



An
Bord
Pleanála

Inspector's Report ABP 309908-21

Development	Hotel at Hatch Hall (protected structure), demolition of section of building and construct 8 storey extension.
Location	Hatch Hall, 28A Lower Hatch Street, Hatch Place and Hatch Lane, Dublin 2
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2489/20
Applicant	Red Carnation Hotels (UK) Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Brian O'Regan
Observer	Philip O'Reilly
Date of Site Inspection	28/04/22
Inspector	Pauline Fitzpatrick

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1.0 Site Location and Description

- 1.1.1. The site, which has a stated area of 0.2242 hectares, comprises of Hatch Hall which is a former university students' residence and was last used as a direct provision centre. It is located at the junction of Hatch Street Lower and Hatch Lane. It is bounded by Hatch Street Lower to the north, Hatch Lane to the east and Hatch Place to the south. A terrace of 3 and 4 storey over basement structures in a mix of office and residential uses bounds the site to the west with more recent office development further west again. A terrace of two storey structures, again in commercial and residential use, are to the east to the other side of Hatch Lane. The terrace of Georgian 4 storey over basement buildings opposite the site are also in a mix of commercial and residential use.
- 1.1.2. Hatch Lane bounding the site to the east provides rear access to the properties fronting onto Leeson Street. Hatch Place provides access to the rear of the Royal Eye and Ear Hospital which fronts onto Adelaide Road with 2 no. mews houses to the south of the site of the site with a number of dwellings further south again. On street parking is precluded along the lanes with double yellow lines on both sides save at the western most section on Hatch Place.
- 1.1.3. The area is characterised by a mix of uses including offices and residential with buildings of varying heights, up to 7 storeys in height, including office blocks on Hatch Street Lower. A recently completed office building at the corner of Hatch Lane, Earlsfort Terrace and Adelaide Road is approx. 28 metres high.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 13/03/20 with further plans and details received 15/02/21 following a further information request dated 02/07/20.
- 2.2. In summary, the proposal as amended entails:
- Refurbishment of Hatch Hall and change of use from residential institutional use to a hotel providing for 60 bedrooms and ancillary facilities.
 - Alteration and conservation works to the existing fabric including alterations to the internal layout and openings.

- Demolition of part of the building at the junction of Hatch Lane and Hatch Place and construct an 8 storey extension with plant at roof level.
- An additional floor to the 4 storey Hatch Lane elevation.
- Glazed walkway along the north side of the courtyard.
- Provision of 2 no. basement levels.
- Pedestrian access to be retained from Hatch Street Lower and Hatch Place. New pedestrian entrance from Hatch Lane.
- New delivery goods accesses/services entrances from Hatch Place and Hatch Lane.
- Bicycle parking
- Drop off area on Hatch Street Lower.
- Ancillary works include green roofs and landscaping.

2.3. The application is accompanied by:

- Planning Report
- Architectural Design Statement
- Architectural Visualisation
- Visual Appraisal
- Conservation and Development Plan
- Daylight, Sunlight and Overshadowing Assessment
- Energy Statement/Sustainability Report
- Hydrogeological and Basement Impact Assessment
- Engineering Planning Report
- Flood Risk Assessment
- Deliveries and Servicing Management Plan
- Construction and Demolition Waste Management Plan
- Stage 1 Construction and Demolition Management Plan

- Preliminary Acoustic Design Guidance - Technical Note
- Archaeological Assessment
- Screening for Appropriate Assessment
- Report on Dublin 5 Star Hotel Market
- Letter of consent from City Council to include lands in its control within the application site.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 18 conditions. Of note:

Condition 4: Omission of signage banners to front elevation.

Condition 5: Restriction on advertisement signs save with a prior grant of permission.

Condition 14: Conservation requirements including submission of:-

(l)(i) final details of materiality of the tower

(ii) section drawings and methodology where basement extends beneath the north range of the protected structure.

(iii) alignment of front entrance doors.

(iv) plans how wc cubicles to be coordinated with retained glazed screen within the lounge area.

(m) (i) definitive survey of all retained historic decorative features and fabric and proposed repair to same.

(ii) detailed window schedule including proposed repairs.

(iii), (iv) & (v) details on historic and new doors.

(vi) & (vii) details on service runs and fire upgrade works.

Condition 16: Drawings of proposed signage and illumination.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **1st Planner's** report notes:

- Given the significant increase in height to facilitate the modern element there is concern that it could be excessive and, despite the interesting design proposed, the scale may have an overbearing impact on the surrounding street and nearby buildings.
- The views of the proposal in the photomontages are considered to be acceptable. Given the nature of the design and taking into account the massing and modulation of the building's design the proposal does not perch excessively above the framed view of the site.
- The proposal will likely make a positive contribution to place making and public spaces surrounding the site by reactivating the street frontage to Hatch Street. The provision of a new bar/restaurant with its own entrance off Hatch Lane will likely improve the public realm.
- Setting aside the issue of height the extension is very much a modern building and the design would not be considered visually obtrusive.
- As per the findings of the Daylight and Sunlight Assessment the proposal may have a minor impact on nearby residential units in terms of APSH. However, given the context of the site, an underutilised plot in a prominent city centre location. close to major transport nodes, it could be argued that nearby residential units, which are already compromised in regard to daylight and sunlight, will be impacted upon irrespective of the scale and design of development on the site. The proposal is considered acceptable in this instance.

Given reservations expressed including issues highlighted in the Conservation Officer's report a request for further information recommended.

The **2nd Planner's** report dated 12/03/21 following further information notes:

- The proposed amendments to the design and materiality of the tower are an improvement on that originally proposed. The design is more harmonious

particularly where the existing historic buildings and the proposed tower adjoin. The tower is contemporary in its design and articulation thereby allow a clear distinction between old and new. It corresponds to the historic legacy of the surrounding context and echoes the material brick finish of the existing building and the surrounding Georgian context.

- The Conservation Officer's report noted.

A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

City Archaeologist in a report dated 31/03/20 recommends conditions should permission be granted.

Engineering Department – Drainage Division in a report dated 24/04/20 has no objection subject to conditions.

Transportation Planning Division in a report dated 08/06/20 notes:

- Due to the city centre location and proximity to multiple public transport routes, the proposed zero parking is acceptable.
- The set down provisions on Hatch Street Lower are acceptable.
- Traffic volumes along Hatch Lane are low and the provision of a public entrance from same is acceptable.
- The proposals for services and deliveries are noted.
- Revisions to the cycle parking recommended.
- Mobility management plan recommended.
- Construction management plan required.

No objection subject to conditions.

The **1st Conservation Officer's** report dated 22/04/20 notes:

- Insufficient information is provided on the existing, internal decorative features and historic fabric that survive.
- It is acknowledged that the area of the building in the southeast corner to be demolished is of a lesser quality than the rest of the building and includes the

poorly articulated junction between the chapel and the east range.

Demolition, however modest, is regrettable.

- The requirement to demolish every 2nd partition within the existing cellular bedrooms to accommodate larger bedrooms is acknowledged but the quantum of loss is significant.
- The removal of the entirety of the wall in the north-east corner of the building at ground floor level is excessive. More of this wall should be retained so as not to entirely lose the historic floor plan.
- Insufficient detail has been provided to demonstrate that the basement construction will avoid damage to the protected structure.
- The single storey addition on top of the east range is acceptable. The proposal that the entirety of the corridor with views onto Hatch Lane be fully glazed may place too much on view. Detailed drawings required.
- There are concerns that the 8 storey tower will have an adverse impact on the protected structure's setting and on the more modest buildings on Hatch Place within the curtilage of the Royal Eye and Ear Hospital. It will have an imposing presence when viewed from the rear of protected structures on Leeson Street and Adelaide Road. It is recommended that it be reduced in height.
- The contemporary design for new interventions is supported however the suitability of the metal clad tower is not entirely resolved in relation to its immediate context.
- The glazed canopy to the main entrance and glass double doors require further consideration.
- The glazed walkway constitutes a significant intrusion into the courtyard. Its amendment recommended.
- The courtyard as illustrated is overly busy and requires reconsideration.

Further information recommended.

The **2nd Conservation Officer's** report dated 10/03/21 following further information notes:

- It is important that existing door openings and their architraves are used where possible in the new arrangement rather than forming new openings.
- 1 no. bedroom has been provided that retains sufficient amount of historic fabric to facilitate the understanding of the original cellular room layout.
- Section drawings required where basement level -1 extends beneath the protected structure to demonstrate how these will be constructed without causing any disruption to the protected structure.
- The circulation/access corridor on the east elevation remains as a fully glazed element. The proposed choice of a thin brick slip/cementitious cladding on the courtyard elevation is of concern in terms of authenticity.
- Concerns about the 8 storey tower remain valid. Details of the materiality of the tower to be submitted for agreement.
- The need for the glazed canopy to the front entrance is queried. Projecting banners indicated in the photomontages are not supported.
- The reduced extent of the glazed walkway is welcomed. Its roof finish is queried. Entrance doors within the proposed reception area should be aligned with the front entrance.
- The reduction in the extent of double height glazing to the base of the corner tower building is acknowledged. Further refinement is required of the design module/breakdown of these windows and of the adjacent glazed link to the former chapel building which should reflect the modules and glazing of the glazed walkway on the opposite side.
- The courtyard remains overly busy and complicated as it tries to respond to the challenging geometry created by the basement staircases and its asymmetrical shape. Further consideration required.
- It is important that the drawings submitted correctly reflect the existing and proposed arrangements.

- The 3D visualisations do not reflect the difference in alignment/geometry of the junction between the tower building and the east range, Ground and 1st floor is at 90 degrees whilst the upper floors of the tower is asymmetrical and thus would overhang the ground and 1st floor of the building.

No objection to a grant of permission subject to conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland recommends a condition seeking a section 49 contribution towards the Luas Cross City if not exempt.

Failte Ireland supports the application. The proposal would be a valuable addition to the accommodation stock in Dublin.

An Taisce objects to the tower form of the new building. It would not be appropriate in the heartland area of Georgian Dublin and would be visible from adjacent areas. It should be revised to bed into the location in a more satisfactory and sensitive manner in respect of height and form so as to protect the setting of the pre-eminently important southern core of Georgian Dublin.

3.4. Third Party Observations

Submissions received by the planning authority are on file for the Board's information. Submissions in favour of the proposal note the lack of adequate supply of hotels. The issues raised in the submissions opposing the proposal are comparable to those set out in the 3rd party appeal and observation received and summarised in section 6 below.

4.0 Planning History

The planning history on the site is set out in the planning report accompanying the application with the most recent permission dating back to 2013 for internal alterations providing for ensuite facilities within 56 existing rooms and conversion of communal bathrooms to bedrooms (file ref. 2694/13).

5.0 Policy Context

5.1. National Policy and Guidance

5.1.1. National Planning Framework

A key element of the NPF is a commitment towards compact growth, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth, including the following:

- NPO 6 aims to regenerate cities with increased housing and employment
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking

5.1.2. Regional Spatial and Economic Strategy for the Eastern and Midland Regional Authority 2019-2031 (RSES)

The primary objective is to support the implementation of the NPF. The RSES identifies regional assets, opportunities and pressures and provides policy responses in the form of Regional Policy Objectives. The spatial strategy and the Dublin Metropolitan Area Strategic Plan support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City.

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

The guidelines outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF. Section 3 provides guidance on building height and development management. Section 3.2 outlines the criteria that should be demonstrated to the satisfaction of the Planning Authority/An Bord Pleanála at the scale of the relevant city/town; the district/neighbourhood street; the site/building; as well as specific assessments that may be needed to support proposals.

5.1.4. **Architectural Heritage Protection Guidelines for Planning Authorities,**

The document sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

5.2. **Development Plan**

5.2.1. ***Dublin City Development Plan, 2016***

The site is within an area zoned Z8, the objective for which is to protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective.

Lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian Squares and streets. The aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time.

Hotel is a permissible use within Z8.

Chapter 11: Built Heritage and Culture

Hatch Hall is a protected structure and is within a conservation area.

Policy CHC 2 - To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

(a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest,

(b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances,

(c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials,

(d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.

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, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting,
2. Re-instatement of missing architectural detail or other important features,
3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns,
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.

Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area,
2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail,
3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors,
4. Harm the setting of a Conservation Area,
5. Constitute a visually obtrusive or dominant form. Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of

Conservation Areas and their settings. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.

Policy CHC5 - To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.

The City Council will resist the total or substantial loss of protected structures in all but exceptional circumstances (and will require the strongest justification, including professional input with specialist knowledge so that all options receive serious consideration).

In all cases, demolition will only be permitted where:

1. Any replacement building will be of exceptional design quality and deliver an enhancement to the area and improvement in environmental performance on-site, taking into account whole life-cycle energy costs.
2. Firm and appropriately detailed proposals for the future re-development of the site have been approved and their implementation assured by planning condition or agreement.

Tourism

Policy CEE12 - Promote and facilitate tourism, including the necessary significant increase in hotels, cafes, restaurants etc.

Policy CEE13 - Work with stakeholders to deliver the ambitious targets set out in 'Destination Dublin – A collective Strategy for Growth to 2020', including aims to double the number of visitors by 2020 and to promote and support the development of additional tourism accommodation at appropriate locations throughout the city.

Chapter 16 - Development Standards: Design, Layout, Mix of Uses and Sustainable Design.

Z8 Zone:-

Indicative Plot Ratio - 1.5

Indicative Site Coverage - 50%

Higher plot ratio and site coverage may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed,
- To facilitate comprehensive redevelopment in areas in need of urban renewal,
- To maintain existing streetscape profiles,
- Where a site already has the benefit of a higher plot ratio/site coverage,
- To facilitate the strategic role of institutions such as hospitals.

Section 16.7 – Building Height

Inner city low-rise (relates to the prevailing local height and context) - up to 28 metres for commercial development.

5.3. Natural Heritage Designations

None in the vicinity.

5.4. Environmental Impact Assessment

- 5.4.1. The appeal is accompanied by a Environmental Impact Assessment Screening Report.
- 5.4.2. With regard to EIA thresholds, Class (10)(b) and 12(c) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- 10(b): Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use).
 - 12 (c) Holiday villages which would consist of more than 100 holiday homes outside built up areas; hotel complexes outside built-up areas which would

have an area of 20 hectares or more or an accommodation capacity exceeding 300 bedrooms.

5.4.3. I do not consider the latter class to be applicable due to the site location within a built up area.

5.4.4. The site is located in a predominantly commercial area and business district and, therefore, the applicable threshold is 2 hectares. The site has a stated area of 0.2242 hectares equating to just over 10% of the threshold which would warrant the provision of an environmental impact assessment report.

5.4.5. The site is comprised of an existing building in an area comprising a mix of uses dominated by commercial uses. The introduction of a hotel development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or natural heritage. The proposed development is not likely to have a significant effect on any European Site (as outlined in Section 7.10 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other city centre developments. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be minimal. The site is a protected structure and within a conservation area where there are other protected structures. The application is accompanied by a Planning Statement, Architectural Design Statement, Visual Appraisal, Conservation Development Plan and Daylight, Sunlight and Overshadowing Assessment. These address the issues arising in terms of the sensitivities in the area.

5.4.6. Having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 (b) - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned Z8 which encourages mixed uses, including hotels, under the provisions of the Dublin City Development

Plan 2016-2022, and the results of the Strategic Environmental Assessment of the Dublin City Development Plan 2016- 2022, undertaken in accordance with the SEA Directive (2001/42/EC),

- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of city centre development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.4.7. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

Brian O’Regan (27 Hatch Place)

The submission by BPS Planning Consultants can be summarised as follows:

6.1.1. *Policy Provisions*

- The appellant has no objection in principle to a hotel on the site.
- The proposal is contrary to the Z8 zoning objective which allows for limited expansion consistent with the conservation objective.

- The plot ratio of 3.6 and site coverage of 67% are too high and are contrary to city development plan provisions. In reading the Z8 limits on the said indicators no reasonable person could conclude that there are no upper limits on density. The plan's starting point for the site is the maximum plot ratio and site coverage provisions. It is queried whether the proposal would be a material contravention of the plan.
- The proposal would set a poor precedent.

6.1.2. Visual Impact

- The extension is 9 storeys over basement. The height materially contravenes the 28 metre limit set out in the development plan. The Building Heights guidelines give no justification for allowing an increase in building heights of 5m when there are already multiple buildings in the vicinity which have responded to the 28 metre limit
- Existing buildings in the area have been developed in a manner which allows the skyline to remain consistent.
- The extension appears to have ignored its context and this has resulted in a proposal that is over scaled for its site.
- The building's siting, design, scale, massing, bulk and elevation treatments are such that it would fail to integrate and would be visually obtrusive.
- The tower would have an adverse impact on the setting of the protected structure and the Royal Eye and Ear Hospital which is also a protected structure. It would also have an imposing presence when viewed from the rear of protected structures on Leeson Street and Adelaide Road. The proposal is contrary to the relevant provisions of the city development plan relating to protected structures and conservation areas.

6.1.3. Impact on Residential Amenities

- The proposal would have a significant, negative and permanent overbearing visual impact on the appellant's property and rear amenity space.

- The submitted photomontages/CGI images and accompanying visual impact assessment report do not adequately assess the visual impact on his property.
- Windows in the extension overlook his property and result in loss of privacy. The setback is not sufficient to mitigate these overlooking impacts.
- There is real concern with respect to his rear windows and rear amenity space. The shadow analysis shows that his property will be overshadowed in the early mornings for most of the year. The analysis also appears to understate the extent of this overshadowing. The impacts have not been accurately assessed. It is not accepted that the quantum of overshadowing arising would not compromise his property, reduce its amenity and reduce the value of his property. The proposal would impact on the development potential of his property.
- Reflection and glare from the proposed glazing has not been analysed.
- The proposal will give rise to noise, disturbance, traffic, deliveries etc. which will have an impact on the area. The site's accessibility is limited. To state that parking is a legal matter for enforcement or the Gardai is not acceptable.
- The courtyard should not be used for late night outdoor functions.
- Servicing of the hotel via Hatch Place is not acceptable. All servicing should be from Hatch Street Lower.
- Impacts of vibration during construction and operational phases has not been assessed. Geotechnical and structural reports should have been required.
- Construction working hours and construction vehicles and parking need to be managed.
- Dust impacts should be managed. A Dust Minimisation and mitigation strategy should be put in place.
- The under provision of parking will result in overspill.

6.2. Applicant Response

The submission by John Spain Associates, accompanied by supporting detail, can be summarised as follows:

6.2.1. Development Description

- The public notices clearly give the nature and extent of the development.
- The drawings clearly show that the proposed tower is 8 storeys in height with a small mezzanine floor contained within the overall ground floorspace. This does not add to the overall height of the building.
- 3rd parties were fully aware of the nature and extent of the development.

6.2.2. Policy Context

- The proposal is consistent with the Z8 zoning objective as it will secure the long term future of the protected structure by providing a use that will ensure that the buildings are appropriately retained and maintained into the future. It enhances the civic design character of the area.
- The expansion is necessary to provide a sufficient number of bedrooms to ensure the viability of the hotel.
- The location of the higher element was chosen as the existing fabric was considered to be the least important from a conservation perspective.
- The additional floors to the rear would have a minimal visual impact on the surrounding streetscape.
- The existing site has a plot ratio of 1.8 and site coverage of 63%. Quantitative standards are tools for assessment rather than determining factors on their own. Plot ratio and site coverage are indicative and not limits, with a range of circumstances where higher ratios may be permitted. In this instance the site adjoins public transport corridors. The wider aims of the plan have to be considered including redeveloping the protected structure as well as economic and tourist objectives.

- The Guidelines on Building Heights state that it is Government policy to promote increased building height in central locations with good public transport services.
- SPPR3 of the building heights guidelines sets out the criteria against which a development which is higher than that permitted in the development plan can be approved. The planning authority assessed the proposal against the criteria and concluded it to be in compliance with same.
- The proposal exhibits the highest quality of design. The open space has been redesigned and will be accessible to the public that visit the hotel. It will contribute to place making and the character of the area and open up the previously private building to a wider community.
- The height of the development does not constitute a landmark. Hatch Hall, itself, is a landmark. The location of the tower was chosen because it is secluded and hidden from most vantage points, therefore not impacting on the surrounding protected structures.

6.2.3. Conservation

(report from Howley Hayes Architects attached).

- The south-eastern corner of the site where the tower is proposed was never part of the Georgian grain of the city and was always functional in character. It has been positioned away from the significant Georgian street frontages, placed on a backland site which has undergone substantial development in more recent history.
- The south-east corner of the complex is spatially and functionally flawed and does not contribute in any significant way to the character and special interest of the building.
- The immediate context for the tower is back lanes, mews, garages and service access points to the houses and the hospital.
- The front façade of the Royal Eye and Ear Hospital is its most significant aspect. The impact of the tower on the front façade will be minimal and it will be set a good distance behind the hospital and will be barely discernible from Adelaide Road due, in part, to the number of mature trees along the street.

6.2.4. Amenities of Adjoining Property

- The tower is 29 metres from No. 27 Hatch Place with the chapel building and office building intervening.
- The windows of the appellant's property face north-south with none facing towards the higher element of the proposal.
- There will be a noticeable change. In the city centre is it not unusual for significant changes to buildings to occur, even in the Georgian quarter.
- Most of the windows in the proposed tower face onto the chapel and the majority of these are obscured. The higher element is 29 metres from the appellant's garden which is considered an appropriate distance.
- The proposed higher element does not significantly overlook the appellant's private amenity space as the former chapel building is located between the higher tower element and the appellant's property.
- Where the tower steps forward of the chapel (for one window bay) distance, the angle of sight and the existing boundary wall of the appellant's property preserve it free from any significant overlooking.
- There is a negligible impact on the daylight of the appellant's window with none on the Annual Probable Sunlight Hours.
- There is no impact on sunlight to the amenity space on the 21st March. With the development in place there is an increase in shadowing in the early morning. The impact is limited and acceptable within a city centre context.
- Reflection and glare will not arise.
- A Noise Management Policy will be implemented to ensure that noise from the courtyard area, handling of bottles and deliveries will be minimised. It will be a highly managed environment.
- There will be a restriction on delivery times.
- No parking is provided. All traffic will use the proposed set down area with no increase in traffic noise to the appellant's property as a result.

- A Deliveries and Servicing Management Plan has been prepared. A dedicated set down area is proposed on Hatch Street Lower. Such facilities are common throughout the city. All delivery items will be wheeled to Hatch Lane and collected from Hatch Place by hand. Two accesses are required from a public health perspective and to keep deliveries separate from public entrances. It is not anticipated that Hatch Place would be utilised for vehicular deliveries.
- No parking is proposed to serve the development. There is sufficient parking in the vicinity. The area is served by public transport.
- The application is accompanied by a construction management plan and a waste management plan. Prior to commencement a detailed monitoring system which would include background monitoring to measure vibrations and potential settlement/movement of adjoining buildings will be developed.

6.3. Planning Authority Response

None received.

6.4. Observations

The submission by Philip O'Reilly can be summarised as follows:

- The demolition of part of the complex to erect an 8 storey block is contrary to proper planning and sustainable development and would destroy the setting of the protected structure as well as the setting of the entire area which is in the heart of Georgian Dublin.
- The section to be demolished is worthy of retention.
- If the buildings in the complex are to be used for an hotel then the conversion should be done in a sensitive manner.

6.5. Further Responses

The applicant's response to 3rd party appeal was circulated for comment:

6.5.1. Brian O'Regan

- The response does not and cannot effectively address the points raised in his appeal.
- The drawings contain some fundamental errors. For example the drawings submitted 6th May misrepresent his garden by 25%.
- The light studies are open to question.

6.5.2. Philip O'Reilly

- The building is equivalent to a 9.5 storey building given standard accepted floor to ceiling ratios for a hotel development. It will be one of the tallest buildings in the city. It will overwhelm the area and the protected structures in the vicinity.
- The proposal is not suited to the site and is overdevelopment.
- The sensitive and historic nature of the area should take precedence.
- There is no strategic need for the proposal at this location.
- Public transport arguments in the context of what is proposed are irrelevant.
- The area is not in need of urban renewal.
- A higher quality of design could be readily achieved by sensitively restoring the existing buildings, maintaining existing scales, height and profiles.
- The fact that the front façade, courtyard and chapel will remain intact does not take away from the fact that the proposed extension is unacceptable. The removal of carparking from the courtyard is not for the benefit of the city but to facilitate the development.
- Demolition of existing, structurally sound structures and their replacement is not environmentally sustainable.
- The existing building was not open to public access.
- Amenities of adjoining residential property would be adversely impacted.

- Overshadowing of adjoining property will arise.
- There will be increased noise and traffic arising from the development.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings;

- Principle of Development and Zoning Provisions
- Built Heritage, Suitability of Design and Visual Impact
- Amenities of Adjoining Property
- Access and Traffic
- Other Issues
- Appropriate Assessment

7.1. Principle of Development and Zoning Provisions

- 7.1.1. The site is within an area zoned Z8, the objective for which is to protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective. The lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian Squares and streets. The aim is to protect their architectural character/design and overall setting. A range of uses is permitted in such zones so as to maintain and enhance these areas as active residential streets and squares during the day and at night-time. I note that the site is outside, but immediately to the south, of the Georgian core as delineated on Figure 17 (Dublin City Historic Core) in the city development plan.
- 7.1.2. The immediate area is characterised by a mix of uses. Although somewhat dominated by office developments it is interspersed with residential and other commercial development. The Royal Victoria Eye and Ear Hospital is located to the south. Whilst within a conservation area new build with increased heights is evident in the immediate vicinity, notably to the west and south-west.
- 7.1.3. A hotel is a permissible use within Z8. The Dublin City Development Plan also includes numerous policies which seeks to promote and facilitate tourism as one of

the key, economic pillars of the city's economy in order to become a major generator of employment within the city. In this regard Dublin City Council seeks to support the provision of tourism infrastructure such as hotels/aparthotels and other tourist facilities.

- 7.1.4. Having regard to the zoning provisions contained in the development plan and the wider objectives to attract a mix of uses with the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time the principle of the hotel development on the site is acceptable.
- 7.1.5. The appellant considers that plot ratio and site coverage are contrary to development plan provisions and that any reasonable interpretation of the indicative limits set for the Z8 zone would conclude that there are, in fact, limits on density. The plot ratio of the proposed development is 3.6 which is significantly more than the indicative plot ratio standard as set out in the development plan of 1.5. Site coverage is 67%, again exceeding the indicative standard of 50%. I note that the existing site has a plot ratio of 1.8 and site coverage of 63% both which exceed the said development plan provisions.
- 7.1.6. There is no question that the site indicators are significantly greater than the indicative parameters set out in the development plan but I note that the document allows for the consideration of higher plot ratios and site coverage in certain circumstances including locations adjoining major public transport corridors where an appropriate mix of residential and commercial uses is proposed. Certainly other sites which have been redeveloped in the vicinity exceeded the said indicative standards. I consider that they are somewhat crude instruments in terms of measuring density and the avoidance of the adverse effects of overdevelopment. I submit that the specific nature and qualitative elements of the proposal need to be considered in terms of the assessment of the appropriateness of the development as proposed to its context. In assessing the wider considerations, it is appropriate to rely on the qualitative factors defining built form including height, design, open amenity space provision, and standards of public realm. On this basis I do not consider that the site indicators, of themselves, render the development unacceptable.

7.2. Built Heritage, Suitability of Design and Visual Impact

- 7.2.1. The application is accompanied by an Architectural Design Statement, Visual Appraisal and Conservation and Development Plan which were supplemented by further details provided in the further information response.
- 7.2.2. The appellant and observer to the appeal consider that the proposed development would have an unacceptable impact on the architectural and historic integrity of Hatch Hall, the immediate surroundings and the wider Georgian quarter.
- 7.2.3. Hatch Hall, also known as University Hall, was constructed for the Jesuits in 1912-13 as a halls of residence for UCD students and was the last Gothic Revival public building to be erected in Dublin. It is a rectangular site with the building on three sides bordering Lower Hatch Street, Hatch Lane and Hatch Place and is served by an internal courtyard. It has a nine-bay, four-storey residential hall, with a central gable-fronted five-storey entrance front flanked by full-height octagonal turrets to north (front) elevation, twelve-bay return to the east, and thirteen-bay two-storey rear (south) block incorporating a five-bay first floor chapel. The elevation to Lower Hatch Street is the most detailed with that onto Hatch Lane and Hatch Place more utilitarian/barrack like in treatment.
- 7.2.4. The building was last used as a direct provision centre for which internal modifications were required to facilitate such use. It is now unoccupied and vacant. It is a protected structure and considered to be of regional importance in the National Inventory of Architecture in Ireland.
- 7.2.5. Throughout the planning application process the extent of works required to the building to allow for the proposed use have been reviewed and amended. Invariably interventions are required to allow for the proposed use. To achieve hotel bedrooms of adequate size two hostel rooms are to be cojoined. The existing communal spaces such as the common rooms, library and chapel are to retain their original spaces and are to be adapted. Where possible, it is proposed to retain, reinstate or repair existing original or historic plan form and fabric, such as doors, windows, floorboards, chimneypieces and glazed screens. The said modifications following further information, has resulted in a further simplification of the design with the pairing back of the covered atrium area to the courtyard.

- 7.2.6. I note the recommendations of the Council's Conservation Officer which were adopted and included by way of condition. I note that the applicant has not objected to the said requirements.
- 7.2.7. Of substantive concern for the appellant and observer is the modern intervention proposed at the south-eastern corner to be facilitated by the demolition of the building at this point. They are of the view that the site is not suitable for a tall building and would detract materially from the Georgian context in which it is located. As noted previously the site is outside but immediately to the south of the Georgian Core as delineated on Figure 17.1 of the current city development plan.
- 7.2.8. As per the Conservation and Development Plan accompanying the application the extent of the building to be demolished is a poorly articulated junction between the chapel and east range arising from the complex geometry which resulted in a very awkward link and unsatisfactory circulation between the two ranges. The demolition is to allow for new build with height to allow for a quantum of bedrooms to ensure viability. By way of further information the treatment and external finishes have altered with a brick finish replacing the originally proposed metal cassette finish. I would also bring to the Board's attention that an additional floor is proposed on top of the 4 storey eastern range.
- 7.2.9. Whilst the need to secure more compact growth in urban areas is articulated at both national and local policy level and increased building height is identified as a measure to achieve this, it is also acknowledged that there are constraints that need to be taken into consideration in assessing any proposal for a high building, including the protection of key views and the historical environment in architecturally sensitive locations.
- 7.2.10. The new build, as modified by way of further information, is contemporary in design and will clearly read as a modern intervention. The parties to the appeal contest the number of floors to be provided and are of the view that it will be equivalent to 9.5 storeys. The agent for the applicant counters this by stating it is 8 storeys with a mezzanine within the ground floor. I submit that the number of floors, of itself, is not the substantive consideration rather its overall height. It will be 32.9 metres at its highest point and I calculate that it will provide for 8 storeys. The current Dublin City

Development Plan allows for consideration of buildings in this location of up to 28 metres. The proposal exceeds this.

- 7.2.11. The City Development Plan predates the Urban Development and Building Heights Guidelines for Planning Authorities. The provisions of the guidelines constitute material planning considerations for the purpose of the assessment of this appeal now before the Board. Section 3 of the Guidelines which addresses the development management process, notes that when assessing individual planning applications, there is a presumption in favour of buildings of increased height.
- 7.2.12. On this basis I conclude that, notwithstanding the development plan's height policy and having due regard to the guidelines, a tall building on the subject site cannot be ruled out in principle so it falls to be assessed on performance criteria advocated in the guidelines.
- 7.2.13. Whilst the Georgian streetscape of Lower Hatch Street and Leeson Street are noted with many fine examples of 18th and 19th century architecture, recent development is noted in the immediate vicinity including the office developments on Lower Hatch Street and that currently under construction to the south west at the corner of Adelaide Road and Earlsfort Terrace. The new interventions range in height and are five to eight storeys in height. These newer developments represent a significant departure from the predominantly Georgian scaled character of the area. Whilst it is argued that the precedent set by previous decisions for tall buildings in the vicinity should not be relied on to justify the current proposal I submit that the proposal cannot be assessed in a vacuum without reference to the evolving and changing cityscape in the immediate vicinity. As an entity the city scape has evolved. The city continues to evolve with recent developments of varying heights sitting alongside the older city fabric. In view of the recent permissions granted in the immediate vicinity the issue of the principle of tall buildings in this area of the city is accepted. It is within this evolving context that the building will sit.
- 7.2.14. As noted previously the application is accompanied by a number of detailed studies and assessments in support of the proposed building height. An assessment of the scheme against the criteria in the Building Heights Guidelines is set out in the planning report accompanying the application and is reiterated in the appeal response. In terms of the photomontages I consider they are representative of the

main views available towards the site and are a useful tool in assisting and informing an assessment of the potential effects of the proposal.

7.2.15. As per the said guidelines the specific considerations that are to be addressed are set out at three levels:

- At the scale of the relevant city/town
- At the scale of district/neighbourhood/street
- At the scale of the site/building.

7.2.16. I consider that the proposed development and the site on which it is located satisfies most, if not all the criteria set out in Section 3.2 of the said Guidelines. I note the following:

- The proposal is located in close proximity to the city centre and is located between 500 and 800 metres from good quality public transport including the LUAS on Stephens Green and Harcourt Street.
- The proposal takes cognisance of the architecturally sensitive area on the basis that the higher new build is set back from the main elevation which is that onto Lower Hatch Street, is relatively slender, incorporates high quality finishes including use of brick which sits comfortably with the prevailing external finishes of the structure to be retained. It is not monolithic and does not entail uninterrupted walls of building.
- It makes a positive contribution to placemaking particularly in the context of the providing for vibrancy and greater animation at street level with a pub to be open to the public.
- It will positively contribute to the mix of uses available in the area.
- It will appropriately distinguish the original buildings from new development in accordance with best practice and the Architectural Heritage Protection Guidelines.
- Appropriate and reasonable regard is had to the quantitative performance approaches to daylight, overshadowing of adjoining properties. The Board is advised that this is assessed in further detail below.

7.2.17. Due to the position of the new build, set back from what is considered to be the main elevation, I do not consider that the proposal would unduly impinge upon or detract from the streetscape of Lower Hatch Street when viewed from vantage points along that street. As is evidenced from the photomontages the extent of the visual impact is limited to the immediate vicinity and does not impinge to any material extent on the roofscape of the Georgian streetscape. Whilst concern is expressed as to the potential for the new build to tower over the Royal Victoria Eye and Ear Hospital to the south this is not expected to be the case. Although it would be visible in views the existing built environment and mature planting to the south would preclude uninterrupted views. I refer the Board to photomontages 8 and 9 in this regard.

7.2.18. In conclusion, I accept that the redevelopment of the site presents certain challenges due to its location and context and that a balance needs to be achieved between maximising the development potential of this important city centre location and its architectural and cultural heritage and that of the surrounding area. There is no dispute that the level of intervention to the protected structure is material but I consider that the demolition element has been justified and the new build to be of an acceptable contemporary design. I also consider that this should be balanced against the proposed re-use and integration of the building into the proposal would have positive regenerative impacts with the works considered to be of high quality. Thus, on balance, the proposed development is acceptable in terms of the cultural and built heritage of the site, would not detract from same in terms of its form and integrity and will contribute positively to the character and vitality of the area.

7.3. Amenities of Adjoining Property

7.3.1. The appellant's property is a 3 storey mews on Hatch Lane to the south-west of the new build component. Issues in terms of overshadowing, overlooking and noise are raised as concerns. The dwelling has a north – south orientation. The proposed new build element will be 29 metres to the east of the property with the existing two storey component including the chapel in between. There are a mix of uses along the lane including further residential and an office building to the west with rear access to the Royal Victoria Eye and Ear Hospital immediately opposite.

Daylight and Sunlight

- 7.3.2. The application is accompanied by a Daylight, Sunlight and Overshadowing Assessment which is supplemented by further detail provided in the appeal response.
- 7.3.3. Section 3.2 of the Building Height Guidelines highlights the need to minimise overshadowing and loss of light and states that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like 'Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Building Research Establishment Report (BRE), 2011)' or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.
- 7.3.4. I have considered the reports submitted by the applicant and have had regard to the BRE and BS (2008) documents referenced in the Building Height Guidelines. I note that the BS (2008) document has been replaced by the updated British Standard (BS EN 17037:2018 'Daylight in buildings') and I consider that the updated version would have no material bearing on the outcome of my assessment. I would highlight at the outset that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines also state in paragraph 1.6 that although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

Daylight

- 7.3.5. In term of daylight paragraph 2.2.7 of the BRE Guidance notes that for existing windows, if the vertical sky component (VSC) is greater than 27% then enough skylight should be reaching the window. If the VSC with the new development in place is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice a reduction in daylight.
- 7.3.6. I consider that the assessment which is supplemented by further detail in the appeal response complies with best practice in terms of the locations tested based on

guideline recommendations for the closest façades which have windows with potential for impact.

- 7.3.7. In terms of the appellant's property 2 no. of the 4 no. windows assessed to the southern (lane/front) elevation have VSC of less than 27%. The impact arising from the proposed development would be marginal with reductions of 0.34 and 1.58% calculated. The reductions do not breach 0.8 times their former limit value. In terms of the two windows in the rear (northern) elevation the impact would be marginal with reductions of 0.59 and 2.36% respectively. Both would have a VSC in excess of 27% and would meet the BRE requirements.

Sunlight

- 7.3.8. The impact on sunlight to windows is generally examined by way of assessing the effect of the development on the Annual Probable Sunlight Hours (APSH). The windows on the north elevation were not analysed for APSH because the BRE guidance recognises that good sun light availability is unachievable for this orientation. The windows on the southern elevation are not affected and the development will not impact the APSH for summer and winter periods.

Overshadowing

- 7.3.9. In relation to overshadowing the BRE guidelines states that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21st March. An assessment of the impact on the appellant's rear garden would appear to be absent from the original assessment with the applicant having assessed the rear garden of No.28, only, as the worst case scenario. An assessment of No.27 is provided in the appeal response. As noted therein currently the appellant's garden does not have a minimum of 2 hours of sunlight over 50% of the area on the 21st March.
- 7.3.10. The increase in overshadowing that would be experienced from the proposed development would be in the early mornings between 0740 and 0940 in May, June and July with the greatest overshadowing arising on 21st June. There be no overshadowing arising from the proposed development in March or September. Thus, it would receive not less than 0.8 times its former value. The appellant in his submission to the applicant's appeal response states that the extent of his rear garden is underestimated by up to 25%. I note that the extent of the rear garden

corresponds with the details on the ordnance survey maps and the appellant did not provide details on how that on the ground deviates from same. Notwithstanding, and working on the assumption that the length of the space (northwards) is longer than that shown, an interrogation of the shadow images provided in the appeal response finds that the conclusions as reached would remain valid.

- 7.3.11. In terms of glare the agent for the applicant states that the glazing proposed will not be reflective and thus glare would not arise.

Overlooking

- 7.3.12. With regard to overlooking the upper floors on the western elevation will give rise to some level of overlooking of the appellant's rear garden although the existing building, inclusive of the chapel is in between, provides for a level of screening. This building has a height of approx. 14.70 metres. In view of the internal bedroom layouts the windows to the upper three floors in the western elevation could be fitted with obscure glazing should the Board consider it appropriate.

Overbearance

- 7.3.13. The vicinity of the appellant's property is characterised by a mix of uses which result in a varying pattern of built form including the existing building subject of this appeal, an office building to the west and the back entrance to the Royal Victoria Eye and Ear Hospital. I would accept that the redevelopment of the site at appropriate density and height in such an city site in line with prevailing national and local policies will result in a change in the outlook for neighbouring properties, especially within such a tightly grained urban area which is not homogenous in terms of built form. I consider that the extent of change on existing residential amenities is acceptable at this location.

Noise

- 7.3.14. A Noise Management Plan was submitted by the agent for the applicant in response to the appellant's concerns as to the negative impact on his residential amenities. It specifically addresses outdoor events in the courtyard, the bar and increased traffic flows. Mitigation measures include any functions in the courtyard to be time restricted with a cut off of 11pm, restrictions in use of amplification and measures to allow for local residents to lodge complaints should they arise. In terms of deliveries and collections the main loading bay will be on Lower Hatch Street with restrictions

on delivery times and restrictions on times when glass bins can be emptied. It is envisaged that good acoustic design will limit breakout of internal noise.

7.3.15. Noise during the construction phase is inevitable but would be temporary in duration and would not, in itself, constitute reasonable grounds for refusal

7.3.16. In accordance with the applicant's proposals, I am satisfied that the noise impact from the proposed facilities can be controlled and that the matter can be satisfactorily assessed and mitigated by the inclusion of appropriate conditions. I acknowledge the appellant's concerns in relation to the proposed open courtyard and its relationship to his property however, I consider that it is unlikely to be subject to over-intensive use or to become a source of excessive noise and I consider that the proposed space is acceptable subject to conditions limiting the hours of use.

7.3.17. On the basis of the analysis undertaken and having regard to the site's location within the city centre I am satisfied that the proposed development would not give rise to noise generation that would render it incompatible with surrounding land uses and I, therefore, consider the impact to be acceptable subject to conditions.

Residential Amenities - Conclusion

7.3.18. The impacts identified must be balanced against the need to develop such city centre sites at higher and more sustainable densities in accordance with nationally adopted strategies. Such strategies obviously have the potential to increase levels of overshadowing on adjoining property. I submit that the increased overshadowing that would arise is acceptable in allowing for the development of the site and that the proposal would not have excessively overbearing impacts when viewed from the adjoining residential property.

7.3.19. Having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the enjoyment or value of property in the vicinity. Accordingly, the proposed development should not be refused for reasons relating to impacts on neighbouring amenities.

7.4. Access and Traffic

7.4.1. No parking is proposed as part of the development with patrons accessing the site to avail of alternative means with a dedicated set down area on Hatch Street Lower.

This, of itself, would not result in a material increase in vehicular flows along the surrounding lanes. In terms of potential for parking overspill I note that parking along Hatch Street Lower, itself, is subject to pay and display whilst the lanes to the side and rear have double yellow lines on both sides. I do not envisage that the proposed hotel use would result in any increase in illegal parking than theretofore experienced and any issue currently arising or into the future is a matter for enforcement.

- 7.4.2. In terms of deliveries I note the Deliveries and Servicing Management Plan which accompanies the application. The said set down area on Hatch Street Lower will be used with loads delivered to and from the proposed service entrances along Hatch Lane and Hatch Place on foot. I consider that such an arrangement is common for commercial activities throughout the city and is acceptable. Again, there is no reason to suggest that increased vehicular movements would be generated on the said lanes which are narrow with Hatch Place being one way only.

7.5. **Other Issues**

- 7.5.1. The appellant has raised concerns as to the vibration arising from the proposed construction impacts. I note that the application is accompanied by a Stage 1 Construction and Demolition Management Plan and Hydrogeological and Basement Impact Assessment. I note that basement construction is common in city centre situations like this. Ultimately, I consider that structural impacts are largely dependent on construction management practices with details of the approach to be adopted given in the appeal response. There is an onus on the developer to protect adjoining properties as a matter of civil law. While these issues are largely outside the scope of the planning process, I am satisfied at this stage that the applicant has demonstrated that adequate space and construction techniques can be employed to ensure that there will be no significant structural impacts.
- 7.5.2. Dust during the construction phase has also been raised as a concern. Measures have been detailed in the above referenced Stage 1 Construction and Demolition Management Plan which would be required to be agreed with the planning authority prior to commencement of development. This would be in line with established practice and, subject to appropriate measures, will not adversely impact on adjoining property.

7.5.3. I note that condition 4 attached to the planning authority's notification of decision refers to the omission of banners. I note that no such detail would appear to be provided on the plans and elevation drawings but are delineated in the reference images submitted with the further information response. I consider that a condition requiring details of all signage to be agreed prior to erection would address this matter.

7.6. **Appropriate Assessment**

Compliance with Article 6(3) of the Habitats Directive

7.6.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

7.6.2. The application is accompanied by an AA Screening Report prepared by Openfield Ecological Services dated February 2020. It was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

7.6.3. The report concluded that the development would not give rise to any significant effects to designated sites.

7.6.4. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment- Test of likely significant effects

7.6.5. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).

7.6.6. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

7.6.7. The applicant provides a description of the project in section 4 of the screening report. In summary, the development comprises change of use of the building to an hotel entailing part demolition and new build. The scheme is to connect into public sewerage and water supply.

7.6.8. The site comprises an existing developed site fronting onto Lower Hatch Street.

Submissions and Observations

7.6.9. None.

European Sites

7.6.10. The development site is not located in or immediately adjacent to a European site. Section 5 sets out 5 sites considered to be within the zone of influence of the development. In terms of conservation objectives the overall aim is to maintain or restore the favourable conservation condition of the identified qualifying interests.

7.6.11. The designated sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are proximate to the outfall location of the Ringsend WWTP and could, therefore, reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

7.6.12. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development, the absence of relevant qualifying interests in the vicinity of the works, the absence of ecological and hydrological pathways and to the conservation objectives of the designated sites.

South Dublin Bay and River Tolka Estuary SPA (004024)
Conservation Objectives – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose / Oystercatcher / Ringed Plover / Grey Plover / Knot / Sanderling / Dunlin

/ Bar-tailed Godwit / Redshank / Black-headed Gull / Roseate Tern / Common Tern / Arctic Tern/ Wetland and Waterbirds [A999

North Dublin Bay SAC (000206)

Conservation Objectives - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide / Annual vegetation of drift lines / Salicornia and other annuals colonising mud and sand / Atlantic salt meadows / Mediterranean salt meadows / Embryonic shifting dunes / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) / Humid dune slacks [2190] / Petalwort

North Bull Island SPA (site code 004006)

Conservation Objectives – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose / Shelduck / Teal / Pintail / Shoveler / Oystercatcher / Golden Plover / Grey Plover / Knot / Sanderling / Dunlin / Black-tailed Godwit / Bar-tailed Godwit / Curlew / Redshank / Turnstone / Black-headed Gull / Wetland and Waterbirds

South Dublin Bay SAC (site code 000210)

Conservation Objectives - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide / Annual vegetation of drift lines / Salicornia and other annuals colonising mud and sand / Embryonic shifting dunes

7.6.13. Identification of Likely Effects

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no watercourses in the vicinity of the site.
- Surface water from the proposed development would discharge to the public network.
- During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water runoff can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).
- The site is to connect to the existing public sewer and water supply. The foul discharge from the proposed development would drain, via the public network, to the Ringsend Waste Water Treatment Plant. It is noted that Ringsend WWTP is currently working at or beyond its design capacity. The subject site is identified for development through the land use policies of the Dublin City Development Plan. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is located in the urban area on serviced lands and the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is my view that the foul discharge from the site

would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.

- The site is within an existing urban area and is developed and does not support habitats of ex-situ ecological value for the qualifying interest species of the SPAs. On the basis of the foregoing and the separation distance, the potential for significant impacts on waterbirds that are qualifying species of the European Sites due to disturbance / displacement can be screened out.

In combination effects

7.6.14. The report concludes that there will not be any in combination effects on the European site discussed.

Mitigation Measures

7.6.15. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

7.6.16. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on European Site Nos. 004024, 000206, 004006 and 000210 or any other European site, in view of the site's Conservation Objectives and Appropriate Assessment (and submission of a NIS) is not, therefore, required.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the city centre location of the site in close proximity to a wide range of public transport options and facilities, to the provisions of the Dublin City Council Development Plan 2016-2022, the Urban Development and Building Heights, Guidelines for Planning Authorities (2018); and the National Planning Framework, which seeks to direct new development in cities into built-up serviced areas, the pattern and character of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development in this accessible urban location, would not detract from the mixed-use character of the area, would not seriously injure the amenities of surrounding properties or the visual amenities of the area, would not detract from the character and setting of the protected structure on site (Hatch Hall), other protected structures in the vicinity of the site, would not detract from the conservation area of which the site forms part and would be acceptable in terms of pedestrian and traffic safety. 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 information submitted on the 15th day of February 2021, 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. Prior to the commencement of development details of all materials, colours and textures of the external finishes to the proposed development shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenities.

3. The external courtyard sitting area shall not be open between the hours of 2300 and 0700 on any day.

Reason: In the interest of residential amenity.

4. Prior to the commencement of development, the developer shall provide for the following:-

- (a) The appointment of a conservation expert who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

- (b) The submission of a schedule of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork 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

Reason: To ensure that the integrity of the historic structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

5. The following details, accompanied by amended plans where necessary, shall be submitted to the planning authority for written agreement prior to commencement of development:
 - (a) Use of obscure glazing in the window openings on the western elevation of the new build element at 5th, 6th and 7th floor levels.
 - (b) Section drawings and construction methodology of basement level - 1
 - (c) Front entrance doors to be aligned on the centre of the front entrance arch,
 - (d) Details of proposed wc cubicles to co-ordinate with the glazed screen within the lounge area,

Reason: In the interest of the amenities of adjoining property and architectural heritage.

6. (a) Full details of all external signage for the hotel and the bar shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The external signage for the hotel which shall be for informational purposes, only, shall consist of individual lettering of an appropriate scale.
- (b) Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001 (or any statutory provisions amending or replacing them), no further advertisement signs (including signs installed to be visible through the windows), advertising structures, banners, canopies, flags or other projecting elements other than those agreed in writing with the planning authority prior to the commencement of development shall be displayed or erected on the

building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to restrict the extent of advertising signage in the area.

7. No additional development shall take place above roof level including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

8. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

- (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall

agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

9. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or at any point along the boundary of the site shall not exceed: -
- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

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

10. Site development and building works shall be carried out only between the hours of 0700 to 1800 Monday to Friday inclusive and between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cable shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

13. 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:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) details of car parking facilities for site workers during the course of construction,
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) provision of parking/vehicular access for existing properties during the construction period,
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

14. Prior to the commencement of development the developer shall submit to and agree in writing with the planning authority a plan containing details for the management of waste (and in particular recycle materials) within the development including the provision of facilities for the storage, separation and collection of the waste and in particular recyclable materials for the on-going operation of the development. No raw materials, finished or unfinished product or parts, crates, packaging materials or waste shall be stacked or stored on the site at any time except within the curtilage of the building or storage areas as may have been improved beforehand in writing by the planning authority.

Reason: To provide an appropriate management of waste and in particular recyclable materials in the interest of protecting the environment and in the interest of the amenity of the area.

15. 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.

16. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of this development.

Reason: In the interest of orderly development.

17. Any alterations to the public road or footpath shall be in accordance with the requirements of the planning authority and where, required, all repairs to the public road and serviced shall be carried out to the satisfaction of the planning authority at the developer's expense.

Reason: In the interest of clarity, public safety and amenity.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

19. The developer shall pay to the planning authority a financial contribution in respect of LUAS Cross City 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.

20. 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

Pauline Fitzpatrick
Senior Planning Inspector

May, 2021