively impact on protected structures along the quays. It is considered that the proposed development represents a significantly larger, higher and bulkier development than that previously permitted. The observation on the appeal states that the proposal will have an adverse impact on Liffey Quays and the protected structures by virtue of its height, massing and form. The introduction of a significantly higher element in the middle of the plot will contravene the distinctive character of the quays, contravening Dublin City Development Plan 2016-2022, specifically policy CHC4. It is considered that the plot depths are insufficient to allow for higher buildings mid-plot, and this positioning of the higher building mid-plot is not characteristic of this historic area, as the prominent buildings are the quay front buildings, not those behind. It is noted that no. 31 is higher, but this is a quay side building. The proposal affects the setting of the conservation area. The scale of development is excessive and aggressive. The submission on the planning application from the Department of Culture, Heritage and the Gaeltacht expresses reservations in relation to the scale and design of the new structures, the significant impact of these on the architectural heritage of the city quay, on the setting and visual amenity of the protected structures and on key views and prospects within the city development plan. The department recommends the proposed new structures are reduced in scale to ensure that the parapets of the new buildings are not higher than the wall of the protected structures. I note no report on file from Dublin City Council Conservation Officer.
- 7.14. The applicant in response considers the proposal will improve the quality of the protected structures and will sit within the established building line of the quays. The visual impact assessment undertaken states that the visual impact on the south quays is neutral or slightly positive and proposal will result in a low key presence of a new roofscape arising from the fifth and sixth floors.
- 7.15. I note the proposed height of the new blocks to the rear of the protected structures is approx. 18.5m and six storeys, stepping up to approx. 21.6m and seven storeys,

remaining at this height onto Strand Street Great. The step up to 21.6m occurs at a distance of approx. 10.7m from the rear of the protected structures. The extant permission provided for five storeys with a height of approx. 17.7m to the rear of the protected structures, stepping up to six storeys and approx. 20.7m, with the higher element commencing at a distance of approx. 18m from the rear of the protected structures, remaining at this height onto Strand Street Great. I furthermore note the difference in the orientation and height/massing of the blocks and courtyards as proposed in the extant permission and as now proposed (overview of which can be seen on the model images within the daylight assessment document).

- 7.16. The distance between the higher section of the new blocks and the protected structures (13m in height) is in my view key to this assessment, as it is this element which has the greatest potential for impact on the overall character of the quays, the conservation area and the protected structures. Having reviewed the plans, cross sections and photomontages submitted with the application, I am of the view that the extent of development as shown on the plans for the ground, first, second, third, and fourth floors (approx. height of 15.5m) is acceptable. However, the development as shown on the fifth and sixth floors is excessive in its height given the proximity of these structures to the rear of the protected structures, which I note is closer and higher than the extant permission at this level and, given the revised block orientation, also in my view appears greater in terms of the massing of the proposal. I note that the overall height of this mid-section element, as can be seen on the scale model submitted with the application, is higher than any of the other buildings at the Ormond Quay side of the block and any other building positioned behind those buildings along this section of Ormond Quay. Little relief is given to the protected structures on the site and adjoining the site (no. 32 and no. 33) given the limited separation distances from the rear of the protected structures to the new structures. Furthermore, I note that the protected structures fronting Ormond Quay at this end of the block are lower than along the western quay frontage (from no.31 toward the Millennium pedestrian bridge), with development to the rear likely to be far more visible, particularly from the South Quays and from the Ha'Penny Bridge, which is clear from the photomontages submitted. Having regard to the submission from the Department of Culture, Heritage and the Gaeltacht and to the grounds of appeal and observation to the appeal, in addition to the parameters of the extant permission, I

am of the view that to create such height behind the protected structures will have a detrimental impact on the Liffey Quay conservation area and the character of the protected structures at this historic city centre location.

- 7.17. I am of the view that a greater set back at the upper levels is required. Should the Board be minded to grant permission, I recommend that the fifth and sixth floor plans (AP105 and AP106) be amended such that the southernmost arm of the aparthotel, that is units 5-12 to 5-22 on the fifth floor plan and units above these, 6-12 to 6-16 on the sixth floor plan, be omitted from the development, reducing the overall height to approx. 15.6m for a distance of approx. 22m from the rear of the protected structures, thereby increasing the separation distance and reducing the imposing mass of the proposal, and protecting the architectural character of existing buildings and of the historic city centre and quays area, as required by policies CHC1, CHC4 and SC17 of the Dublin City Development Plan 2016-2022. This amendment would result in a reduction in the number of units by 16 units, from 160 to 144 aparthotel units.

#### **Height and Impact on Strand Street Great**

- 7.18. The observer notes in their submission that the scale of any development at this location should follow the pattern for development in this historic area, namely buildings should be higher fronting Ormond Quay and Strand Street Great with buildings lower in the centre of the plot. It is noted that the scale of development along Strand Street Great is five storeys in height. The applicant states in their submission that Strand Street Great contains heights of up to six storeys at its western end. The proposed seven storey building is considered in keeping with the overall streetscape and the emerging height pattern on the street.
- 7.19. The height of the new build fronting Strand Street Great is approx. 21.6m and seven storeys. I note that the extant permission is similar in height, however the western section to the rear of 25-28 Strand Street was reduced in scale and was not visible from Strand Street Great. I furthermore note the rationale for the overall height in the extant permission was related to the previous proposal to link this building with a proposed building (dating back to 2006) on the vacant site opposite, permission for which has now lapsed and was refused under an extension of duration application for reasons relating to height. The overall context of the proposal has therefore



changed and I therefore base my assessment on the existing scale and pattern of development, which has been evolving along this street in recent years.

- 7.20. The proposed elevation to Strand Street Great is higher than other newer blocks along this street, including (as seen from the model submitted) the entrance building onto the pedestrian street along what is known as the Italian Quarter/Bloom Lane. As this proposal is for a development within a block and not at the end of a block or fronting a new street or nodal point, I am of the view that the height of the proposal is excessive and does not adequately integrate with either the existing or emerging character of this street, as can be seen from the submitted elevation on page 31 and 33 of the Design Statement. It is my view that the extent of the block to the rear of 25-28 Strand Street Great is also overbearing and visually dominant given the scale and proximity of the development to the rear of these buildings and would be an incongruous insertion in the area. Should the Board be minded to grant permission, I recommend that rooms 6-01 to 6-11 (11 units) be omitted from the development. In conjunction with my recommendation above to omit rooms 6-12 to 6-16, this in effect results in the removal of the sixth floor plan (seventh storey) in its entirety from the scheme. I also recommend an amendment to the western section of the development to the rear of 25-28 Strand Street Great, which is addressed in more detail hereunder under residential amenity section 7.25-7.30. The amendment proposed to the 6<sup>th</sup> floor and part 5<sup>th</sup> floor (see section 7.17 above) will aid in the integration of the building within this streetscape and surrounding context. This would result in an overall reduction by 26 units, from 160 to 133 aparthotel units.
- 7.21. With regard to the street level frontage, it is proposed to locate the living rooms (which can be converted to bedrooms) associated with five of the aparthotel units at the street edge. These living rooms are proposed to be slightly stepped back with provision of a glazed enclosed terrace at the edge with the street, with a 1.5m wide ope comprising a full height door and window proposed from the room onto the terrace. A wall is proposed for the remainder of the façade to the inside of the terrace. This design element of the enclosed terrace is also proposed at the first floor level. While not providing the same activity as, for example, a retail/café unit, I note that there are a number of ground level office units neighbouring this site and I am of the view that the principle of providing for living room space and an enclosed terrace at this elevation will provide for some activity toward the street. I overall consider the

proposed frontage to be acceptable at this location, however the natural surveillance of the street is limited by the design of the living room wall onto the terrace, instead of a wider glazed open with door/sliding door element onto the enclosed balcony area. Should the Board be minded to grant permission, I am of the view that a larger glazed façade should be provided at ground and first floor levels from the living room onto the terrace to replace the wall adjoining the access door onto the balcony, in order to significantly improve upon the natural surveillance of the street at this point and facilitate improved light to these north facing rooms. A condition is recommended to this effect.

### **Height and Visual Impact of Eastern Section of the Development**

- 7.22. The grounds of appeal note that the extent of the building previously permitted was set back from the eastern boundary allowing some light onto the existing neighbouring restaurant roof, which comprises a glass structure. The set back at ground level was c5.5m from the original limestone boundary wall (protected structure) which is exposed as a feature wall in the Yamamori Restaurant. The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floor plans were set back a further 3.9m-5m from the boundary providing for a courtyard at ground level. The storey height at the boundary stopped in the central block of the previous development at third floor level, so there was no seven floor building/21m height adjacent to no. 38 as is now proposed. The proposal will therefore be overbearing and result in a loss of light. Furthermore, it is argued that the impact on residential properties at upper level to the east above no. 38 was not considered within the daylight analysis and that the proposed development will present an unrelieved wall, 17m in length and 22m in height, resulting in a loss of outlook and light.
- 7.23. The applicant states that the extent of the eastern elevation is broken up by an east-west courtyard, which breaks up the massing of the development and improves the overall visual amenity of the development, allowing for light penetration of the adjacent properties. In this way the proposed development does not significantly overbear the adjacent property of no. 38 but actually reduces the overall bulk and mass of the development along this elevation compared to the extant permission. The applicant has also submitted a revised daylight analysis relating to access to light to the restaurant, which it states will maintain a sufficient level due to the

presence of rooflights, however I note this revised report did not consider further the issue raised in relation to the existing residential use above the restaurant.

- 7.24. I consider the impact on the adjoining restaurant in terms of some loss of light is inevitable given the low scale of this restaurant building, however I note the proximity of the development in combination with the scale would be overbearing to both the restaurant and the apartments overhead with a proposed depth of 17.7m behind the main body of no. 38, with the position of the courtyard at the end of the 17.7m depth having a limited impact in terms of mitigating the scale as compared to the extant permission. The overall height of the proposal at this boundary is also a concern in my view with regard to its impact on the existing protected structures fronting the quay, including No. 38. I consider an amendment to the height, as suggested above, will ameliorate the impact on No.38, both at restaurant and residential level. I consider further the issues in relation to residential amenity hereunder.

### **Height, Design and Impact on Residential Amenity**

#### **Western Section of the Development**

- 7.25. A section of the site comprises a western element located entirely within the backland area, to the rear of neighbouring properties. 33 Ormond Quay comprises offices accommodated by Unicef; the rear and upper section of No. 32 is vacant and appears to have been for some time; 31 Ormond Quay is an apartment development with windows to habitable rooms on the rear/northern elevation, adjacent to the proposed development; 25-28 Strand Street Great, which is a renovated distillery building, comprises offices of a number of businesses with the rear elevation having south facing upper floor windows, with the lower level windows currently impacted by a large two storey shed 3m from the rear elevation; to the rear of 26-25 Strand Street is a more modern office block with south facing windows and similarly a modern office block is located to the rear of 22-24 Strand Street which has south facing windows and an upper level balcony/roof terrace. The remainder of the courtyard adjoining/west of the scheme is bound by a mix of apartments and offices and comprises a hard/paved surface with limited parking.
- 7.26. The western element of the design under the extant permission (as amended by ABP under condition 2 PL29N.229173) restricted the above mezzanine level extent (two floors) of this western section of the building so that it did not extend above

these levels to the rear of no. 31 (apartments) and no. 32 (offices) Ormond Quay and no. 28 Strand Street Great (offices). Under the current application, this section of the development (as per condition 4 of the permission issued by DCC) has been reduced in height by one floor and therefore has an overall height of five storeys. I note the applicant in their supporting Design Statement document states that at pre planning the proposal was set back and staggered at first floor level and above from 31-33 Ormond Quay so that it was at a greater distance than previously permitted under the extant permission, however this commentary does not take account of condition 2 of ABP attached to the extant permission, which omitted this section of the development above ground and mezzanine levels.

- 7.27. The applicant has submitted revised drawings in response to the grounds of appeal and following on from condition 4 of the planning authority, indicating omission of a floor, with a lift/storage area and some plant equipment remaining at the sixth and seventh storeys. The amended development is therefore five storeys in height to the rear of 31, 32 and 33 Ormond Quay (stopping at five storeys to rear of 31 and 32, with the sixth and seventh storey comprising a lift). A step back is proposed at six storeys to the rear of no. 33 and a further step back at the seventh storey to no. 33. The applicant considers the amended design with reduced height, scale and massing is in keeping with the height of surrounding properties and when viewed from the quays the proposed height is no greater than adjacent buildings on Ormond Quay. Building heights proposed are in keeping with development plan standards.
- 7.28. The grounds of appeal and observation to the appeal raise concerns in relation to the height, scale and impact of the proposed development on the amenity of the surrounding buildings, particularly the apartment block of Butler Court. The observation to the appeal states that there will be adverse impacts on light, views, visual aspect and general environment on Butler Court Apartments (Nos 28 and 30/31) and protected structure no. 29 (dating from 1680) and the open courtyard enjoyed by these properties. It is noted that the sunlight/daylight analysis labels no. 31 as no.28 and the other windows on this northern elevation were not assessed.
- 7.29. Having considered the proximity of the proposed development to the neighbouring buildings at no. 31 and 32, in particular the neighbouring apartments, and the context of the extant permission, I am of the view that the development as proposed has not had sufficient regard to its context given the positioning of the western block of

development relative to neighbouring buildings, and also having regard to the proposed scale, mass and height of the structure within the centre of the block. The western section of the development would be seriously overbearing, even with the omission of one floor as set out within the revised drawings, and would have a seriously negative impact on the outlook as well as daylight of the north facing apartments at no. 31, and would overall seriously injure the visual and residential amenity of these apartments. The proposal would overall have an overbearing impact on the courtyard to the west, which serves as the courtyard of the Butler Court apartments and businesses within this block and provides a visual relief in the middle of the block. It is likely that this existing courtyard would be significantly overshadowed. The proposal to the rear of no. 28 would be also be overbearing in its form and scale and would impact negatively on the character of this building and the streetscape at Strand Street Great by virtue of the juxtaposition of this higher building with limited separation from the existing building, and would overall appear overly dominant from the surrounding streetscape.

- 7.30. Should the Board be minded to grant permission, I am of the view that the ground floor level can be accommodated, having regard to what currently exists in this area and height at which windows to apartments in no. 31 commence, however, the levels above this should be omitted from the scheme. I note the extant permission permitted a mezzanine level above the ground level at this location. However, as can be seen on drawing Proposed Elevations drwg no. EL102, label 4, the first floor level proposed in this development would be in line with the first floor level of the apartments at No. 31 (there are no ground level apartments to this building with the first floor windows being approx. 5m above ground level). I therefore recommend, should the Board be minded to grant permission, that units 1-20 to 1-24, units 2-22 to 2-26; units 3-23 to 3-27; and units 4-23 to 4-27 (a total of 20 units in this western section) be omitted from the development, in addition to the units omitted from the fifth floor as submitted by the applicant in response to the appeal/condition of DCC. The omission of these units is essential to mitigate the serious negative impact the proposed development would have on the residential amenity of neighbouring apartments and together with the omission proposed at the upper levels in proximity to the protected structures, as set out in section 7.17 above, will assist in integrating the proposed development into the surrounding area in a more positive manner while

protecting the distinctive historic character of the adjoining protected structures and the quays. The overall reduction in units would total 47, with proposed development of 160 aparthotel units being reduced to 113 units.

### **Eastern Section of the Development**

- 7.31. The grounds of appeal and the observation to the appeal do not raise issues in relation to no. 35 Strand Street Great. However, I note the development proposes to build up to and project behind the rear elevation of this building by approx. 2.7m at ground level. There are windows to habitable rooms at first and second floor levels, with a recessed roof terrace on the third floor on the north and south elevations. The distance from the apartment windows to the building is approx. 6m, however these windows are primarily located to the rear of No. 38 (Yamamori restaurant) therefore overlooking is not a significant issue. The daylight analysis submitted examines the impact on these windows relative to the impact created by the extant permission and not as compared to the existing built context. On this basis the impact is categorised as negligible for the window onto the roof terrace and is minor adverse for the first and second floor windows.
- 7.32. With regard to the apartments above No. 38, I note the proposed development is likely to have an impact on the outlook and daylight available to these apartments. With regard to the scale of the loss as daylight/overshadowing, the daylight analysis (discussed hereunder) is limited in the information it presents. I consider that the reduction in scale recommended in section 7.17 above, will mitigate the impact on these apartments.

### **Sunlight/Daylight Analysis**

- 7.33. The applicant has submitted a daylight analysis commenting on the impact of the proposed development relative to the previously permitted scheme/extant permission. The baseline values used in examining the vertical sky component and annual probable sunlight hours are the previously permitted development and not the existing context. A set of shadow diagrams have also been submitted contrasting the extant permission and this proposed development.
- 7.34. Concerns have been raised in the grounds of appeal in relation to the lack of consideration of impacts on daylight to the commercial premises of Yamamori restaurant, as the applicant states that commercial premises do not need to be

considered. Concern is raised in relation to impact on the apartments over the restaurant and impact on levels of light on apartments in Butler Court. The observation to the appeal considers the daylight assessment is insufficient as the proposed new development is closer and higher than the permitted scheme, which is a significant difference. ABP permission condition 2 had reduced the scale of development adjacent to Butler Court at this location.

- 7.35. The applicant in response has submitted a revised sunlight/daylight analysis taking account of the reduced height of the western section of the development. The assessment is compared against the extant permission, which is not due to expire until 2019. The revisions to this scheme improve skylight in the adjacent properties compared to the scheme as originally submitted (ref 3333/17). A revision to the sunlight/daylight analysis is also submitted which assesses the impact if the original ABP condition was applied. This shows that setting this western element back further would not provide a substantial uplift in the daylight conditions, therefore it is unlikely that restricting this element further would provide any material improvement to the daylight condition registering at the locations considered in the study. A further assessment in relation to Yamamori restaurant has been submitted. With the development in place, an average daylight factor of 6.5% will be retained, which is above the recommended BS8206 figure of 2%.
- 7.36. It is my opinion that the approach taken in the daylight analysis, whereby the assessment undertaken compares the previously permitted development against the proposed development is unsatisfactory in terms of examining the impacts on the existing built environment, particularly in relation to establishing the impact on the existing apartments to the east and west. I furthermore note the windows chosen on the apartment building at no. 31, labelled A, B, C and D are dual aspect windows and those windows on the northern elevation, which in my view will be impacted upon in a greater way by the development, have not been considered in either the original or amended submissions. The data submitted is in my view limited. However I have considered this information and the further and equally significant issues of outlook, overbearance and impact on residential amenity as set out in section 7.25 to 7.30 above.
- 7.37. With regard to the impact on the residential units above Yamamori, which have a north facing aspect, I note the daylight analysis has considered windows at first to

third floor level as identified on pg 17 of the Daylight Analysis document, however the windows nearest the development were not assessed. The impact in terms of daylight on these properties is determined to be minor adverse and modest adverse. However, as noted above, this assessment is against the baseline of the permitted development, therefore a true understanding of the implications on the residential units cannot be ascertained from the information presented by the applicant. This applies to the analysis undertaken on all the neighbouring properties.

- 7.38. In considering the impact on the Yamamori restaurant, I note the revised information submitted by the applicant. While the development is built up to the boundary with the restaurant, any development at this location will impact on the level of light, given the quite low scale of this section of the building at this city centre location. I do not consider it unreasonable to build up to the boundary of this restaurant and it is my view that a setback is not warranted at this location, as was proposed under the extant permission. However, impacts in terms of the height and scale of the development on the context of the protected structures, as well as impact on the apartments overhead in terms of overbearance does have a bearing on the appropriate scale of development at this location. This issue is addressed above in section 7.17 and amendments to the scale recommended.
- 7.39. With regard to impact on daylight of the offices, these were not considered within the report due to outlined definitions in BRE guidance as to whether offices should be included. While this issue is not raised in the grounds of appeal, I noted upon site inspection that the offices to no. 28, no. 26 and no. 25 are limited in terms of their access to light given the historic nature of the existing buildings and the existing backland context. I note that these buildings have been retrofitted with roof lights and during site inspection I noted that lights within the buildings were on during the day due to existing natural light limitations. The rooms at this side of the building, which comprise the larger of the windows on the southern elevation, were in use as a kitchen and a meeting room.

### **Other Matters**

- 7.40. As the proposed scheme is for an aparthotel, I am of the view that the orientation of the rooms and levels of light required are not required to be the same standard as if the scheme were proposing apartments for long term residential use. Having said



that, I would note that the proposed courtyards within the scheme are extremely limited given the scale of the buildings and the building blocks so close between the apartments that the adaptability and robustness of the scheme for any future residential reuse is considered to be very limited.

- 7.41. Concern was raised in the grounds of appeal relating to lack of information on the structural effects of the development. The applicant in response has submitted a note by GDCL Consulting Engineers in relation to structural integrity. I recommend a condition be attached to any permission in relation to this issue.

### **Conclusion**

- 7.42. The subject site is located on Ormond Quay, part of the Liffey Conservation Area, within the historic core of Dublin City, with frontage also onto Strand Street Great. The site is centrally located and served by high quality public transport and is an appropriate site for a well-designed high density development. The scale of development at this location, however, has to be considered in the context of policy SC17 of the Dublin City Development Plan 2016-2022, whereby it is policy to protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city. In particular, all new proposals must demonstrate sensitivity to the historic city centre, the River Liffey and quays. I am satisfied that the concerns raised in relation to impact on the character and quality of the built environment in the wider area can be satisfactorily addressed by means of amendments by condition, as recommended above.

### **Appropriate Assessment**

- 7.43. An Appropriate Assessment Screening Report was submitted with the Planning Application (dated June 2017).
- 7.44. The appeal site is a serviced site within Dublin City Centre, comprising hard surfaces within a built up area. The site is in close proximity to the River Liffey and is separated from it by a wide street comprising three lanes of traffic.
- 7.45. North Dublin Bay SAC (0210), North Bull Island SPA, South Dublin Bay SAC (0206), South Dublin Bay and Tolka Estuary SPA (04024) and the Poulaphouca Reservoir SPA (004063) are considered to fall within the zone of influence of the project and have been considered.

- 7.46. There are limited relevant pathways between the development and the aforementioned sites. I am satisfied that standard construction management practices would be sufficient to avoid an indirect effect on water quality during construction. I consider that adequate attenuation is proposed within the site during the operational phase and therefore the potential for impact on the water quality within the designated sites is remote. In addition, the proposal for connection to the public foul network would mitigate any potential for impacts from wastewater.
- 7.47. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No.0210 (North Dublin Bay SAC), 0206 (South Dublin Bay SAC) and 04204 (South Dublin Bay and Tolka Estuary SPA), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.'

## 8.0 Recommendation

- 8.1. Permission is recommended subject to conditions as set out hereunder.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the area and would not adversely or materially impact on the character of the protected structures, streetscape or Liffey Conservation Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. 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 An Bord Pleanála on the 25th day of October, 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) The aparthotel units on the sixth floor plan, drawing no. AP106, received by An Bord Pleanála on 25<sup>th</sup> October 2017, shall be omitted from the development.
  - (b) The aparthotel units 5-12 to 5-22, drawing no. Ap105, received by An Bord Pleanála on 25<sup>th</sup> October 2017, shall be omitted from the development.
  - (c) The aparthotel units 1-20 to 1-24, units 2-22 to 2-26, units 3-23 to 3-27, and units 4-23 to 4-27, as indicated on drawings GA101 (received by ABP on 25<sup>th</sup> October 2017), and drawings GA102, GA103 and GA104 (received by ABP on 27<sup>th</sup> September 2017), shall be omitted from the development.
  - (d) The front living room walls onto the enclosed terraces to the ground and first floor units facing Strand Street Great shall be replaced with larger glazing sections fronting onto the enclosed terraces such that the area of wall bounding the terrace internally, adjoining the access doors, is reduced allowing for greater natural surveillance of the street.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3. The total number of aparthotel units authorised by this permission is 113

units.

**Reason:** In the interests of clarity.

4. The proposed aparthotel development shall be used only as a short-stay tourist accommodation facility with a maximum occupancy period of two months and shall not be used for permanent occupation or for use as a student residence.

**Reason:** In the interest of orderly development and to protect residential amenities.

5. 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

**Reason:** In the interest of visual amenity.

6. Details of all external shopfronts and signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of the amenities of the area and visual amenity.

7. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and

numbered to allow for authentic re-instatement.

(c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

**Reason:** To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

8. Detailed proposals for the protection of structures and property adjacent the application site shall be submitted to, and agreed in writing with, the planning authority and shall include, inter alia, proposals regarding pre and post construction condition surveys and structural surveys, detailed survey works, and comprehensive monitoring proposals.

**Reason:** In the interests of clarity, architectural heritage protection, and the proper planning and sustainable development of the area

9. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

10. The glazing to the ground floor level of the hotel onto Ormond Quay and the stainless steel panel and toughened glazing to the Strand Street Great elevation shall be kept free of all stickers, posters and advertisements.

**Reason:** In the interest of visual amenity.

11. No external security shutters shall be erected on any part of the premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

12. Public access to the Bar and restaurant areas shall be maintained at all times during normal opening hours.

**Reason:** In the interest of active animation of the ground floor unit, streetscape amenity and the proper planning and sustainable development of the area.

13. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

14. 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.

**Reason:** In the interest of public health.

15. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

16. Site development and building works shall be carried out only between the hours of 0700 to 1800 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 where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

17. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site

19. 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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

20. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Una O'Neill  
Senior Planning Inspector

2<sup>nd</sup> February 2018