



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313981-22

#### Development

Development at Holiday Inn Express (Formerly known as Findlater House). The proposed development will consist of alterations and provision of an extension (comprising 7 storeys over basement) to the existing/permitted eight-storey hotel building (an additional eighth storey, permitted under Ref. 2084/18 & Ref. ABP-301378-18, and a fire-fighting shaft, permitted under Ref. 2850/19, have yet to be implemented).

#### Location

28-32 O'Connell Street Upper and Cathal Brugha Street/Findlater Place, Dublin 1.

#### Planning Authority

Dublin City Council North

#### Planning Authority Reg. Ref.

3200/22

#### Applicant(s)

Findlater House Ltd.

#### Type of Application

Permission

#### Planning Authority Decision

Grant permission

<b>Type of Appeal</b>	3 <sup>rd</sup> Party
<b>Appellant(s)</b>	Noel & Anne Murray
<b>Observer(s)</b>	Nessa Hourigan, TD Cllrs. Darragh Moriarty & Declan Meenagh
<b>Date of Site Inspection</b>	8 <sup>th</sup> June 2023
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 2,117sq.m, is located at 28-32 O'Connell Street Upper, at the junction with Cathal Brugha Street/Findlater Place, Dublin 1 – the site of the Holiday Inn Express Hotel, with Guud Day Café located at the corner of the ground floor level fronting O'Connell Street/Cathal Brugha Street, and the Living Room pub fronting onto Cathal Brugha Street/Findlater Place. The hotel is seven storeys high, finished in granite cladding, with the top two floors set back and finished in an expansive glass façade, with the corner section at O'Connell Street/Cathal Brugha Street clad in granite to its full height; projecting around and above the top two glazed floors, forming a corner tower feature. Service/basement access is from Findlater Place.
- 1.2. The site lies in an area of mixed uses, with restaurants, bars and cafes being the dominant use at ground floor level. There is an open courtyard area to the rear of the hotel – largely covered with shelters/canopies of various sorts, outdoor bars and seating areas for eating and drinking. There is a large outdoor TV screen at the eastern end of the courtyard – raised at first floor level. A number of public houses on O'Connell Street, Parnell Street and Findlater Place have access to this courtyard for eating and drinking purposes. The courtyard area is tarmacadam, with various structures of a temporary nature within it. The site is adjoined to the north along O'Connell Street by four/five-storey buildings with mixed uses. To the rear and north, the site abuts the rear of four-storey, mixed-use buildings on Parnell Street. To the east, on Cathal Brugha Street/Findlater Place, the site is bounded by the eight-storey Academy Plaza Hotel. To the south, on the opposite side of Cathal Brugha Street, is the Gresham Hotel.

## 2.0 Proposed Development

- 2.1. Permission sought on 2<sup>nd</sup> February 2022, for development comprising extension to the hotel – of stated floor area of 10,005sq.m. It is proposed to retain 519sq.m of permitted (but unbuilt) floorspace and to extend the hotel by a further 2,966sq.m. The seven-storey-over-basement extension will be located to the rear of the hotel.

- Alterations to basement level, to omit 13 parking spaces and access ramp: and provision of 9 hotel rooms, plantrooms, bin-stores and ancillary services.
- Demolition of 355sq.m of existing hotel floorspace and external ancillary structures within the courtyard area (basement-, ground- and first-floor levels). Alterations to extend existing bar/restaurant/lobby at ground level, and provision of 9 bedrooms at both basement- and ground-floor levels.
- Reduction in floor area of 'Living Room' bar from 364sq.m to 272sq.m).
- 34 outdoor bicycle-parking spaces at ground level, within reduced courtyard.
- Seven-storey hotel extension within courtyard area for 103 bedrooms.
- Alterations to existing hotel, involving removal of 6 rooms – one at each level from first- to sixth-floor levels.
- Overall increase in existing & permitted hotel rooms from 214 to 311. Increase in floor area from 10,880sq,m to 13,490sq.m.
- Decommissioning of existing electricity sub-station at basement level, and provision of new electricity sub-station at ground level – with direct access from Findlater Place.
- Water supply will be from the public mains. Foul & surface water will be discharged to the public sewer network.
- Fire egress from adjoining properties to be maintained through reduced courtyard area – to debouch onto Findlater Place

2.1.1. The application is accompanied by the following documentation of note-

- Planning Report – dated February 2022.
- Landscape Architecture Report – dated January 2022.
- Environmental Assessment – dated 31<sup>st</sup> January 2022.
- Daylight & Sunlight Assessment – dated 1<sup>st</sup> February 2022
- Architectural Design Statement – dated January 2022.
- Operational Waste Management Plan – dated 31<sup>st</sup> January 2022.
- Architectural Heritage Impact Assessment – dated January 2022.

- Schedule of existing and proposed development, on a floor-by-floor basis.
- A3+ size booklet of photomontages.
- Lighting Impact Assessment – dated 1<sup>st</sup> February 2022.
- Energy Strategy Report – dated 1<sup>st</sup> February 2022.
- Site Services Report – dated 1<sup>st</sup> February 2022.
- Flood Risk Assessment – dated 1<sup>st</sup> February 2022.
- Civil Engineering Infrastructure Report – dated 1<sup>st</sup> February 2022.
- Outline Construction & Demolition Waste Management Plan – dated 1<sup>st</sup> February 2022.

2.2. Following a request for additional information, revised proposals were received on 11<sup>th</sup> May 2022, to provide for minor reduction in floor area of fifth-floor extension and omission of sixth-floor extension (total reduction of 9 no. hotel rooms).

2.2.1. The additional information submission is accompanied by the following documentation of note-

- Architectural Report (A3) – dated April 2022.
- Daylight & Sunlight Assessment – Further Information Response – dated 11<sup>th</sup> May 2022.

## 3.0 Planning Authority Decision

### 3.1. Decision

By Order dated 7<sup>th</sup> June 2022, Dublin City Council issued a Notification of decision to grant planning permission, subject to 14 conditions – the principal of which are summarised below.

1. Development to be carried out in accordance with plans and particulars received with the application; as amended by additional information received on 11<sup>th</sup> May 2022.
2. Development contribution of €271,671.52 for public infrastructure & facilities.

3. Supplementary development contribution of €99,207.36 for Luas Cross City Scheme.
4. No additional plant to be located at roof level.
8. Requires submission of a Demolition Management Plan, Construction Management Plan, Servicing Management Plan and Mobility Management Plan. Canopies to be omitted.
13. Relates to hours of construction.
14. Relates to advertising and signage.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Report, dated 29<sup>th</sup> March 2022, includes a site history; incorporates internal and external reports to the planning authority; summarises objections; and recommends that additional information be sought in relation to overshadowing of residential uses – particularly the rear of buildings on Parnell Street, to the north.

Report, dated 7<sup>th</sup> June 2022, indicates that alterations to the proposal make it acceptable, and permission is recommended, subject to conditions.

### 3.2.2. Other Technical Reports

#### Engineering Department – Drainage Division

Report, dated 21<sup>st</sup> February 2022, indicated no objection, subject to imposition of conditions.

#### Transportation Planning Division

Report, dated 21<sup>st</sup> March 2022, indicates no objection, subject to imposition of conditions.

## 3.3. Prescribed Bodies

#### Transport Infrastructure Ireland

Report, dated 24<sup>th</sup> February 2022, indicated that the site was within the area of an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross

City (St. Stephen's Green to Broombridge Line). Site works should not impact on nearby Luas line.

### 3.4. **Third Party Observations**

There are a considerable number of observations, objecting to the loss of the courtyard area used for entertainment and cultural events; lack of demand for hotel rooms; and to the impact on surrounding buildings. These objections are summarised in the Planner's Reports.

## 4.0 **Planning History**

There is an extensive planning history relating to this site. Listed below, are relevant planning applications.

**Ref. 3547/10:** Permission refused for change-of-use from car-park to beer garden with the courtyard area.

**Ref. 3181/13:** Permission granted for change-of-use from office/education to hotel use (with ground-floor café, new fifth- and sixth-floor levels, to provide for a seven-storey hotel building. On appeal to the Board (**PL 29N.242720**), permission was granted. This permission was implemented.

**Ref. 3459/13:** Permission refused for retention of beer garden/smoking area to rear of The Living Room public house. On appeal by the 1<sup>st</sup> Party to the Board (**PL 29N.242934**), permission was refused on 26<sup>th</sup> May 2014.

**Ref. 3460/13:** Permission refused for outdoor TV screen (15sq.m) in courtyard.

**Ref. 3438/15:** Permission granted for amendments to permission ref. 3181/13, relating to elevational treatment and floor layout.

**Ref. 3992/15:** Permission granted for amendments to basement layout and increase in size from 217sq.m to 493sq.m.

**Ref. 2513/16:** Permission granted for signage for hotel and café.

**Ref. 2084/18:** Permission refused for additional eighth storey (658sq.m) to existing hotel – to provide for an additional 21 bedrooms (with loss of 1 bedroom at 6<sup>th</sup> floor level). This roof-top extension is located on the Cathal Brugha Street/Findlater Place

side of the building. Other minor alterations were proposed, and a green roof was to be provided. On appeal to the Board by the 1<sup>st</sup> Party (**ABP-301378-18**), permission was granted on the 19<sup>th</sup> day of November 2018, for a revised scheme of 17 bedrooms – bringing the total number of hotel bedrooms to 214. This permission has not yet been implemented – and will expire on the 18<sup>th</sup> day of November 2023.

**Ref. 2850/19:** Permission granted on 29<sup>th</sup> July 2019, for a fire-fighting shaft at this hotel (201sq.m). This permission has not been implemented – and will expire on the 28<sup>th</sup> day of July 2024.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant document is the Dublin City Development Plan 2022-2028 – where the following is of note-

- Zoning Objective Z5 City Centre - ‘To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’. Hotel is a ‘Permissible Use’ within this zoning.
- Chapter 6 deals with the City Economy & Enterprise. Policy CEE8 in relation to the City Centre seeks, *inter alia*, “To support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre...”. Policy CEE28 states- “To consider applications for additional hotel, tourist hostel and aparthotel development having regard to:
  - the existing character of the area in which the development is proposed including local amenities and facilities;
  - the existing and proposed mix of uses (including existing levels of visitor accommodation i.e. existing and permitted hotel, aparthotel, Bed and Breakfast, short-term letting and student accommodation uses) in the vicinity of any proposed development;
  - the existing and proposed type of existing visitor accommodation i.e. Hotel Classification/Rating, Hostel Accommodation, Family



Accommodation, Alternative Accommodation etc., in the vicinity of any proposed development;

- the impact of additional visitor accommodation on the wider objective to provide a rich and vibrant range of uses in the city centre including residential, social, cultural and economic functions;
- the need to prevent an unacceptable intensification of activity, particularly in predominantly residential areas;
- the opportunity presented to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities – see also Chapter 12, Objective CUO38”.

Objective CEE01 states- “To carry out an analysis of the supply and demand for tourism related accommodation including hotels, aparthotels, hostels, Bed and Breakfast Accommodation and other short-term letting in the Dublin City area”.

- Chapter 7 indicates that the site is within the City Centre Retail Core. O’Connell Street is a Category 2 Principal Shopping Street, whilst Cathal Brugha Street/Findlater Place are neither Category 1 nor Category 2 streets. Policy CCUV16 states, *inter alia*, “To protect the primary retail function of Category 1 Streets in the city and to provide for a mix of retail and other complementary uses on Category 2 streets”.
- The site is within the O’Connell Street & Environs Architectural Area (ACA). A Scheme of Special Planning Control has been created for O’Connell Street & Environs – the “O’Connell Street & Environs Scheme of Special Planning Control, 2022”. The designation of this Scheme of Special Planning Control allows Dublin City Council to specify development objectives for the preservation or enhancement of the area, that would further strengthen its designation as an ACA.
- Appendix 2 of the Development Plan contains a Retail Strategy. Section 8.14 states, *inter alia*, in relation to Schemes of Special Planning Control- “These SPCS follow the boundaries of the ACAs. The Special Planning Control

Schemes give the planning authority greater control in maintaining a balance in the mix of uses on the street and were prepared to address the predominance of certain uses inappropriate to the city's two principal streets [O'Connell Street and Grafton Street] which also serve an important civic function. The land-use policy set out in these schemes shall apply to all applications within the designated areas of Special Planning Control. The policy includes protection of existing uses that contribute to the special interest or character of a protected structure; the promotion of an appropriate mix and balance of uses with an emphasis on higher order comparison retail and the control of new uses; the control of changes within use classes and the control of changes to lower order retail and non-retail uses. The policy on maximising the use of buildings shall also apply to applications within the designated areas of the schemes”.

- Appendix 3 of the Plan is a Height Strategy. For the city centre, a default position of six storeys will be promoted, subject to site specific characteristics, heritage/environment considerations and social considerations in respect of sustaining existing inner city residential communities. Where a development site abuts a lower-density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities. There is recognised scope for height intensification at designated public transport stations and within the catchment areas of major public transport corridors – including Bus Connects, Luas, Metrolink and DART. [The old Development Plan specified heights for commercial and non-commercial development – but these restrictions have not been carried over into the new Plan]. Indicative Plot Ratio for the Central Area is 2.5-3.0; and Indicative Site Coverage is 60-90%.
- Appendix 5 of the Plan deals with parking requirements. Table 1 indicates that for hotels in any zone, 1 bicycle-parking space per 5 staff is required. Table 2 indicates that for hotels within Zone 1, no car-parking is required.

## 5.2. Natural Heritage Designations

The application was accompanied by an Appropriate Assessment Screening Report. The closest European site is the South Dublin Bay & River Tolka Estuary Special Protection Area – some 2.2km to the east. The proposed development is located within an established urban area on zoned lands that are suitably-serviced. Foul & surface water waste will ultimately discharge to the Ringsend Wastewater Treatment Plant – operated by Uisce Éireann. The proposed development is for an extension to an existing hotel. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 sites. A Stage 2 Appropriate Assessment is, therefore, not required.

## 5.3. EIA Screening

Having regard to the limited nature of the proposed development, comprising an extension to an existing hotel, and to the SuDS measures included in the development, in an established urban area, where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination; and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The appeal from O'Neill Town Planning, agent on behalf of the appellants, Noel Murray & Anne Murray, Moathill House, Lucan, Co. Dublin, received by the Board on 4<sup>th</sup> July 2022, can be summarised as follows-

- The appellants are owners and/or leaseholders of a number of properties surrounding the appeal site. The appellants have a lease on the courtyard area to the rear of their properties – currently used for outdoor entertainment. The appellants have occupied this space since 1979, and vehemently oppose

the redevelopment of this space for another budget hotel. The appellants have a right to renewal of the lease on the courtyard area – subject to prevailing market rent at the time of renewal.

- This development will destroy the cultural diversity which the current uses of the courtyard promote. This is a hub of cultural activity which would be lost if the development proceeds.
- The intensification of hotel rooms at this location, and the possible exempt conversion of any approved hotel use to a direct provision centre, would undermine and possibly destroy the diversity and mix of uses presently in the area. The applicant company has already provided a recently-constructed hotel for that use, close to Dublin Airport.
- The plot ratio is almost twice the maximum permitted for Z5 mixed-use zoning 2.5-3.0 – coming in at 6.3 (excluding the basement). Site coverage at 100% is in excess of the 90% recommended. This must be a material contravention of the development plan.
- The site is bounded by Protected Structures to the north – 76, 77 & 78 Parnell Street. The potential for restoration of these Protected Structures depends entirely on all floors above ground level being suitable for residential occupation; and they should not be inhibited by overbearing structures. Number 79 comprises retail/restaurant at ground floor and residential apartments at 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floor levels. Numbers 80-82 comprise the Gate Hotel, with Fibber Magee’s live music and performance venue on part of the ground floor and basement level. The design would detract from the setting of nearby Protected Structures.
- The site is within the O’Connell Street & Environs ACA and is impacted by the Area of Special Planning Control which has the same boundary. The vision is to re-establish O’Connell Street & Environs as a place of importance in the social and cultural life of citizens and visitors alike.
- O’Connell Street is a Category 1 shopping street, where retail, and uses complementary to retail, are promoted.

- The draft Development Plan supports cultural diversity. The Plan seeks to avoid an over-concentration of hotels in areas of the city which currently have high levels of existing hotel, apart-hotel and student accommodation. Section 15.14.1 states that there will be a general presumption to avoid an over-concentration of hotels and apart-hotels pending the outcome of an hotel study.
- A chartered surveyor and consultant architect, employed by the appellants, are concerned that the red-line boundary of the site may not be correct, and the Board is asked to ensure that it is correct. Fire exits from the appellants' properties traverse this courtyard area – and may be impacted by the development – having an impact on Fire Certificates for the appellants' properties.
- The massing and scale of the proposed building would negatively impact on the O'Connell Street area of Special Planning Control – both in terms of streetscape and on the appellants' properties. The design is of poor quality and would be injurious to the visual amenities of the area.
- The applicant has failed to fully outline the impact of the building on properties – particularly on Parnell Street.
- The site is located in Parking Zone 1 and provides no on-site parking spaces. Hotels within this zoning should provide 1 space per 4 bedrooms. The application seeks to remove the 14 basement parking spaces and convert that space to hotel use. Whilst some relaxation of standards may be warranted – wholesale removal of parking spaces is a material contravention of the plan.
- The site is within a confined city block. The site is surrounded by commercial and residential uses. The new development will be 5-6 storeys, higher than the appellants' properties, which would have a detrimental impact on daylight and sunlight. This would seriously affect the redevelopment potential of these buildings. New hotel windows, on the boundaries of the appellants' properties, effectively sterilise them from future development.
- The maximum height of 26m would be incongruous next to the appellants' properties. The December 2018 guidelines issued by the Department of

Housing, Planning and Local Government in relation to Urban Development and Building Heights – refer to the need to strike a balance between redevelopment and ensuring the highest standards of urban design, architectural quality and place-making. Specific Planning Policy Requirements (SPPRs) require appropriate mixtures of uses within development plans.

6.1.2. The appeal is accompanied by the following documentation of note-

- 3 no. A3-size annotated drawings, showing fire escape routes from surrounding premises – Tyndal Architecture & Design – dated 4<sup>th</sup> July 2022.
- Report on Daylight analysis – dated 4<sup>th</sup> July 2022. This is a review of the Daylight Assessment provided by the applicant, and not an alternative competing analysis. It is noted that the advice given in the document “Site Layout Planning for Daylight and Sunlight (2<sup>nd</sup> Edition) 2011” is not mandatory. Living-rooms, bedrooms and kitchens are rooms where daylight is required. It is not clear what the baseline position is – and whether it includes permitted development. It is accepted that there are difficulties for the applicant in knowing just what uses lie behind windows in surrounding properties – but the applicant has made no effort to determine uses for the purposes of the No Sky line test. The appellants have floor plans for buildings under their control, and are willing to supply these to the applicant for analysis purposes – where several have not been included. A number of hotel bedrooms fail in terms of daylight (Visible Sky Component) as will Apartment 5 in 79 Parnell Street. The sunlight results are generally satisfactory – with the exception of apartment 5 which will see a 40% loss of sunlight. Windows 1 & 3 appear to be incorrectly noted as ‘fails’ as they both pass the 25% requirement, albeit with a large change ratio. Winter sunlight in cities is difficult to maintain, with low sun angles and high buildings.
- Letter from firm of solicitors – dated 30<sup>th</sup> June 2022, relating to rights-of-way in, through and around the subject site. Stable Lane, which formed an access to the rear of properties on Parnell Street and O’Connell Street, likely still belongs to the original developer, and there are right-of-way accesses to it, even if those have been closed-up. The successors in title of Alex Findlater &

Co. Ltd. have still not established a title to Stable Lane. They are at present in the process of an application to the Land Registry for a possessory title by way of adverse possession. 33, 34 & 35 O'Connell Street Upper and 76-77 Parnell Street have unlimited rights-of-way for all purposes from the rear of the premises across the courtyard to exit onto Findlater Place/Cathal Brugha Street. There are rights-of-way to exit from the rear of the Gate Hotel onto Findlater Place/Cathal Brugha Street. All of these rights were established long before the commencement of the lease that is due to expire in October 2022. They have not been extinguished by that lease, and will spring up again, if and when it terminates.

## **6.2. Applicant's Response**

6.2.1. The response of John Spain Associates, agent on behalf of the applicant, received by the Board on 2<sup>nd</sup> August 2022, can be summarised as follows-

- The application was submitted following a number of pre-planning consultations. Additional information was supplied to DCC.
- The courtyard to the rear has been used informally as a beer garden/smoking area connected with three public houses – The Living Room, Fibber Magee's and Murray's Bar & Restaurant. Over time, sheds, outdoor seating and shelters/covers have been erected. No planning permission was granted for this use or the structures within the space – and it would appear to be unauthorised.
- Permission was refused by DCC – ref. 3547/10 for retention of change-of-use of part of the rear yard from car-park to beer garden, because of the potential impact on hotel bedrooms.
- The development of 'super-pubs' is discouraged in the Development Plan.
- A beer garden is not included in the definition of a cultural/recreational building – set out in Appendix 15 of the Plan. The planning authority did not consider the courtyard to be a cultural venue.
- The extension of the hotel is in accordance with the Z5 zoning.

- The development is well-served by public transport, pedestrian and cycling links.
- In line with Objective CEE01 of the Plan, the applicant has undertaken a survey of hotels/hostels/guesthouses within 1km of the appeal site.
- The Holiday Inn Express at this location is a very successful enterprise. The location is central and accessible. There is growing demand for hotel rooms in Dublin City.
- There are some discrepancies between the OS map, which is at a large scale, and the survey drawings. The survey drawings, being more accurate, have been used to identify the red-line boundary for the planning application – and reflect the position on the ground.
- The proposal allows for intensity of use at an existing hotel – without any significant impact on surrounding streets.
- The proposal provides for more intensive use of the basement area – in line with the O’Connell Street & Environs Scheme of Special Planning Control 2022.
- The development will not have any adverse impacts on the character and appearance of the Architectural Conservation Area. A townscape and visual assessment submitted with the application indicates that there will be no significant visual impacts. The attractiveness of O’Connell Street for leisure purposes will be improved by this development: resulting footfall will be intensified.
- The areas to the rear of 76-82 Parnell Street, has been largely infilled with poor-quality extensions. The hotel extension will be set back from these buildings – some of which are Protected Structures. The visual impact of the extension from Parnell Street, will be no different to the existing and to the permitted 7<sup>th</sup> floor extension.
- Proposed external finishes will match existing finishes of the Holiday Inn Express.



- Higher plot ratios can be considered in certain circumstances, particularly where sites adjoin major public transport corridors. The existing plot ratio is 5.1. An increased plot ratio of 6.3 is acceptable, where daylight and sunlight assessments indicate only minor adverse effects.
- There is no maximum parking requirement for hotel use. The omission of parking spaces is acceptable, where public transport in the area is available. There are a number of multi-storey car-parks in the area.
- The reduced scale of the development will lessen the impacts on adjoining sites, and will not hinder their redevelopment. Adjacent sites on Parnell Street have ground-floor extensions which cover the entire site – therefore, there are no gardens or open spaces to overlook or overshadow. For additional privacy, one-way window film protection can be added to windows. Adequate separation distances are provided. Properties on Parnell Street are 6.5m from their boundaries, and a similar set-back distance is proposed on the appeal site. This separation of 13.0m is considered adequate within an inner-city location to mitigate adverse impact on residential amenity. The separation distance from the Academy Hotel is 7.5m. The separation from the rear of properties on Parnell Street is between 9.0-13.0m from ground to fifth floor level – with increased distances at upper set-back floors.
- There is no strong architectural style on the south side of Parnell Street; and the hotel extension will not be readily visible. The impact is low – when set against the baseline scenario.
- The reduced-height extension is now 19.5m. This cannot be considered high – where commercial development had a maximum height guideline of 28.0m.
- The proposed development is for an extension to an hotel – not for emergency accommodation for direct provision.
- There is no mandatory requirement for EIA – as the threshold is well below those specified for infrastructure projects. There is no real likelihood of significant effects on the environment.

- Appendix 2 of the response submission lists hotels/guesthouses/hostels within 1km of the appeal site. It also lists recently-permitted hotels/hostels – together with planning references.
- Bicycle-parking within the site meets with Development Plan requirements.

6.2.2. The response is accompanied by the following documentation of note-

- Letter from Mason Hayes Curran, Solicitors (dated 27<sup>th</sup> July 2022), states that the lease on the courtyard (connected with the Living Room Public House) expires on 4<sup>th</sup> October 2022; and is not permanently renewable.
- Letter from Reidy Associates, Solicitors (dated 29<sup>th</sup> July 2022), to the effect that the tenant will have to vacate by October 2022. Even if the tenant disputes this understanding, this is not a matter that can be adjudicated upon by An Bord Pleanála. This is a civil matter outside of the Planning and Development Act (as amended). There are no rights-of-way granted to Noel Murray.
- Daylight & Sunlight Report – dated 2<sup>nd</sup> August 2022. This report reflects the updated 3<sup>rd</sup> edition of the BRE Guidance.
  - The mirror-image method is described within BR 209 (2022).
  - The assessment presents impacts, which include previous permissions (yet to be implemented); and this is reasonable.
  - Over-arching impacts are ‘minor adverse’ in nature.
  - Revised assessment provides for No Sky Line assessment.
  - Missing windows have now been included in the revised report.
  - Densification of urban areas will always place restrictions on the degree to which it is appropriate to pursue full compliance with BRE Guidelines.

### 6.3. Planning Authority Response

None received.

## 6.4. Observations

There are two observations from-

- Nessa Hourigan, TD – received on 6<sup>th</sup> July 2022.
- Cllrs. Darragh Moriarty & Declan Meenagh – received on 2<sup>nd</sup> August 2022.

The issues raised, where different from those raised in the 3<sup>rd</sup> Party appeal, can be summarised in bullet-point format as follows-

- 78 & 79 Parnell Street were placed on the Derelict Sites Register of DCC. Although requested, no. 76 was not placed on the Register. Even if buildings are unoccupied or derelict, the proposed block will negatively impact on their redevelopment potential.
- Insufficient details are provided in relation to the electricity sub-station.

## 7.0 Assessment

### 7.1. Development Plan & Other Guidance

- 7.1.1. The Z5 zoning of this site indicates that hotel use is 'Permissible'. The proposal involves an extension to an existing hotel – which, in principle, is acceptable. Policy CEE8 seeks, *inter alia*, "To support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre...". The proposed development is in accordance with this policy. Policy CEE28 states- "To consider applications for additional hotel, tourist hostel and aparthotel development having regard to a number of factors as follows:

- *"The existing character of the area in which the development is proposed including local amenities and facilities"*. The area is characterised by hotel & café/restaurant development – with the Academy Plaza Hotel next door, the Gresham Hotel on the opposite side of Cathal Brugha Street, and the smaller Gate Hotel immediately to the north on Parnell Street. The proposed extension will not alter this character in any significant way – particularly as the proposed extension will be located to the rear of the existing hotel. It will not involve any additional street frontage.

- *“The existing and proposed mix of uses (including existing levels of visitor accommodation i.e. existing and permitted hotel, aparthotel, Bed and Breakfast, short-term letting and student accommodation uses) in the vicinity of any proposed development”*. The 1<sup>st</sup> Party response to the 3<sup>rd</sup> Party appeal included a list of existing hotels/hostels/guesthouses within 1km of the appeal site. In addition, a list of permitted hotels/hostels/guesthouses within 1km of the appeal site was submitted. This list is somewhat meaningless; in the absence of any details relating to the number of bedspaces available and the classification of those rooms. However, I consider that the submission of this list neither is, nor should be, a requirement on the applicant. Objective CEE01 of the Plan states- “To carry out an analysis of the supply and demand for tourism related accommodation including hotels, aparthotels, hostels, Bed and Breakfast Accommodation and other short-term letting in the Dublin City area”. Out of an abundance of caution, and in the absence of such a study having been carried out, the applicant submitted the lists. It would not be reasonable to defer all applications for tourism-related accommodation – particularly where the objective does not include any time-frame within which the study is to be completed. The fact that there are other hotels/aparthotels/hostels/guesthouses (or permitted hotels/hostels/guesthouses) in the vicinity of the appeal site is not of relevance in this instance – particularly where no additional ground-floor street frontage is proposed.
- *“The existing and proposed type of existing visitor accommodation i.e. Hotel Classification/Rating, Hostel Accommodation, Family Accommodation, Alternative Accommodation etc., in the vicinity of any proposed development”*. This consideration is similar to the bullet point above, and requires no further comment.
- *“The impact of additional visitor accommodation on the wider objective to provide a rich and vibrant range of uses in the city centre including residential, social, cultural and economic functions”*. The appellant and observers argue that the extension will extinguish a rich cultural use within the courtyard area – where three public houses share a beer-garden cultural space. No detail of just what this cultural diversity comprises, has been outlined. The applicant points out that this area may not have planning permission for beer garden

use. The area is a beer garden/smoking area, and is not an identifiable cultural space. The applicant points out that a beer garden is not included in the definition of a cultural/recreational building – set out in Appendix 15 of the Plan. The planning authority did not consider the courtyard to be a cultural venue, and I would agree with that conclusion.

- “*The need to prevent an unacceptable intensification of activity, particularly in predominantly residential areas*”. This area of the city is not predominantly residential in nature, notwithstanding that there is some residential use in buildings in the area.
- “*The opportunity presented to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities – see also Chapter 12, Objective CUO38*”. The proposed extension is to the rear of the existing hotel and ground floor public house use. It will not have any significant impact on activity at street level.

7.1.2. The site is within the City Centre Retail Core. O’Connell Street is a Category 2 Principal Shopping Street, whilst Cathal Brugha Street and Findlater Place are neither Category 1 nor Category 2 streets. Policy CCUV16 states, *inter alia*, “To protect the primary retail function of Category 1 Streets in the city and to provide for a mix of retail and other complementary uses on Category 2 streets”. Hotel use can be considered a complementary use – if indeed the development can be said to be on a Category 2 Principal Shopping Street at all. The hotel entrance is on O’Connell Street, but there is access to the courtyard area from Findlater Place. The site for the proposed development is essentially backland – which would formerly have been accessed from Findlater Place.

7.1.3. The site is within the O’Connell Street & Environs Architectural Conservation Area (ACA). The site is entirely hidden from view behind the existing hotel structure on O’Connell Street/Cathal Brugha Street/Findlater Place. The height of the structure was reduced by one storey, by way of additional information. Planning permission exists for a seventh floor on top of that portion of the hotel addressing Findlater Place. The development, as amended by my recommendation will not be visible from surrounding streets. I would be satisfied that the development will not have any impact on the architectural character of this ACA.

7.1.4. A Scheme of Special Planning Control has been created for O'Connell Street & Environs – the “O'Connell Street & Environs Scheme of Special Planning Control, 2022”. The Special Planning Control Scheme gives the planning authority greater control in maintaining a balance in the mix of uses on the street, and was prepared to address the predominance of certain uses, inappropriate to this principal street [O'Connell Street], which also serves an important civic function. The policy includes protection of existing uses that contribute to the special interest or character of a protected structure; the promotion of an appropriate mix and balance of uses, with an emphasis on higher-order comparison retail and the control of new uses; the control of changes within use classes and the control of changes to lower-order retail and non-retail uses. The policy on maximising the use of buildings also applies to applications within the designated areas of the scheme. The proposed development does not involve any retail element. It will extend an existing hotel use, which will result in maximising the potential of this site. The extension will not in any way alter the civic function of O'Connell Street, and will not, to any significant extent, alter the mix of uses in this area.

7.1.5. Appendix 3 of the Plan is a Height Strategy. The Plan refers to a default position of six storeys being promoted within the city centre, subject to site-specific characteristics, heritage/environment considerations and social considerations in respect of sustaining existing inner-city residential communities. Just what height a storey may be, is nowhere specified. The proposed development was reduced to six storeys in height by way of additional information – which is in line with the Height Strategy. Where a development site abuts a lower-density development, appropriate transition of scale and separation distances must be provided, in order to protect existing amenities. The applicant has drawn the development back from the northwestern boundary – with further set-back at fifth-floor level. I have elsewhere in this report argued for the reduction in the height of the development by one storey. There is recognised scope for height intensification at designated public transport stations and within the catchment areas of major public transport corridors – including Bus Connects, Luas, Metrolink and DART. The appeal site is within a number of such public transport corridors. The Indicative Plot Ratio for the Central Area is 2.5-3.0. The applicant points out that the plot ratio for the existing hotel use is already significantly in excess of this guidance range – at 5.1. An increased plot

ratio of 6.3 should be acceptable, where daylight and sunlight assessments indicate only minor adverse effects. I note the plot ratio will be lower again, having regard to reduced floor area of the proposal. Higher plot ratios can be considered in certain circumstances, particularly where sites adjoin major public transport corridors, as this site does. Plot ratios are 'indicative' only. As the plot ratio is already considerably in excess of the indicative range, I would see no difficulty with the increase proposed. Indicative site coverage for this zoning is given at 60-90%. There is a basement beneath this entire site – which effectively indicates a 100% site coverage. The applicant proposes to retain a narrow courtyard area to the northwest and northeast of the new extension. Many sites within the city centre have 100% coverage. In the context of what surrounds it, the proposed site coverage is acceptable.

## **7.2. Design & Layout**

- 7.2.1. The development was altered by way of additional information submission; to remove the top storey of hotel rooms (sixth floor) and to provide minor additional fifth-floor set-back (0.5m) from the northwestern boundary of the site. The new extension originally provided for 103 bedrooms; the revised proposal providing for 94 bedrooms. Connection requirements would result in the loss of one bedroom on each of six floors within the existing hotel. However, the additional information submission and my recommendation to reduce the development by one storey, would result in the loss of only 4 of the 6 bedrooms within the existing hotel – one on each of four floors. The application is accompanied by an Architectural Design Statement – illustrating how the final design was arrived at. It also provides photographs and drawings of other city centre hotels – to justify the limited separation distances between opposing windows and site boundaries. The permitted seventh-floor extension on Cathal Brugha Street will result in a backdrop, which would be a full two storeys higher than the proposed extension (the subject of this appeal), resulting in no impact on the skyline.
- 7.2.2. The adjoining Academy Plaza Hotel to the east, has bedroom windows on all floors above ground level – addressing the courtyard area. These are partially screened by a large external TV screen within the courtyard – at first-floor level. The proposed extension has been designed in such a way, that there are no bedroom windows within the development directly addressing windows in the Academy Plaza Hotel.

The extension effectively presents a blank gable wall to the Academy Plaza Hotel – punctured with one corridor window on each floor above ground level; which windows are to be in obscured glazing. The separation distance between the windows in the Academy Plaza Hotel and the gable elevation of the proposed extension is 7.5m – reducing to 5.2m at the permitted (but unbuilt) fire escape stair-core. The proposed new hotel extension will obviate the need for the permitted fire-escape stair-core from second-floor level up; and will incorporate it into the extension the subject of this appeal. The effect of this is to increase the set-back (2.7m) where the fire-escape stair-core was originally to be located – a minor improvement on what was originally permitted, in terms of daylighting impact on the Academy Plaza Hotel. If the principle of mirror development were to be considered a reasonable one – then the proposed extension to the Holiday Inn Express might well have windows addressing those in the Academy Plaza, at an equal separation distance from the common boundary. However, in this instance, the applicant has elected to have bedroom windows facing northwest and southeast, rather than northeast, thereby maintaining privacy for bedrooms in the adjoining hotel to the northeast. The development will have an impact on the Academy Plaza Hotel in terms of daylight and sunlight – but having regard to the proximity of windows in the Academy Plaza Hotel to the shared boundary, it is not unreasonable that the applicant should be able to build at a similar separation distance. The affected rooms are hotel bedrooms, for which sunlight and daylight are not of such consequence as they would be if in permanent residential use. I have elsewhere in this report argued for the removal of one storey of the development, which will improve somewhat the level of daylight and sunlight for the Academy Plaza Hotel.

- 7.2.3. There is a four-storey building immediately to the north on O'Connell Street – Murray's Public House (no.s 33 & 34). This building has been extended to the rear (up to three storeys in places) – right up to the boundary with the hotel site. This public house, and the adjoining Thomas Clarke Public House (no. 35), have access to their rears, to the courtyard area for patrons, and would appear to have a first floor open terrace addressing the courtyard. There is an amount of plant and water tanks spread over the different roof areas of this building, together with sundry satellite TV dishes. Within the five levels above the Thomas Clarke Public House, there are residential uses. These buildings do not have any rear yards – the entire plots being



built over. The proposed new extension will immediately abut the rear of 33 O'Connell Street – at a point where there is a part-single- and part-three-storey return. This three-storey return presents one blank wall to the hotel site and a façade, with what appear to be two, bathroom windows to the courtyard area. The façade addressing the courtyard is slightly set back, behind a single-storey, flat-roofed extension with extensive roof plant. This roof, somewhat confusingly, has a sign advertising a beer brand and The Living Room Bar (located on another side of the courtyard). The proposed extension will present a blank elevation to the adjoining site – on two sides. This extension will extend up a further three storeys above the roof of the adjoining three-storey return to Murray's Public House. The extension will result in overshadowing of the roof area of this public house – and will impact on sunlight and daylight levels to the rear of the building (including the aforementioned two, bathroom windows), although the new hotel extension will not completely block light to these two windows. I have elsewhere in this report argued in favour of reducing the height of the proposal by the omission of one storey, which would lessen the impact of the development on adjoining no. 33. I note that most window opens to the rear of 33 & 34 O'Connell Street have been blocked-up. In the context of redevelopment within a tight, city-centre, urban grain, I would not consider that the loss of sunlight and daylight to the rear of this building will be significant. There will be no overlooking arising from the proposed extension. The seven-storey Cathal Brugha Street elevation of the Holiday Inn Express already results in some degree of overshadowing of all buildings to the north of it, and an additional storey on top has already been permitted.

- 7.2.4. Dublin City Council expressed concern in relation to the impact of the development on buildings on Parnell Street; and the proposal was revised by way of additional information, to remove the top floor of bedrooms, and to marginally set-back the fifth-floor by 0.5m (further to the south) – so as to increase the set-back from the rear of buildings on Parnell Street. There is a hair-dressing salon at ground floor level within 76 Parnell Street – with the upper three floors appearing to be vacant and falling into dereliction. The ground floor units within numbers 77 & 78 are boarded-up; the upper three floors in each of these buildings appear to be vacant and falling into dereliction. There is a small, two-storey, flat-roofed extension to the rear of no. 77. All have been extended to the rear at ground floor level – to completely cover what

would once have been back yards. There is a considerable amount of plant located on the flat roofs to the rear of no.s 77 & 78. The appellant argues that the proposed hotel development will impact on the redevelopment potential of these three houses, for possible residential use at upper floor levels. No. 79 appears to be vacant at ground level, but in residential use at upper floor levels. This house has single-, two- and three-storey extensions covering the entire of what would have been a back yard. No.s 80 & 81 Parnell Street comprise The Gate Hotel & Fibber Magee's bar. This four-storey building has two-storey, flat-roof and pitched-roof extensions to the rear – covering the entire of what would have once been rear yards. There are first-floor windows within these extensions looking directly into the courtyard area. This hotel has access to the courtyard area for patrons.

- 7.2.5. The applicant has adopted the principle of mirror development for this extension – with the exception of the ground floor, which is pulled back from the common boundary with properties on Parnell Street. The original rear walls of houses 76-78 Parnell Street are approximately 6.0m from the common boundary with the courtyard; the separation for no.s 79 & 80 is somewhat greater, at 8.5m. The applicant has set back the block by approximately 13.0m from the rear elevations of houses on Parnell Street; for no.s 76-78 this approximates to mirror development; whilst for numbers 79 & 80, the balance is in favour of the Parnell Street houses. However, I do note that The Gate Hotel has two first-floor windows right on the boundary with the courtyard – where the applicant is not proposing to replicate this form of boundary development. Buildings on Parnell Street are of four-storeys – whilst the proposed extension will be of five storeys, with a sixth-storey set back – by a further 3.0m. In the context of a city-centre site, with a tight urban grain, I would consider that this set-back is adequate to protect the amenities of existing uses within the Parnell Street houses, and that it will not impact negatively on the future development potential of no.s 76-79, for whatever use(s).
- 7.2.6. The Living Room bar on Findlater Place has access for patrons to the courtyard area to the rear. This ground floor public house is to be reduced in area, and courtyard access removed. The public house is in the ownership of the applicant.
- 7.2.7. The existing basement slab is to be removed and replaced over the extension footprint. The ground floor slab is to be similarly removed. Bedrooms are planned at basement- and ground-floor levels. There will be a new lightwell created – 6.0m

wide and 18.5m long – serving the basement and ground-level bedrooms. At first-floor level and upwards, this lightwell will remain at 6m in width, but will increase to approximately 42.0m in length – the length being on a roughly east/west access. Hotel bedrooms will address each other across this 6.0m separation. The applicant has furnished examples of other city centre developments with narrow separation distances between blocks. However, these separation distances are often across public lanes or streets. The poor separation distance will require netting curtains or blinds to be drawn, for any degree of privacy for occupants of the hotel bedrooms. Rooms at the basement and lower levels of this lightwell will receive no sunlight, and very poor daylight: at upper levels the daylight and sunlight will improve. The permitted eighth-floor rooms on the Findlater Place frontage of the hotel, will largely exclude sunlight from most of the rooms addressing this courtyard – particularly outside of summer. However, I do not consider that sunlight is an important factor in hotel rooms; whereas daylight is somewhat more so. The Daylight & Sunlight Assessment gives no indication of the impact of the development on existing and proposed hotel bedroom windows with the Holiday Inn Express Hotel. The 6.0m separation gap between the new block and the Findlater Place block would militate against any future conversion to long-term residential use of this building. Having regard to the tight urban grain in this area, and the desire to densify an area benefitting from excellent public transport and easy pedestrian/cycling connectivity with the rest of the city centre, I would consider that this limited separation distance is acceptable in this instance – where hotel bedrooms will be occupied for limited periods only.

- 7.2.8. The application was accompanied by a Daylight & Sunlight Assessment. This Assessment was modified by way of additional information submission. It is made clear that the model used, factored in the permitted (but not yet constructed) seventh-floor hotel rooms on Findlater Place. This is reasonable, as that planning permission is still live, and has been incorporated into the current planning application, in terms of connection to it. The report acknowledges that there will be minor adverse impacts on buildings on Parnell Street and on O’Connell Street (to the north of the hotel). Windows in adjoining buildings are identified by number within Section 3 of the Architectural Design Statement, as submitted with the original application (A3 format); and also within the Daylight & Sunlight Assessment,

submitted by way of additional information. Windows on O'Connell Street buildings are identified as 1-11; on Parnell Street buildings as 1-41; and the Academy Plaza Hotel building as 1-56. Windows in the Parnell Street buildings are most likely to be negatively affected – being located to the northwest of the proposed extension. There are no ground floor windows in these buildings – the entire plots being built over. Therefore, first-floor level windows are most likely to be impacted. I note that no first-floor windows are indicated for no. 76 – although clearly, they do exist. These windows are already impacted by a first-floor, roofed terrace extension to the rear of adjoining 33 & 34 O'Connell Street (Murray's Public House), the five-storey building at 35 O'Connell Street (located at almost right-angles to the rear elevation of no. 76 Parnell Street) and the two-storey return to adjoining 77 Parnell Street. Similarly, the window in this first-floor return of no. 77 has not been included – although the window above it (within the same return) has been included (window no. 6). This return is constructed within 3m of the boundary with the courtyard. If the applicant adopted a mirror-development approach in relation to this development, then the setback from these windows would be a similar 3.0m on the site side – whereas, instead, it is approximately 7.0m. First-floor windows 2, 3 & 4, within no.s 78 & 79 Parnell Street, are most affected by the proposed development. There is at least one apartment at upper level in no. 79. It is indicated that these windows do not meet the targets for Vertical Sky Component; and windows 2 & 3 do not meet the target for Probable Annual Sunlight Hours. The appellant notes that window 3 appears to be incorrectly noted as 'fail' – where it passes the 25% requirement for Probable Annual Sunshine Hours, albeit with a large change ratio. Windows 1, 5 & 9, within a three-storey return to the rear of 79 Parnell Street, would appear to be high-level bathroom windows. No's 5 & 9 would appear to be the same, second-floor window – although there may be a second window in the northeastern elevation of the return, which is not visible in photographs. In any event, the impact on bathroom windows is not considered significant in terms of daylight and sunlight loss. Many of the lower-level windows in the Parnell Street buildings fail in terms of the Perceived Winter Sunshine Hours targets – but this would not be unusual in a city-centre context in these latitudes.

- 7.2.9. The applicant had no way of knowing whether rooms were occupied or vacant, what type of rooms were lit by the windows, or what uses there were within the buildings.

As adjoining buildings are private; there can be no right-of-entry for survey purposes. The appellant has indicated a willingness to allow access to floorplans of buildings on Parnell Street, for survey purposes. However, it would not be reasonable to require an applicant to establish, beyond doubt, what lay behind each window near a boundary – particularly in a city-centre location such as this one, with a multitude of uses in surrounding buildings. In such cases, the zoning of the block for Z5 city-centre uses, must carry some weight. The applicant has attempted to establish uses on the basis of planning permissions granted for surrounding buildings and window type and size. I am satisfied that this is a reasonable approach. The appellant correctly points out that the advice given in the document “Site Layout Planning for Daylight and Sunlight (2<sup>nd</sup> Edition) 2011” is not mandatory. Living-rooms, bedrooms and kitchens are rooms where daylight is required. Winter sunlight in cities is difficult to maintain, with low sun angles and high buildings.

7.2.10. With some reservations, I would be satisfied that the degree to which windows in Parnell Street buildings do not meet target levels, is minor. The applicant has adopted the mirror-development approach, in setting back the proposed block by 13m from the original back walls of houses on Parnell Street. However, this is a five-storey set-back opposing four-storey Parnell Street buildings. I consider that, given the ‘interior city-block’ location of the proposed extension, that one floor of the proposed development should be removed – so that the block more closely mirrors the Parnell Street development – at four storeys, with a further set-back floor (2.5m). This would involve the removal of a lower floor; and I would suggest the proposed fourth floor (although first to fourth are identical). This would improve levels of daylight and sunlight within the interior of this city block, both for occupants of surrounding buildings and for residents of the hotel itself. A condition should be attached to any grant of permission from the Board, to require the removal of the proposed fourth floor – as shown on Drg. No. 2135 Rev. C01, received by the planning authority with the application on 2<sup>nd</sup> February 2022. This would result in the omission of 16 bedrooms. In view of the recommended omission of the fourth floor, I would consider that the original design for the fifth floor could be reinstated. The floorplan was revised by way of additional information, to set the floor back by an additional 0.5m from properties on Parnell Street – with the resultant loss of one bedroom. The condition should specify that revised plans and elevations be

submitted for the written agreement of the planning authority, prior to commencement of development. As noted elsewhere in this assessment, the removal of two storeys will have the positive effect of retaining two bedrooms within the existing hotel – their removal no longer being required to access the new corridor on each floor.

- 7.2.11. External finishes are to match those of the existing hotel – curtain walling, grey render and PPC white framing (white/aluminium). The buildings which currently address the courtyard offer a wide variety of finishes. In particular, there is a significant amount of plant and satellite TV dishes attached to buildings and placed upon roofs. This courtyard area is not open to view from adjoining streets. Condition 9 of the Notification of decision to grant permission required external finishes to be agreed with the planning authority, prior to commencement of development. I would be satisfied that the proposed external finishes are acceptable. Drawings submitted do not show any rooftop plant on green roofs. Plant is shown in outline on the roof of the permitted seventh-floor Findlater Place extension to the hotel.

### **7.3. Access & Parking**

- 7.3.1. The proposed development involves alterations at basement and ground level, which will alter current internal access/servicing arrangements. The hotel will continue to be serviced from Findlater Place. A service lift to the basement will provide for deliveries/collections and waste – where formerly there was a basement ramp. The proposed arrangements were acceptable to the Transportation Planning Division of DCC, and I would see no difficulty with the new arrangements. The adjoining Academy Plaza Hotel is similarly serviced from Findlater Place.
- 7.3.2. The ramp to the basement is to be removed, and the 13 parking spaces likewise removed. Appendix 5 of the Plan deals with parking requirements. Table 2 indicates that for hotels within Zone 1, no car-parking is required. The proposed development is in accordance with this parking standard. The removal of existing car-parking was acceptable to the Transportation Planning Division of DCC. The site is located immediately adjacent to a Luas line, and a number of bus routes on O’Connell Street – including coach connection to Dublin Airport. The site is within walking distance of

DART and mainline rail services at Connolly Station and Tara Street. There are bicycle rental stands immediately in front of the hotel on Cathal Brugha Street. The site is within easy walking distance of leisure, cultural, retail and dining facilities. The fact that there is no provision made for car-parking is welcome – particularly where there are a number of nearby multi-storey public car-parks. Table 1 of the Plan indicates that for hotels in any zone, 1 bicycle-parking space per 5 staff is required. The developer proposes to provide 34 bicycle-parking spaces within a narrow courtyard area on the eastern boundary of the site – with access from Findlater Place. This arrangement was acceptable to the Transportation Planning Division of DCC. The provision of on-site bicycle-parking will be for staff use only, and this is acceptable. There is on-street bicycle-parking on Cathal Brugha Street for visitors.

#### **7.4. Water Supply, Drainage & Flooding**

- 7.4.1. Water supply to the existing hotel is from a 150mm diameter ductile iron pipe on Cathal Brugha Street. This connection is to be used to serve the extended hotel. A Pre-Connection Enquiry was submitted to Uisce Éireann, and Confirmation of Feasibility letter was issued (dated 31<sup>st</sup> December 2021) – copy included within the Civil Engineering Infrastructure Report for Planning.
- 7.4.2. Foul waste from first-floor level and above is discharged to 225mm diameter combined sewer on Cathal Brugha Street – which in turn discharges into a 1,250mm x 610mm combined brick foul & surface water sewer on O'Connell Street. The discharge is fitted with an interceptor trap on O'Connell Street. Foul waste from the basement area is discharged, via rising main, to the 225mm diameter combined sewer. There is no proposal to alter this discharge arrangement. A Pre-Connection Enquiry was submitted to Uisce Éireann, and Confirmation of Feasibility letter was issued (dated 31<sup>st</sup> December 2021) – copy included within the Civil Engineering Infrastructure Report for Planning.
- 7.4.3. Surface water from the existing hotel is discharged to a 50 cubic metre, slung attenuation tank at basement level – which discharges by gravity to the 225mm diameter combined sewer. In the past, DCC agreed a surface water discharge rate of 8 litres/second; and this is to be maintained. Drainage from the new extension will be attenuated using green roofs, before discharge to the same basement attenuation

tank. The green roofs will also serve to remove some pollutants – resulting in a cleaner discharge to the public sewer network. As discharge is to be to a combined sewer, a dead-leg pipe will be provided on the surface water outfall; against the time when it will be possible to connect to a dedicated surface water sewer in O’Connell Street. These arrangements were acceptable to the Engineering Department – Drainage Division of DCC.

7.4.4. The application was accompanied by a Flood Risk Assessment. The site levels vary from 5.0-5.5m OD. There are no recorded flooding events in the vicinity of the site. The site is not at risk of fluvial flooding from the River Liffey – according to CFRAM maps. The site is, therefore, located within Flood Zone C. Hotel use is classified as ‘Highly Vulnerable Development’. The basement depth of 3.9m is above the groundwater level of 4.7m.

## 7.5. **Other Issues**

### 7.5.1. Red-line Boundary of Site

The applicant has given a reasonable explanation as to why the red-line boundary of the site, appears to be different on different drawings. The larger-scale Ordnance Survey maps are not as accurate as the on-site survey drawings. The survey drawings, being more accurate, have been used to identify the red-line boundary for the planning application – and reflect the position on the ground. The outlining of a site in red does not entitle any applicant to any rights over lands, which may not be in its control. The purpose of the red-line boundary to indicate the extent of the development and the properties on the boundaries which may be impacted. Any development to be carried out under a permission, must be carried out within the red-line boundary of the site.

### 7.5.2. Site Ownership

The 3<sup>rd</sup> Party appellant claims to have leasehold rights over all or part of the courtyard area to the rear. In addition, the appellant claims to have rights of egress for emergency fire purposes, across the courtyard area and onto Findlater Place. Reference is made to properties on O’Connell Street and Parnell Street having access to Stable Lane – no longer evident on the ground. Both the appellant and the applicant have submitted letters from firms of solicitors, attesting to the



rights/ownership over this piece of property. This is not a matter which can be determined by way of planning application and appeal, and may be a matter to be decided in a civil court. I would be satisfied that the applicant would appear to have sufficient legal interest to make the planning application – and note that Dublin City Council was similarly satisfied. Section 34(13) of the Planning and Development Act, 2000 (as amended), provides that “A person shall not be entitled solely by reason of a permission under this section to carry out any development”.

#### 7.5.3. Signage

The proposed development does not provide for any signage – as it is to be constructed to the rear of the existing hotel building.

#### 7.5.4. Financial Contributions & Bond

Condition 2 of the Notification of decision to grant permission required payment of a development contribution of €271,671.52. This condition was not the subject of a 1<sup>st</sup> Party appeal. A similarly-worded condition should be attached to any grant of permission to issue from the Board. Condition 3 of the Notification of decision to grant permission required payment of a supplementary development contribution of €99,207.36 for Luas Cross City (St. Stephen’s Green to Broombridge), as recommended by Transport Infrastructure Ireland. This condition was not the subject of a 1<sup>st</sup> Party appeal. A similarly-worded condition should be attached to any grant of permission to issue from the Board. The amounts of the contributions to be reduced in line with my recommendation to omit the proposed fourth floor. Condition 12 of the Notification of decision to grant permission required payment of a bond for completion of development. Similarly-worded conditions should be attached to any grant of permission to issue from the Board.

#### 7.5.5. Impact on Protected Structures

There are no Protected Structures within the site. To the north, the site abuts the rear of Protected Structures on Parnell Street – no.s 76, 77 & 78. One of the Observers to the appeal points out that 78 & 79 Parnell Street were placed on the Derelict Sites Register of DCC. The existing basement of the hotel extends up to the boundary of these properties on Parnell Street. All of the properties have been extended in the past to the rear – to cover the entire sites. It would appear that all three Protected Structures are currently mostly vacant, and are in a dilapidated state.

The proposed development will not have any impact on the Protected Structures *per se*. The appellant has argued that the hotel extension will affect the future development potential of these Protected Structures – particularly if upper floors are to be used for residential purposes. The applicant points out that the upper floors of these buildings are set back approximately 6.5m from the boundary with the courtyard area. It is proposed to set back the hotel extension an equivalent 6.5m from the common boundary – resulting in a separation of 13.0m. Within the context of a city centre site, this would appear to be a reasonable separation to protect the amenities of occupants of both the hotel extension and any potential future residential use for upper floors of buildings on Parnell Street – the façades of which face directly onto Parnell Street. I have elsewhere in this report recommended the omission of one floor of the proposed development, so that it more closely mirrors development on Parnell Street. I do not see that private residential use and hotel use are incompatible neighbours. I have elsewhere in this report commented on the daylight and sunlight impact of the development – particularly on properties on Parnell Street.

#### 7.5.6. Potential Future Change-of-Use

The application before the Board is for an extension to an hotel. Comment by the 3<sup>rd</sup> Party appellant that the use could be changed to ‘direct provision centre’ by way of exempted development provision in the future, is not a relevant planning consideration.

#### 7.5.7. Site Services

The application is accompanied by a Site Services Report, detailing existing and proposed natural gas, electricity, telecoms and street lighting for, and in the vicinity of, the development.

#### 7.5.8. Site Lighting

The application is accompanied by a Lighting Impact Assessment. In one place, there is a typographical error referring to an ‘hospital’. No façade illumination is proposed. External lighting is required for courtyard areas – with the aim of producing as little light pollution as possible on adjoining properties. Illumination is required at the hotel entrance, café entrance, pub entrance and service entrance. Measures put forward are acceptable.

#### 7.5.9. Energy Strategy

The application is accompanied by an Energy Strategy Report. The introduction contains a typographical error – referring to a ‘Lighting Impact Assessment’. The renovations and new building will have to comply with Building Regulations – with the aim of achieving the highest BER rating possible (A3). Natural ventilation is to be used as much as possible. Extract fans and mechanical heat recovery standards are referenced, together with thermal values for windows, walls, ground and roofs. High-efficiency LED lighting is to be used throughout. Air-source heat pump technology is to be used. Solar thermal technology will not be used. There is no proposal for photovoltaic panels on the walls or roofs.

#### 7.5.10. Archaeology

The entire site is covered by a basement. Whilst the basement slab is to be removed, there is no likelihood of any archaeological material existing beneath it.

#### 7.5.11. Construction & Demolition Waste

The application is accompanied by an Outline Construction and Demolition Waste Management Plan. Part of the basement and ground-floor slabs are to be removed. There is no possibility of reusing demolition waste on the site. The site will be checked for contaminated soil, hydrocarbons and asbestos. The area to be demolished is stated to be 2,900sq.m (including both basement and ground-level slabs). The estimated arisings are 1,740 tonnes. The table of waste arisings is a generic one for residential development – only some of which is relevant to this site. The same goes for the construction waste arisings. Waste will be disposed of to licensed facilities. In the absence of detailed site surveys, it is not possible to be certain of how much demolition waste will be generated. Condition 8 of the Notification of decision to grant permission required *inter alia*, submission of detailed Demolition and Construction Management Plans. A similarly-worded condition should be attached to any grant of permission to issue from the Board. No indication is given of where the site compound and services are to be located. Details of this would be provided within a Construction Management Plan – with licensing, if necessary, from DCC for any temporary sequestration of public footpaths or roads. The applicant should be required to submit a Construction Development

Management Plan, for the written agreement of the planning authority, prior to commencement of any development – in any permission to issue from the Board.

#### 7.5.12. Hours of Construction

Condition 13 of the Notification of decision to grant permission restricted the hours of construction to 0700-1800 Monday to Friday, 0800-1400 on Saturdays, and not at all on Sundays or bank holidays. The applicant has not appealed this condition. It is inevitable that demolition & construction activities will cause some nuisance and disturbance for the occupants of surrounding premises. It would seem likely that the hotel will have to close for the duration of the building works. The documentation submitted with the appeal does not indicate how long the demolition and construction phase will last. Restrictions placed of hours of construction, is proven method of limiting disturbance to largely business hours. This is a city centre site, which is already subject to noise from traffic and surrounding commercial activities. The Board should attach a similarly-worded condition in relation to hours of construction to any grant of permission to issue.

### 8.0 **Recommendation**

I recommend that permission be granted for the Reasons and Considerations set out below, and subject to the attached Conditions.

### 9.0 **Reasons and Considerations**

Having regard to the provisions of the Dublin City Development Plan 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not impact significantly on the O'Connell Street Architectural Conservation Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 11<sup>th</sup> day of May 2022, 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. Details of the materials, colours and textures of all external finishes, including samples, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The proposed fourth floor, as indicated on Drg. No. 2135 Rev. C01, received by the planning authority on the 2<sup>nd</sup> day of February 2022, shall be omitted from the development. The original layout of the fifth floor, shall be substituted for the revised layout of this floor, submitted by way of additional information on the 15<sup>th</sup> day of May 2022. The original sixth floor shall be omitted – as provided for within the additional information submission of the 15<sup>th</sup> day May 2022. Revised drawings, to indicate the reduced-height development, shall be submitted for the written agreement of the planning authority, prior to commencement of development.

**Reason:** To lessen the impact of this interior city block development on surrounding properties in terms of daylight and sunlight, and also on the existing and proposed hotel itself, in the interest of clarity, orderly development and the amenities of the area.

4. The development shall comply with the following requirements of the planning authority:
  - (a) A Construction/Demolition Management Plan and Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority, following consultation with Transport Infrastructure Ireland, prior to commencement of development.
  - (b) The developer shall ensure there is no adverse impact on the Luas line operation and safety.
  - (c) All costs incurred by the planning authority, including any repairs to the public road and services, necessary as a result of the development, shall be at the expense of the developer.

**Reason:** In the interest of the proper planning and sustainable development of the area.

5. Surface water drainage arrangements, including proposals for green roofs and attenuation, shall comply with the requirements of the planning authority for such works and services.

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

6. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

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

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

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

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

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

9. 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.

10. 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.

11. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme (Saint Stephen's Green to Broombridge Line) 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.



12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the provision and satisfactory completion of footpaths and drains, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory completion or maintenance of any works on O'Connell Street, Cathal Brugha Street or Findlater Place. The form and the 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 of works on the public road network, in the interest of traffic and pedestrian safety.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Michael Dillon,**  
**Planning Inspectorate**

**9<sup>th</sup> June 2023.**