



An
Bord
Pleanála

Inspector's Report ABP-300041-17

Development	Demolition of pub & construction of 6 storey aparthotel & restaurant with internal plant area, screened refuse enclosure, signage, covered outdoor terrace & associated site works.
Location	1/2 Power's Court, Dublin 2
Planning Authority	Dublin City Council (South Area)
Planning Authority Reg. Ref.	2851/17
Applicant(s)	Tim O' Connor
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	First and Third Party
Appellant(s)	1. Tim O' Connor 2. Alan Corrigan
Observer(s)	None.
Date of Site Inspection	18 th of January 2018.
Inspector	Karen Hamilton

1.0 Site Location and Description

1.1. The subject site, a modest corner site (280m²), includes a vacant two storey public house, “Scruffy Murphy’s”, is located on the corner of Powers Court and Verschoyle Place, c. 300m from Merrion Square, Dublin City South. The site is at the rear of Mount Street Lower with premises consisting of large 4-6 storey commercial premises and there are two storey residential apartment blocks along the South West and North West which are in both public and private ownership. The existing building is bound by two pedestrian lanes along the south-west and north-west.

2.0 Proposed Development

2.1. The proposed development would comprise:

- Demolition of an existing public bar “Scruffy Murphy’s” (c.479m²),
- Construction of a part 5 storey part 6 storey aparthotel with 36 suites (total including basement and bar use 1,556m²),
- Inclusion of restaurant/ bar on the ground floor (c. 446m²),
- Mechanically vented plant in the basement,
- Proposed signage along the south-east and north-east elevations,
- Covered outdoor terrace at ground floor on the south-east elevation,
- All ancillary site and development works.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 23 no conditions of which the following are of note:

C 4: The development shall be revised as follows:

- a) The development shall be reduced by one full storey (middle floor).
- b) The external terrace/ smoking area be omitted.

- c) The entrance to the bar/ restaurant shall be altered to comprise of a double door system and lobby.

C 5: Prior to commencement of development details of noise attenuation measures shall be in place to minimise the disturbance to local residents and shall include:

- a) The specifications of the glazed area around the bar/ restaurant to ensure adequate sound control.
- b) A double door system and lobby to the bar/ restaurant to minimise noise breakout.
- c) The location and specification of the proposed screen to control noise from the refuse area.
- d) A management plan to control the patrons leaving and/ or smoking outside the premises.

C 6: Control of activities including the delivery/ collection between 8am to 7pm, refuse between 7pm and 9pm, refuse storage and service enclosure used during the day and no external speakers allowed.

C 14: No advertising signs allowed without planning permission.

C 15: Control of noise from loud speakers.

C 16: No additional development at roof level.

C 20: Archaeological monitoring and reporting required.

C 21: The aparthotel shall only be occupied for short-term letting periods of no more than two months and shall operate within the definition of Aparthotel as Appendix 16 of the development plan and shall be managed by a reception facility on the ground floor and 24hr security. The apart-hotel units shall not be used as independent and separate self-contained permanent residential units.

C 22: The proposed aparthotel units shall not be used for student accommodation.

C 23: Restriction on the hours of operation of the bar/ restaurant.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information as follows:

- Reduction in the height of the building to reduce the impact on the adjoining two storey dwellings.
- Concern was raised over the design of the buildings including the use of the unsymmetrical pitch roof, the lack of distinction on the front elevation between the ground floor commercial element and the upper floors, the double height windows and the predominantly blank gable on the southwest and northeast elevations.
- Reduction in overlooking (10m separation) between the front elevation and rear garden of 71 Powers Court.
- Amendments to the submitted shadow analysis and visual impact study.
- Inclusion of views of the proposed development from wider streets.
- Information on noise mitigation measures in particular the bar and the external terrace area.
- Opening hours for the proposed bar/ restaurant and external seating area.
- Submission of a servicing and refuse collection strategy.

The planner also referred to the following in their report:

- Transport, Waste and Archaeology Issues.
- The planner did not consider the amended design sufficiently addressed the impact on the amenities of the adjoining residential properties and considered it necessary to include a condition requiring the removal of a middle floor on the grant of permission.

3.2.2. Other Technical Reports

Roads and Traffic Division- No objection subject to conditions.

Drainage Division- No objection subject to conditions.

Waste Management Division- No objection subject to conditions.

Environmental Health – Request for additional information on details of noise mitigation from the external terrace area.

Archaeology Section- No objection subject to condition.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

12 no observations were received on the original planning application and 13 no on the additional information, the majority of the issues raised are summarised in the grounds of appeal and are mostly concerned with:

- Impact on increase in traffic and congestion,
- Hours of opening and noise,
- Scale, design and overdevelopment of the site,
- Impact on residential amenity.

4.0 Planning History

None on the site.

5.0 Policy Context

5.1. Development Plan

The subject site is zoned as Z1 where it is an objective *“To protect, provide and improve residential amenities”*.

Restaurant, pub, hotel, and hostel are open for consideration.

Section 14.7 Transitional Zone Areas

- It is important to avoid abrupt transitions in scale and use zone permitted in each zone
- It is necessary to avoid developments that would be detrimental to the amenities of more environmental sensitive zones

- In zones abutting predominantly mixed-use zones, particular attention should be paid to use, scale, density and design of proposal and to landscaping and screening proposals in order to protect the amenities of residential properties.

Section 16.32: Nightclubs and licensed premises.

- There is a need to strike a balance between an exciting city and the protection of residents from an overconcentration of late night venues.
- Noise emanating from these premises will need to be addressed.

Section 16.29: Restaurants

- Effect on noise, general disturbance, hours of operation and amenities of nearby residents must be considered.

Site development standards:

Building Height: Section 16.7.2 states that proposals for high buildings should be in accordance with the assessment criteria for high buildings and development plan standards. The site is located within an Inner City Low Rise area (relates to the prevailing local height and context)

Height: 28m maximum (commercial)

24m maximum (residential)

Z1 Inner City

Site coverage: 45% – 60%

Plot ratio: 0.5 – 2.0

Standards for Residential Accommodation- Section 16.10

Minimum standards for residential accommodation for both apartments and houses.

Apart-hotels (Appendix 16)

- Accommodation can range from apartment suites containing a number of bedrooms, to open plan studio-style units.
- Aparthotels cannot be used or occupied by permanent households.

- Should include a fully-serviced reception desk, administration facilities, concierge, security, housekeeping facilities and related entertainment and café uses.
- The design and layout should enable the amalgamation of individual units to cater for the needs of visitors especially families.
- A range of different unit styles and sizes to cater for the needs of visitors.
- The over-provision of single-bed units will be resisted and a mix of unit sizes and styles will be required.
- The maximum occupancy period shall be two months.
- Cannot be used for the provision of student accommodation.
- Compliance with residential development standards for any future change of use to permanent accommodation.

The site is located close to the Zone of **Archaeological Constraint** for the Recoded Monument DU018-052 (Grave Slab site original location), therefore the following polices apply:

11.1.5.13 Preservation of Zones of Archaeological Interest and Industrial Heritage

CHC9: To protect and preserve National Monuments.

5.2. **Natural Heritage Designations**

The site is located c 2km to the west of South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. **Third party grounds of appeal**

These are submitted by a resident of an adjoining property and is accompanied by four additional submissions of which one is signed by a number of residents in the vicinity, the issues raised are summarised as follows:

Development Plan Compliance

- The proposed development does not conform to the Z1 zoning or the development plan objectives.
- Aparthotels are not permissible uses and they have their own Guidance in the development plan (Appendix 16).
- Site coverage is 100% on this application and guidance in the plan is for 75%.
- Plot ratio is at 4.7, well in excess of the maximum permitted of 3.
- The proposal does not meet public open or private open space requirements.
- The planners report that this will support level 1 and level 2 shopping, typical within a Z5 zone.

Impact on the surrounding residential properties

- It will not benefit from a close relationship with the immediate community as it is commercial in nature for very short stay tourists.
- There has been no regard is given to the height and scale of the existing houses.
- The separation distances onto no 70 and 71 Power's Court are severely deficient.
- There is lack of analysis regarding waste collection and deliveries to the pub/restaurant.
- There are too many conditions that should be considered with any grant and therefore a refusal would be necessary.
- The design including the height, scale, bulk and mass of the proposed building is not appropriate adjacent to the existing residential properties and will have a negative impact on those properties.
- The large windows facing down Verschoyle Place will cause overlooking.
- There are no details of the area around the site, e.g. the servicing and lighting.

- The smoking area will increase noise and general disruption late into the night.
- There is recognition for the conditions imposed in relation to the reduction in height, the restriction on opening hours, and removal of terrace area and addition of double doors to the bar, although it is considered there remains a negative impact from the use as an aparthotel.
- The housing section of the Council have failed to comment on the proposed development.
- The full height glass walls for the bar have a direct negative impact on the residents and the door to the bar should move to the southeast in order to restrict the movement of patrons past the adjoining residential area.
- Condition 4 (a) is not sufficient to reduce the impact of the proposed building on the existing dwellings.
- The impact of noise on the surrounding area is of most concern.

Built Heritage

- There is little regard in the planners report to the original 20th century terrace which formed part of "Scruffy Murphy's", which contains merit.

6.2. First party grounds of appeal:

These are received from an agent on behalf of the applicant and the issues raised are summarised as follows:

- There are serious concerns as to the commercial viability of the project based on the imposition of Condition No 4 (loss of 8 suites).
- Planning precedent in the vicinity (Reg. Ref 3052/14 and PL29S.244492) for a development some c.300m away, the board choose to remove the condition which required the omission of level 06, which was within an ACA and adjacent to protected structure, therefore a more sensitive location.
- The height and set back of the building was amended following a further information request. Condition No 4 requires a further reduction in the height of the building (middle floor).

- The applicant states that the reason for the reduction in height was based on the impact on the adjoining two storey residential dwellings and it is required that the reduction of top floor is more acceptable, rather than the middle floor.
- The impact of the proposed development on the adjoining residential properties is minimised by the fenestration detail and the inclusion of metal louvers and the removal of the middle floor will only impact on visual rather than any material concerns to residential amenity.
- Policies in the development plan support the growth of tourism in the City.
- Maximum height for Inner City commercial sites are 28m and the subject site is 17.85m
- The permitted height with the middle floor removed (as per condition No 4 (a)) is 15.075m and the overall height as a result of the top floor being removed is 15.825m.

6.3. Applicant Response

An agent has responded to the 3rd party appeal on behalf of the applicant as summarised below:

- Aparthotel use not listed within any of the land use zonings in the development plan and it is argued that the most appropriate use is for “hotel” which “open for consideration” within the Z1 is zoning.
- The Planning Authority have addressed the impact of the proposed development on the surrounding area and the residential amenities, in particular the removal of the decking area.
- The height of the proposed building is appropriate to the surrounding area including 5 storey office block developments.
- The height of the proposed development is subject to a 1st party appeal, which argues the design submitted at further information stage is appropriate for this site.
- Detailed visual impact assessments and photomontages provided details on the negligible impact of the proposal from an overshadowing and visual

perspective and the architectural design statement submitted with the original application and submitted that this design is in accordance with the permissible building heights for Lower Mount Street.

- Condition No 19 (a) specifically addresses the issues of refuse collection and waste management and the proposed development will not cause a significant increase in the collection and deliveries already necessary for the existing use.

6.4. **Planning Authority Response**

None received.

7.0 **Assessment**

7.1. The following assessment has regard to the revised plans submitted with the applicant's first party appeal against Condition No 4 (a) which requires the removal of the middle floor of the aparthotel. The revised plans were circulated to the third party appellants and no further response was received. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Condition No 4 (a)
- Development Plan Compliance
- Impact on the Residential Amenity
- Archaeology
- Other
- Appropriate Assessment

Principle of Development

7.2. The proposed development is for the demolition of a public house and the construction of an aparthotel with first floor restaurant/ bar. The site is located on lands zoned Z1, in the current development plan, where it is an objective "*To protect, provide and improve residential amenities*". The grounds of appeal argue that the

development of an aparthotel is not permitted within the Z1 zoning and therefore the principle of development is not acceptable.

- 7.3. There is a historical commercial use for the public bar on the site. The Z1 zoning includes both hotels and hostels as open for consideration. I note there is no specific reference to aparthotels in any of the land zonings in the development plan and consider hotel and/or hostel to be a best fit. The subject site is directly adjacent to lands zoned Z6 *“To provide for the creation and protection of enterprise and facilitate opportunities for employment creation”*, whilst the site is also surrounded by residential development, I consider that based on the current use and location of the site it may be defined as a transitional area. Section 14.7 of the development plan refers to these transitional zones which encourages a mix of uses in these areas to prevent abrupt transitions, subject to scale, density and design.
- 7.4. Therefore, based on the location of the site, the zoning and the commercial nature of the site I have no objection to the principle of the proposed development subject to complying with other planning requirements as addressed in the following sections.

Condition No 4

- 7.5. The subject site is a small brownfield site located to the rear of large commercial buildings which front onto Lower Mount Street and residential properties to the south, east and west. Following the receipt of Further Information for a redesign of the building, including a reduction to the height of the building from part 5 and 6 storey to part 4 and 5 storey adjacent to Powers Court with the five storey brick element adjacent to Verschoyle Place, residential properties, the planning authority granted permission subject to the inclusion of Condition No 4 requiring the removal of a middle floor. The reason for the reduction in the height of the building was in the interest of orderly development and visual amenity.
- 7.6. The applicant has appealed the inclusion of Condition 4 (a) *“The development shall be reduced by one full storey (middle floor)”* as they argue these amendments will have a significant impact on the commercial viability of the project and will not have any significant visual change on the surrounding area, in comparison to the building as granted. The grounds of appeal includes a further redesign proposal similar to the building submitted with the further information request, minus the glazed 6th floor. The grounds of appeal also includes an illustration of the proposed building

indicating compliance with Condition No 4, and argues the removal of a middle floor would result in a disproportionate amount of glazing on the upper floor which would not enhance the visual amenity.

- 7.7. As stated above, it is considered the site is within a transition zone, the proposed building is located c. 14m to the south of a five storey commercial building (c.28m in height) and c. 6m north and east of two storey residential units (c.16m in height). The height of the building, including compliance with Condition No 4 would be c. 23m and the height of the building as proposed by the grounds of appeal is c. 24m. The proposed building is not located directly in front of any of those dwellings in the immediate vicinity and I consider the proposed development will be most visible from the rear of the dwellings along Warrington Lane, to the east, and no 11-26 Verschoyle Place, on the opposite side of the open space, c. 50m from the site.
- 7.8. Section 14.7 of the development plan includes guidance for transition areas and refers to the importance of appropriate scale in order to protect the amenities of residential properties and based on the existing commercial use on this site and its location beside 5 storey commercial buildings. In addition to this, Section 16.7.2 includes the criteria for high buildings on Inner City sites as 24m for residential and 28m for commercial, both the granted permission, without compliance for Condition No 4, and the applicants proposed amendments comply with the height restrictions in the development plan.
- 7.9. It is considered the location of the site in a transition zone and the orientation of the site in relation to the adjoining dwellings allows for a taller building at this location, as it is not directly visible or overlooked by the main living areas of any of these properties in the immediate vicinity. I note the report of the area planner references the absence of overshadowing on the adjoining dwellings which is further discussed below in relation to the impact on the residential amenity. The report of the area planner refers to the height for a 6th storey building, in comparison to the adjoining two storey residential properties where a reduction in height of one floor would be more sympathetic, no reference is included with specific reference to the middle floor. I note the drawings submitted with the applicant's grounds of appeal illustrating compliance with Condition No 4 (a) show a three storey red brick elevation, with glazing on the 4th and 5th floors, where the block elevations are higher than the adjoining residential properties. I do not consider the removal of the middle

floor instead on the upper floor would have a significant visual impact on the residential properties in the vicinity.

- 7.10. Therefore, having regard to the inclusion of the site as a transition zone, the orientation of the proposed building in relation to the dwellings along Warrington Lane and the distance of the residential dwellings at Verschoyle Place, I do not consider the removal of the middle floor will have a significant impact on the visual amenities of the residents in the vicinity and I consider the submission of the design of the building submitted to the Board, a reduction in the upper floor, sufficient to prevent a negative visual impact on the surrounding area. Therefore, based on the above, I consider it reasonable to remove the reference in Condition No 4 (a) for the middle and replace with wording for the removal of the upper floor.

Development Plan Compliance

- 7.11. The proposed development includes the demolition of an existing public house (479m²) and replacement with a 5/6 storey aparthotel with restaurant/ bar and ancillary facilities on the basement and ground floor (1,556.4m² as per original submission, reduction by c. 258m² for a middle floor or c.168m² for the upper floor, as discussed above).
- 7.12. Transition Zone: The site is zoned Z1, residential amenity, is currently in commercial use and is considered a transition area. Section 14.7 details the requirements for building located within transition areas and relates to the impact of both the scale of the overall building and the use on the surrounding area. The proposed restaurant/ bar will replace an existing public bar and although the area on the plans is stated as indicative, I note there is approximately c. 260m² for public seating and the current public bar has c.290 m², therefore there is a reduction in capacity to accommodate the public.
- 7.13. Building Height and Scale: Compliance with the minimum requirements of the development plan in relation to building height have been addressed above in the assessment of the first party appeal to Condition No 4, the design of the building submitted with the applicants grounds of appeal is considered reasonable.

An Architectural Design Statement submitted with the initial planning application details the design strategy for the proposed development and although the design was subsequently amended following a further information request, it is of note that

the context of the site in relation to those higher buildings from Mount Street Lower which back onto the site and the two storey residential at Powers Court and Verschoyle Place were presented in this report and I consider the conclusion in relation to the principle of a higher building on the site justified.

Photomontages submitted with the amended design at further information illustrate the visual impact of the proposed development in the context of the scale of a proposed taller building on the site, in particular the residential properties in the vicinity. I consider the use of the red brick, to match the existing commercial buildings to the south, the staggered roof profile and use of glazing on the upper floors and the overall design of the building ensure respects the surrounding environment and allows the higher building at this location. The scale of the overall building is also addressed and further discussed below with regards the impact on the residential amenity.

- 7.14. Plot ratio/ site coverage: The proposed building is 1,556m² and the site 280m². The development plan standards for Z1 zoned lands include a plot ratio of 0.5-2.00 and site coverage of 90%. The proposed development is 5.5 and 100% respectively. Whilst the proposed development exceeds the development plan standards I consider the extent of the existing building has relevance in this instance, where the ground floor coverage has not been altered by the proposed development, therefore the higher site coverage is acceptable. Section 16.5 of the development plan allows a higher plot ratio where the site already has the benefit of a higher plot ratio, is adjacent to major transport corridors, is required for regeneration of an areas or the in the interest of the streetscape, for example. The reduction in floor space (258m²), as required by Condition 4 (a) and that proposed by the applicant in the grounds of appeal (168m² for the upper floor) would reduce the plot ratio to 4.9 and 4.6, respectively. Whilst it is noted that this still exceeds the development plan standards, I consider the determination of the site as a transitional area and its use for commercial purposes, support the circumstances which would allow a higher plot ratio and site coverage at this location.
- 7.15. Appendix 16: Guidance for aparthotels is contained in Appendix 16 of the development plan the provision of a fully serviced reception desk and administrative facilities, concierge, security and housekeeping facilities is required as a minimum, which I note have been provided. The design and layout of the units should enable

the amalgamation of individual units to cater for the needs of visitors, especially families. 33 units are included in the drawings of which one is a family unit accommodating 4 no beds and the remainder are twin rooms, which I do not consider reasonable to comply with the requirements of Appendix 16. I consider it reasonable to include a condition within any grant of permission requiring the provision of family units to 10 %. I note the units as designed do not meet the minimum standards for residential development. In addition to the above, the guidance in Appendix 16 refers to the need to include conditions in relation to the change of use from commercial to residential, the maximum occupancy period for two months and the units shall not be used for the purposes of student accommodation.

- 7.16. Car parking: The existing public bar has no associated car parking spaces. The proposed development does not include provision for any car parking. The site is located within Zone 1, Map J of the development plan and Section 16.38 of the plan restricts the provision car parking due to the proximity to public transport and I consider the absence of parking complies with the development plan standards.

Impact on Residential Amenity

- 7.17. There are two storey residential apartments located directly to the North West (c. 6m) and west of the site (c. 2.5m) separated from the site by a pedestrian footpath. The grounds of appeal are submitted from residents of the surrounding properties who are concerned with the impact of both the scale and height of the building and disturbance from the commercial use on the site. I will address each of the separately below.
- 7.18. Overshadowing: The shadow analysis submitted with the amended design at further information illustrates some overshadowing on the rear of the commercial properties to the north of the site and in the morning to the front of the closest property to the North West along Verschoyle Place, which do not consider would have a significant negative impact on any residential amenities.
- 7.19. Overbearing: The building is located along the side of a two storey apartment developments and whilst it is noted that the adjoining dwellings do not directly face onto the subject site, the proposed building will be visible from the rear of the properties along Powers Court and units to the north of the open space within

Verschoyle Place. As discussed above it is considered that based on the design of the proposed building and the five storey commercial building to the north of the site, the taller building is acceptable and considering there are no dwellings orientated directed adjacent to the proposed building I do not consider there would be an significant impact on overbearing on the surrounding properties.

- 7.20. Overlooking: The proposed building faces the side of those two storey residential units along Power Court and Verschoyle Place. The elevation treatment includes a mix of double height windows, recessed “turned brick” panels and opaque glazing. Those windows on south elevation are mostly opaque and the bedroom windows include metal Louvres to reduce overlooking on the rear of those properties along Powers Court, which I consider reasonable.
- 7.21. Noise: The opening hours of the proposed bar/ restaurant are stated to match those of the existing bar to minimise noise disturbance on surrounding residents. Condition No 5 requires the submission of noise attenuation measures to minimise the impact of disturbance on local residents including sound proofed glazing around the bar/ restaurant, a double door to the lobby and bar/ restaurant, a proposed screen to control noise for the refuse area and a management plan to control noise from patrons leaving and/ or smoking outside the premises. The outdoor terrace area is located on the south-east elevation, closest to the commercial properties and c. 20m from the adjoining dwelling along Verschoyle Place. Condition 4 (b) requires the removal of the outdoor terrace area, which is reasonable considering the location from the adjoining dwellings. I note the floor space of the proposed bar/ restaurant is similar to the existing use and having regard to removal of the outdoor terrace area and those noise mitigation measures required in Condition No 5 and the hours of opening, which I consider reasonable, there should be no significant adverse impact in relation to noise, on the adjoining residential amenities.
- 7.22. Waste: An Operational Waste Management Plan and a Construction and Demolition Waste Management Plan accompanied the proposed development. Both plans provide details for the treatment of waste and compliance with the national and local standards for disposal and recycling. The report of the Environmental Health Officer had no object to the proposal subject to the submission of a Construction and Demolition Waste Management Plan to comply with best practice guidance, which I

consider reasonable considering the building to be demolished and the location of the site adjoining residential properties.

Archaeology

- 7.23. The subject site is located a little south of the zone of archaeological Constraint for the Recorded Monument (DU018-052 Grave Slab Site original location). The proposed development includes a new basement. A Desktop Archaeological Report was submitted with the proposed development which references the archaeology and reports that during test excavation there were no deposits of any archaeological significance uncovered. The report refers to the inclusion of a basement in the proposed development and based on the inclusion of the national monument it is recommended that monitoring of any excavation is undertaken by a licenced archaeologist. The Report from the City Archaeologist had no objection subject to conditions requiring the use of expert archaeologist to undertake monitoring and recording of any archaeology during construction, which I consider reasonable.

Other

- 7.24. Traffic: A Service and delivery Management Plan states that the servicing of the development will not differ significantly from the operation of the existing public bar where delivery and serving are generally undertaking during the day time period with no deliveries proposed on Saturday or Sunday. I note the report of the Roads Section has no objection to the proposed development, subject to conditions requiring compliance with Construction Management Plan and provision of bicycle parking, which I consider reasonable.
- 7.25. Flooding: The proposed development includes a basement area. The site is not identified within an area subject to flooding on the draft OPW flood maps. The report of the Drainage Section recommended the submission of a flood risk assessment included in Condition No 9. Having regard to the location of the site outside an area subject to flooding I do not consider it reasonable to require the submission of a flood risk assessment.

Appropriate Assessment

- 7.26. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed

development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted and reference to the removal of the middle floor in Condition No 4 (a) is amended, subject to conditions, as set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the Z5 City Centre zoning in the Dublin City Development Plan, 2016-2022 and the policies and objectives, in particular Appendix 16 Aparthotels and Section 14.7 Transitional Zone areas, the location and existing commercial use on the site and the pattern of development in the vicinity it is considered that the proposed development would not seriously injure the residential or visual amenity of the 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, including the Further Information response that was received by the planning authority on the 18th of August 2017, and the modified proposal that was received by the Board on the 31st 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 development shall be amended as follows:
 - (a) The height of the building shall be reduced by one floor.
 - (b) There shall be 10% of the units provided for family accommodation.
 - (c) The external terrace/ smoking area shall be omitted.

Revised plans shall be submitted for the written agreement of the planning authority before development commences.

Reason: In the interest of visual amenity.

3. Noise mitigation measures

- a) The entrance to the bar/ restaurant shall be altered to comprise of a double door system and lobby and all entrance doors in the external envelope shall be tightly fitting and self-closing.
- b) A management plan to control the noise from patrons leaving and or smoking outside.
- c) The location and specifications of the proposed screen to control noise from the refuse area.
- d) All windows and roof lights shall be double-glazed and tightly fitting to ensure adequate noise control.
- e) There shall be no externally located speakers or speakers directed to outside spaces.
- f) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

4. The apart-hotel units shall only be occupied for short-term letting periods of

no more than two months and shall operate within the definition of aparthotel as set out in Appendix 16 of the Dublin City Development Plan, 2016-2022. The aparthotel shall be managed by a reception facility on the grounds floor with 24hr reception and security facilities. The aparthotel units shall not be used as independent self- contained permeant residential units.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan, 2016-2022 and the proper planning and sustainable development of the area.

5. The proposed 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.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan, 2016-2022 and the proper planning and sustainable development of the area.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

7. 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

8. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9. Water supply and drainage arrangements, including the attenuation and 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

10. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

11. Details of all external shop fronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and comply with the following:

(a) Signs shall be restricted to a single fascia sign using sign writing or

comprising either hand-painted lettering or individually mounted lettering,

(b) lighting shall be by means of concealed neon tubing or by rear illumination,

(c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,

(d) no adhesive material shall be affixed to the windows or the shop front.

Reason: In the interest of the amenities of the area/visual amenity.

12. 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.

13. Bicycle parking spaces shall be provided within the site. The amount, layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation

14. 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.

Karen Hamilton
Planning Inspector

30th of January 2018.