



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311547-21

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<b>Development</b>	Two storey extension to previously permitted part-nine storey and part-eleven storey hostel resulting in the provision of an additional 16 No. rooms and all ancillary works.
<b>Location</b>	35-36 Abbey Street Upper and Abbey Cottages, Dublin 1
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3144/21
<b>Applicant(s)</b>	Abbey Cottages Limited
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Refused Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Abbey Cottages Limited
<b>Observer(s)</b>	An Taisce Frank McDonald
<b>Date of Site Inspection</b>	25 <sup>th</sup> January 2022
<b>Inspector</b>	Susan Clarke

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## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of approximately 600 sq m and is located on the northside of Dublin city centre, fronting onto Abbey Street Upper and the Luas redline, and siding onto a narrow laneway, referred to as Abbey Cottages. The site is adjacent to the Jervis Street Luas stop. The laneway to the side of the site serves as a rear access to properties along Liffey Street Lower including mews apartments. Vehicular access along Abbey Street Upper fronting the appeal site is limited, to prioritise Luas movements.
- 1.2. Construction of a permitted part-nine storey and part-eleven storey hostel is currently ongoing on the site, which has resulted in the demolition of the cottages that once occupied the rear of the site.
- 1.3. The two to five-storey buildings to the immediate east of the adjoining laneway along Abbey Street Upper and Liffey Street Lower, accommodate a mix of retail services at ground floor and residential and commercial uses at upper levels. Two mews buildings onto the laneway accommodate ancillary commercial space at ground floor and residential uses on the upper floors. To the south of the site at the end of the adjoining laneway is a single-storey electricity substation. Adjoining to the west of the site is an open expansive parcel of land, which has been cleared of buildings and is enclosed by palisade fencing. These adjoining lands open onto Abbey Street Upper and Great Strand Street. To the north of the site is a service yard for Jervis Shopping Centre. Reflective of this inner-urban location, the area is characterised by a host of lands uses, including offices, retail, education and residential uses. Ground levels in the vicinity are relatively flat, with only a slight drop moving southwards towards the river Liffey.

## 2.0 Proposed Development

- 2.1. The proposed development comprises modifications to the previously permitted part-nine storey and part-eleven storey hostel (DCC Reg. Ref. 2971/17 / ABP Ref. PL29N.249037, DCC Reg. Ref. 2954/18, DCC Reg Ref 2928/19 and DCC Reg Ref 3804/19 / ABP Ref PL29N.305853) including:

- Construction of two additional floors (eleventh and twelfth floor) each with 16 No. rooms,
- Replacement of three rooms at the ninth floor level with a lounge area,
- Provision of an external terrace (51 sq m), and
- Associated works.

The proposed development will result in a part nine to part thirteen storey building with an increase in the total number of rooms from 151 No. to 184 No. rooms and an increase in the gross floor area from 5,355 sq m to 6,116 sq m.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. A Notification of the Decision to Refuse Permission was issued on 6<sup>th</sup> September 2021 for one reason:

*The proposed additional storeys would result in a height significantly in excess of the 28m maximum normally permitted under the current Dublin City Development Plan (2016-22) and a plot ratio significantly in excess of the indicative standard. Having regard to the scale, density and height of the development already permitted on this site, to the scale and character of the existing streetscape further east along Upper Abbey Street and to the narrow width of the existing laneway at Abbey Cottages, which is not considered sufficient to justify a landmark corner building, it is not considered that the proposed additional height has been justified under the criteria for additional height set out in the Urban Development and Building Heights – Guidelines for Planning Authorities (2018). It is considered that the proposal would result in a development which would be unduly monolithic and would detract from the character, and fail to integrate successfully with, the existing streetscape and built environment of the surrounding area at Upper Abbey Street, Middle Abbey Street and Lower Liffey Street. The proposal would also adversely impact on the character and visual amenities of the existing quayscape at Ormond Quay in the vicinity of the Ha'penny Bridge, a conservation area. The proposed*

*development would therefore be contrary to the provisions of the development plan and the aforementioned Guidelines, and to the proper planning and sustainable development of the area.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Report (6<sup>th</sup> September 2021)**

The report of the Planning Officer reflects the decision of the Planning Authority and noted the following:

- The developable site area measures 480 sq m resulting in a plot ratio of 11.3.
- The site location is not considered to justify a landmark building of this scale.
- The design is blocky and unduly bulky.
- The permitted scheme already provides for a sustainable density.
- The proposed contextual elevational drawings show that the proposed height of nearly 40m on the corner would be almost twice that of the building on the western corner of Upper Abbey Street and Millennium Walkway.
- The use of opaque glazing can be a sign of overdevelopment and therefore not always an appropriate design solution.
- Having regard to the existing permitted development, any further contribution to either the provision of tourist accommodation in the vicinity or the regeneration of the area would be limited.
- The proposal would appear unduly dominant in the streetscape when viewed from the area of Middle Abbey Street in the vicinity of the Abbey Street entrance to Arnotts.
- The proposal does not provide any permanent residential accommodation and while it provides additional tourist bedspaces, the permitted development also provides for a significant quantum of such bedspaces, many of them in dormitory type rooms with multiple beds.
- The proposed height has not been justified in accordance with the criteria set out in the Urban Development and Building Height Guidelines.

### 3.2.2. Other Technical Reports

**Air Quality Monitoring & Noise Control Unit** (23<sup>rd</sup> August 2021): No objection subject to condition.

**Drainage Division** (9<sup>th</sup> August 2021): No objection subject to condition.

### 3.3. Prescribed Bodies

**An Taisce** (16<sup>th</sup> August 2021): The proposed additions will mean further reductions of sunlight and daylight levels to adjacent property including Georgian Protected Structures. The additional floors will reduce this part of Abbey Street to a windy, dark, east-west running canyon, producing a random jump in the generally coherent scale of the Street.

**Transport Infrastructure Ireland** (13<sup>th</sup> August 2021): No objection subject to condition.

**Irish Water**: No response received.

**National Transport Authority**: No response received.

### 3.4. Third Party Observations

Two Third-Party Observations, from Cllr Declan Meenagh and the adjoining landowner at Nos. 31-34 Abbey Street Upper and Nos. 42-51 Great Strand Street were made in respect of the application. Cllr Declan Meenagh stated that the city has too many hotels, while the adjoining landowner supports the proposed development.

## 4.0 Planning History

### Subject Site

**DCC Reg. Ref. 3363/08**: Planning permission granted in June 2008 by the Local Authority for the construction of a seven storey mixed use building over two basement levels.

**DCC Reg. Ref. 2971/17; ABP Reg. Ref. 249037**: Planning permission granted in March 2018 by An Bord Pleanála for the construction of a nine storey over basement tourism hostel comprising 144 No. rooms.

**DCC Reg. Ref. 2954/18:** Planning permission granted in July 2018 by the Local Authority for the construction of an additional basement (Level -3), elevational alterations required by condition under Reg. Ref. 249037, and internal modifications resulting in a total of 127 No. bedrooms.

**DCC Reg. Ref. 2928/19:** Planning permission granted in August 2019 by the Local Authority for the omission of the previously permitted basement, elevational alterations, and internal modifications resulting in a reduction of the permitted bedrooms from 127 No. to 119 No.

**DCC Reg. Ref. 3804/19; ABP Reg. Ref. 305853:** Planning permission granted in March 2020 by An Bord Pleanála for two additional storeys of development increasing the total number of bedrooms from 127 No. to 151 No.

### **Neighbouring Sites**

#### **Nos. 31-34 Abbey Street Upper and Nos. 42-51 Great Strand Street**

DCC Reg. Refs. 3172/18, 3093/19, 2997/18, 3232/19;/ABP Reg. Ref.305280, 4540/19, 2356/20: Planning permission granted for an eleven storey hotel (303 No. bedrooms) and a ten storey aparthotel (277 No. bedrooms). Note that Reg. Ref. 3172/18 requires the removal of an electrical substation located at the end of Abbey Cottage laneway, which will provide a direct pedestrian connection between Abbey Street Upper and Great Strand Street.

#### **Jervis Shopping Centre**

DCC Reg. Refs 2479/20: Planning permission granted in December 2020 for a large mixed use residential and commercial development a maximum building height of approx. 44 metres.

**Former Zanzibar/Bondi Beach Club** 34/35 & 36/37, Ormond Quay Lower & rear 31 Ormond Quay Lower & rear 25-28 Great Strand St. incl. 28A, 29 ,30 & 31 Great Strand St., Dublin 1

DCC Reg. Ref. 333317; ABP Reg. Ref. 249258: Planning permission granted in May 2018 for a seven storey aparthotel scheme.

### **Middle Abbey Street/Liffey Street Upper**

DCC Reg. Ref. 3697/17: Planning permission granted in July 2018 for an eight storey hotel and retail scheme.

### **38-39 Abbey Street Upper, Dublin 1**

Reg. Ref. 4087/17: Planning permission granted in January 2018 for three storey extension and change of use to hostel.

### **Twilfit House**

DCC Reg. Refs. 4679/19; ABP Ref. 306858-20, 4110/17; ABP Ref. PL29N.301416: Planning permission granted for eight storey (206 No. bedroom) hotel.

## **5.0 Policy Context**

### **5.1. National Planning Framework**

The National Planning Framework is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. 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.

### **5.2. Urban Development and Building Heights - Guidelines for Planning Authorities, 2018**

These Guidelines highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include a positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

The Guidelines note that statutory development plans have tended to be overtly restrictive in terms of maximum building heights in certain locations and crucially



without the proper consideration of the wider planning potential of development sites. Such displacement presents a lost opportunity in key urban areas of high demand for new accommodation whether it is for living, working, leisure or other requirements in the built environment.

Planning policy must therefore become more proactive and more flexible in securing compact urban growth through a combination of facilitating increased densities and building heights while also being mindful of the quality of development and balancing amenity and environmental considerations. Appropriate identification and siting of areas suitable for increased densities and height will need to consider environmental sensitivities of the receiving environment as appropriate throughout the planning hierarchy.

Taking into account the foregoing, the specific planning policy requirement of the above guidelines under SPPR1 is:

*In accordance with government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, Planning Authorities shall explicitly identify through the statutory plans, areas where increased building heights will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.*

Special planning policy requirement SPPR2 states that in driving general increases in building heights, Planning Authorities shall also ensure appropriate mixtures of uses, such as housing, commercial and employment development, are provided for in the statutory plan context.

### **5.3. Dublin City Development Plan 2016-2022**

The appeal site has a zoning objective 'Z5 – City Centre' within the Dublin City Development Plan 2016-2022 with a stated objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. Hostel, restaurant and public house are 'permitted' on lands zoned 'Z5'. The primary purpose of zone 'Z5' is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a

dynamic mix of uses that interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night.

Section 4.5.9 of the Plan includes policies relating to Urban Form and Architecture, including the following:

- SC7: To protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence;
- SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, including the demonstration of sensitivity to the historic city centre.
- SC25 - To promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate;

Section 6.5.3 of the Plan refers to 'tourism and visitors', and notes that it is important to continue to develop tourism infrastructure such as visitor accommodation of various types. Relevant policies include:

- CEE12 (i): seeks to promote & facilitate tourism as one of the key economic pillars of the city's economy & a major generator of employment & to support the provision of necessary significant increase in facilities (hostels);
- CEE13 (iii): seeks to promote and support the development of additional tourism accommodation at appropriate locations.

Other relevant sections of the Development Plan include:

- Section 16.2 – Design Principles and Standards;
- Section 16.5 – Plot Ratio (2.5 – 3.0 on Z5 city centre sites);
- Section 16.6 – Site Coverage (90% Z5 sites);

- Section 16.7 – Building Height in a Sustainable City (Up to 28m commercial development on Inner City sites).
- Section 16.38 and Table 16.1 outlines that no parking is required for hostels in the city centre.

#### 5.4. **Natural Heritage Designations**

The site is not located within or close to any European site.

### 6.0 **The Appeal**

A First-Party Appeal was submitted to An Bord Pleanála on 1<sup>st</sup> October 2021 by the Applicant opposing the Local Authority's decision. The grounds of appeal can be summarised as follows:

- The development challenges the conventional urban rooftop design and ensures the building has strong visual presence and appears unapologetic on the skyline.
- The new elements can in no way be considered to be monolithic having regard to the contrasting design proposal to the permitted scheme.
- Considering its lack of sensitivities/constraints, its current condition and its changing character, there are few streets in the city centre with as much capacity to accommodate diversity of building typology, scale and architectural character, as Abbey Street.
- The proposed development represents the important paradigm shift in design, which has occurred since the adoption of compact growth policy and the lifting of blanket height restrictions. The proposal expressly responds to national planning policy but has also been carefully crafted to ensure it is entirely appropriate in its immediate and wider context.
- There is an emerging belt of development of contemporary urban scale and architectural character one block back from the Liffey quays, and the building would be seen as part of this character area. This does not necessarily translate into harm of the Liffey River corridor.

- The development would cause no significant change to the character, quality or value of the townscape, at the level of the site's immediate environs, at street level or in the wider urban area.
- The steps in height would a) emphasise the Abbey Cottages junction, b) create visual interest, and c) cause no loss of visual amenity.
- The development is a response to three factors which have changed the planning and townscape contexts of the site: 1) the NPF and Building Height Guidelines, 2) a change of function/status of Abbey Cottages in the public realm brought about by a planning condition attached to the permitted neighbouring site to the west, 3) the permitted neighbouring development, which invites the exploration of a revised architectural treatment on the subject site.
- The proposed lounge will be an attractive addition to the visual and operational function of the building, providing high quality amenity space for residents.
- Request that the Board grant permission for the omission of the three rooms and provision of the lounge even if they are not minded to grant permission for the additional height.

### 6.1. **Planning Authority Response**

No response received.

### 6.2. **Observations**

Two Observations were made in respect of the subject appeal from An Taisce and Frank McDonald supporting the Local Authority's refusal. The key points raised can be summarised as follows:

- The scale and bulk of the permitted development is already very significant in relation to the scale and pattern of the surrounding urban fabric.
- The site has no strategic role where it might be considered suitable for a high building.
- The proposed development will mean further reductions of sunlight and daylight levels to adjacent property, including Protected Structures.

- The proposal will result in poor levels of amenity for occupiers of surrounding property.
- Section 2 of the Urban Development and Building Height Guidelines note that the provisions of the Planning & Development Act 2000 relating to architectural heritage and character/ setting protection “remain in place”.
- The proposed development is grossly in excess of the indicative plot ratio standards applying to the area.
- The proposed development fails to comply with Urban Development and Building Height Guidelines in that it does not integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.
- In addition to submissions on the merits or otherwise of the proposed development that is the subject of the current case one of the Observations also contained comments on the manner in which the Board carried out its duties in previous cases.

## 7.0 **Assessment**

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

- Principle of the Development,
- Building Height, Scale, Massing and Visual Amenity
- Residential Amenity, and
- Appropriate Assessment.

Each of these issues is addressed in turn below.

### 7.1. **Principle of the Development**

The principle of the proposed development and nature of use has already been established on the site as outlined in Section 4.0 above. The use is consistent with the zoning objective for the site and is a use compatible at this city centre location. There

is no issue concerning the proposed intensity of use and increase in room number given its city centre location. It is not clear from the application whether or not the proposed lounge facility will be limited to use by residents only or open to the public also. Notwithstanding this, restaurant and public house are permissible in principle on Z5 zoned sites and I consider that the lounge will contribute to the diversity of uses on the site and vibrancy of the area. In summary, the proposed development, subject to qualitative safeguards in respect of design and amenity, is acceptable in principle on the subject site.

## 7.2. **Building Height, Scale, Massing and Visual Amenity**

The Local Authority refused permission for the proposed development due to its height, scale and density. The construction of the permitted eleven storey scheme (33.9m in height) is well advanced on site. The proposed development will result in a street front parapet height of 27.6m, with four additional upper floors setback approximately 4.5m from the building line on Abbey Street, resulting in an overall parapet height of 40.2m. The adjoining site has permission for a ten storey aparthotel and an eleven storey hotel with a parapet height of 34m. In addition, as highlighted in Section 4.0 above, permission has been granted for a number of large-scale redevelopments in the immediate area including the Jervis Centre and the corner of Middle Abbey Street/Liffey Street Upper.

The Local Authority did not refuse permission for the development on the grounds of it being a material contravention of the development. Notwithstanding this, I note that the proposal exceeds the Development Plan's 28m building height limit for commercial development in the inner city. I refer the Board to the more recently adopted Ministerial Guidelines entitled Urban Development and Building Heights – Guidelines for Planning Authorities which supersede the Development Plan which notes that statutory development plans have tended to be overtly restricted in terms of maximum building heights. I also highlight that the previous permission relating to the site (DCC Reg, Ref. 3804/19; ABP Reg. Ref. 305853) granted an extension exceeding the 28m building height limit. I am satisfied that the terms of the 2018 guidelines on building height justify a grant of permission for the proposed development despite its height exceeding the prescribed 28m in the Development Plan in accordance with section 37(2)(b) of the *Planning and Development Act 2000 (as amended)*. This matter is addressed in more detail in section 7.4 of this Report.

Section 3 of the 'Building Height Guidelines' sets out the principles for the assessment of applications, which should adopt a general presumption in favour of increased height in town/city cores and urban locations with good public transport accessibility, which is a key consideration at the scale of the relevant city/town. Having regard to the city centre location of the site and its proximity to the Luas line, I consider that, in principle, increased height and density should be encouraged at this location. Notwithstanding this, it is important that any such proposal responds positively to its context and protects the character of an area. Section 3.2 of the Building Height Guidelines includes further criteria for assessing proposals in this regard. In summary, the relevant criteria states that developments should:

- Integrate into / enhance the character and public realm of an area
- Respond to the overall natural and built environment
- Avoid monolithic appearance in terms of form and materials
- Improve legibility and integrate in a cohesive manner
- Contribute to the mix of uses and/or building/dwelling typologies.

I will consider the above criteria in assessing the impact of the development on Abbey Street Upper, Abbey Cottages and the surrounding area.

The Applicant submitted a Townscape and Visual Appraisal which concentrates on ten viewpoints and compares the views of the site currently under construction, the permitted eleven storey scheme, and the predicted visual impacts from the proposed development. A rationale is set out for the proposed development, which includes the location of the application site adjacent to public transport, and government policy to promote additional height at such locations. The Assessment concludes that the building would be more prominent, particularly in more distant views from Middle Abbey Street to the east, but overall the effect on townscape character would be neutral or positive.

Having reviewed the VIA, I concur with the Applicant that viewpoints 1, 4, 5 and 9 demonstrate that the proposal would have a minimal impact on the streetscape and visual amenity of the area due to the built-up nature of the area. Viewpoints 2, 3 and 6 demonstrate the Applicant's aim to develop a distinctive landmark feature that intentionally contrasts with the lower permitted floors of development on the site and

the permitted development in the surrounding area, due to its massing, height and use of materials. The use of the 'shadow gap' concept at the tenth floor (with this floor clad in a darker material), divorces the three upper floors (one permitted, two proposed) from the lower main 'body' of the building and in my opinion reduces the overall massing of the extension, creates visual interest and avoids a monolithic appearance. Whilst the overall height is significant, particularly in contrast to the buildings to the east on Abbey Street, the proposed setback on the northern elevation ensures that the additional floors are not overbearing on the Street. The additional height in contrast to the permitted neighbouring proposal at Nos. 31-34 Abbey Street, emphasises the site's traditional plot width. The light tessellated clad material proposed for the upper floors will reduce the visual dominance of the proposal, whereby the extension will appear as a 'light box' on top of the 'body' of the building.

In terms of views at greater distances from the site (viewpoints 7, 8, and 10), I consider the scheme will have minimal impact and will not be an overly dominant feature on the skyline. Whilst the Building Height Guidelines advocate for additional height to be permitted in areas served by a high frequency multimodal public transport system, Section 2.8 which recognises that historic environments can be sensitive to large scale and tall buildings. As stated above Section 3.2 of the Guidelines requires that proposals respond to the overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape. In this regard, I consider that the integrity of the Protected Structures on the quays and in the wider area will remain unchanged and unaffected by the proposal and as such I consider the proposed development to be acceptable in this regard.

During my assessment, I considered the omission of the proposed thirteenth floor, however, in my view such a proposal would weaken the scheme's distinctive visual appearance. Furthermore such a proposal would fail to replicate the format of the previous permission for the tenth and eleventh floor extension which sought to be subservient to the main body of the building. The proposed extension has been specifically designed to be a distinctive, landmark feature in the streetscape and would represent a significant departure from the permitted scheme with a noticeable step-change in scale and massing. Planning permission has been granted for a number of large-scale schemes in the immediate vicinity of the site that will facilitate the regeneration of the area. I consider that the proposal will give this site a unique identity



and create visual interest in the area as part of the regeneration. I consider that the Applicant has sufficiently justified the proposed height in accordance with the criteria set out in the Urban Development and Building Height Guidelines in the planning report submitted with the planning application to the Local Authority.

As stated above, the Planning Officer considered that the site's resulting plot ratio would be 11:1 as opposed to 9:1 as stated by the Applicant. Whilst the plot ratio standard for Z5 zoned land is 2.5-3.0:1, I highlight that this standard is indicative. Furthermore, the Development Plan facilitates higher plot ratios where a site already has the benefit of a higher plot ratio and in areas in need of urban renewal. As such, I do not consider that the matter of plot ratio to be a critical assessment criterion in this instance.

In summary, increases in height and density are supported by national policy and guidance. The site is located in the city centre and is in close proximity to a number of major public transport modes; the Jervis Street Luas stop is located approximately 90m west of the site. There are no Protected Structures in the immediate vicinity and the site is not located within nor adjoins a conservation area or architectural conservation area. As such, it is my considered opinion that the site is uniquely positioned to accommodate the proposed additional development. In conclusion, I consider the proposed development, in terms of its overall design, massing, height and scale to be appropriate at this location and compliant with Policy SC25 of the Development Plan.

### **7.3. Residential Amenity**

In terms of the residential units in the area, principally along Abbey Cottages and Upper Abbey Street, I do not consider that the two additional stories will materially impact the residents' amenity when compared against the permitted development on the subject site. Despite the increased height there is no change in separation distances or outlook from the adjoining properties to the east. The provision of a lounge on the ninth floor with an associated outdoor terrace has the potential to increase noise levels in the area. However, I consider that such an impact will be minor in comparison to the existing background city centre noises generated in the area. I note that there were no observations submitted by the residents of Abbey Cottages in respect of the subject application.

The Building Height Guidelines seek compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met, that this be clearly articulated and justified. The BRE “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” describes recommended values (e.g. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impacts. However, it should be noted that the standards described in the BRE Guidelines are discretionary and not mandatory policy/criteria (para. 1.6). 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 note 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 locations. I refer the Board to the Daylight Assessment prepared by BPG3 which assesses light impacts from the permitted scheme (Reg. Ref. 3804/19; ABP 305853) on two flats located at No. 37 Abbey Street Upper and two apartments located at No. 9-10 Abbey Cottages. The assessment also includes the permitted hostel development at No. 38-39 Abbey Cottages (Reg. Ref. 4087/17) and the adjoining development at No. 31-34 Abbey Street (Reg. Ref. 3232/19; ABP 305280).

The impact on daylight is measured in terms of Vertical Sky Component<sup>1</sup>. The Applicant states that skylight access would remain “substantially unchanged<sup>2</sup>” for the majority of the adjacent units when compared against the permitted scheme on the

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<sup>1</sup> The BRE guidelines set out a two-stage guide for the vertical sky component (VSC).

1. Where the Vertical Sky component at the centre of the existing window exceeds 27% with the new development in place then enough skylight should still be reached by the existing window.
2. Where the vertical sky component with the new development in place is both less than 27% and less than 0.8 times its former value, then the area lit by the window is likely to appear more gloomy, and electric light will be needed more of the time.

<sup>2</sup> Levels were assumed to be substantially unchanged in instances when the levels associated with the scheme as now proposed are within 10% of the levels associated with the scheme previously permitted.

subject site. A minor change in internal light levels was predicted for eight rooms of the 28 No. windows tested and a moderate change in light levels for two rooms, whereby a 23% and 29%, respectively, change in internal light is anticipated from the permitted scheme to the proposed scheme. In terms of access to sunlight, the results indicate that the proposal will not create any substantial change in sunlight levels relative to the levels associated with the previous scheme. I consider the impacts would be acceptable given the need to achieve higher density compact development at this city centre location. Where the guidelines have not been met, I am satisfied that the breaches are not so material as to warrant refusal of permission.

In conclusion, I do not consider that the proposed development will adversely impact the residential amenity currently enjoyed by residents living in the area.

#### **7.4. Other Matters: Material Contravention**

The Board will note that the Planning Authority's reason for refusal makes no reference to any material contravention of the Development Plan. It is noted that Section 37(2)(b) of the *Planning and Development Act 2000, as amended*, provides that the Board is precluded from granting permission for development that contravenes materially the development plan, except where it considers that:

- (i) The proposed development is of strategic or national importance;
- (ii) (ii) There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned;  
or
- (iii) (iii) Permission should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

In terms of the above, I would accept that the subject application seeks to extend a permission to redevelop an existing underutilised urban site to provide a higher density

commercial development in the form of a hostel. The subject site is suitably zoned for such purposes. The NPF signals the Government's policy towards securing more compact and sustainable urban development, and the Board will note National Policy Objective 13 refers to building height being based on performance criteria in order to achieve targeted growth. As such, I consider that the proposed development might reasonably be considered as meeting the requirements of Section 37(2)(b)(i) of the Act.

Section 37(2)(b)(ii) and Section 37(2)(b)(iii) of the Act relates to instances where there are conflicting objectives in the Development Plan or where objectives are not clearly stated as well as having regard to relevant guidelines and national policies. The Board will note that the Planning Report submitted in support of the proposed development acknowledges the policies of the Dublin City Development Plan in relation to building heights. While the Plan includes policies and objectives which seek to provide for higher densities and ensure the efficient use of zoned lands, Section 16.7.2 of the plan seeks to restrict building heights to a maximum of 28m. The applicant, in this regard, considers that the proposed development with increased height is justified in the context of the NPF and the 2018 Building Height Guidelines, which supersede contradictory policies in the CDP.

In relation to the Building Height Guidelines, I note the precedents for higher buildings within Dublin City Centre, which would exceed the limits set in the Dublin City Development Plan, including the previous permission relating to the subject site (DCC Reg, Ref. 3804/19; ABP Reg. Ref. 305853). It is clear that the thrust of the Building Height Guidelines has been applied to the full in the design and scale of the development proposed and that the density of development sought, seeks to maximise the national policy in this regard.

Section 37(2)(b)(iv) relates to the pattern of development in the area and permissions granted in the area since the making of the Plan. This area of Dublin City has been subject to a number of redevelopment projects which include higher buildings.

I am satisfied that the provisions of Section 37(2)(b)(i) and Section 37(2)(b)(iii) have been met and in this regard, I consider that the Board can consider a grant permission for the proposal.

### 7.5. **Appropriate Assessment**

The proposed development involves the construction of a two storey extension to a permitted eleven storey hostel (currently under construction) on a brownfield city centre site of c. 600sq m. It is proposed to connect to the existing surface water and wastewater network serving the area. The surrounding area is predominantly composed of artificial surfaces and is characterised by a mix of commercial, retail and residential development of varying scale.

Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

I recommend that planning permission be granted, subject to the conditions outlined below.

### 9.0 **Reasons and Considerations**

Having regard to the Z5 zoning provision of the Dublin City Development Plan 2016-2022, the site's planning history, the Urban Development and Building Height Guidelines for Planning Authorities 2018, the pattern of development and recent permissions in the area and to the nature and scale of the additional accommodation proposed, it is considered that subject to the compliance with the conditions as set out below, the proposed development would be compliant with Policy SC25 of the Development Plan and would make a positive contribution to the streetscape. 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, except as may otherwise
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	<p>be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The development shall be carried out and completed in accordance with the conditions attached to the permission granted under An Bord Pleanála appeal reference number PL 29N.249037 (planning register reference number 2971/17), planning register reference number 2954/18, and appeal reference number PL29N.305853 (planning register reference number 3804/19), except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity and the proper planning and sustainable development of the area.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity</p>
4.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
5.	<p>No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area.</p>

6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
7.	<p>Prior to the commencement of development, the developer shall Liaise with both Transport Infrastructure Ireland and the tram operators. In this regard a Construction Traffic Management Plan shall be submitted which shall identify mitigation measures to protect operational Luas Infrastructure, for the written agreement of the planning authority.</p> <p>Reason: In order to safeguard public transport infrastructure.</p>
8.	<p>Prior to the commencement of development, the developer shall Liaise with both Transport Infrastructure Ireland and the tram operators. In this regard, the applicant shall submit full plans and details of all servicing access arrangements for the development including construction, for the written agreement of the planning authority.</p> <p>Reason: In order to safeguard public transport infrastructure.</p>
9.	<p>Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable</p>

	<p>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.</p> <p>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.</p>
11.	<p>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 the 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.</p> <p>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.</p>

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Susan Clarke  
Planning Inspector

29<sup>th</sup> March 2022