



An
Bord
Pleanála

Inspector's Report

ABP-315702-23

Development

Modifications to Reg. Ref. 20/39418 and Reg. Ref. 21/40277 to include the change of use at ground floor level of the permitted offices to hotel to provide 19 no. additional bedrooms. The site contains three protected structures.

Location

Former Moores Hotel site including 9-14 Morrisons Quay, 5 & 5A Fitton Street, 1 Keffe Street and adjoining lands backing onto Catherine and Keffe Street Cork City.

Planning Authority

Cork City Council

Planning Authority Reg. Ref.

2241422

Applicant(s)

Quakeside Limited

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Seamus and Eileen Lantry

Observer(s)

Annemarie Bowen O'Regan

Date of Site Inspection

13th October 2023

Inspector

Joe Bonner

1.0 Site Location and Description

- 1.1. The site of the proposed development consists of part of the ground floor of a recently constructed four and five storey hotel/office development/redevelopment, of an entire urban block on Morrisons Island in Cork City Centre immediately north of the River Lee. The urban block is effectively square and is bounded by Fitton Street East to the north, Morrisons Quay to the east, Catherine Street to the south and Keeffe Street to the west. The streets are between c49m and c51m in length.
- 1.2. As part of the development, three protected structures formerly known as Moore's Hotel, that face east onto Morrison's Quay were retained and redeveloped, while a number of original buildings on Fitton Street and Keeffe Street were demolished and replaced by the new structure. The building also incorporates the former surface level carpark that ran along the southern (Catherine Street) and western sides (Keeffe Street) of the block. An internal courtyard has been created in the centre of the building.
- 1.3. The change of use from office to hotel bedrooms is proposed to occur entirely at ground floor level in the new five storey section along the southern / Catherine Street side of the building, as well as parts of the southern sides of Keeffe Street and Morrisons Quay adjacent to Catherine Street.
- 1.4. The four storey Cork College of Commerce is located to the immediate south on Catherine Street, while five storey apartment and office buildings are located to the north on Fitton Street North. Two storey residences and other buildings including a hard surface and gated parking area are located to the east, on Keeffe Street. The River Lee runs parallel to the Morrison Quay frontage to the west.
- 1.5. The overall site has a stated area of 0.25ha. The proposed development would result in 559.6sqm of permitted office space being converted to hotel use, leaving 1093.2sqm of office space within the development, while the hotel floor space would increase by 763.5sqm. The total floor area of the building would now be 8,564.6sqm.

2.0 Proposed Development

- 2.1. This is the third application for modifications to a hotel and office development / redevelopment on the site since permission was first granted in November 2020. The

superstructure has been constructed and the development is nearing completion, with internal fitout underway. The public notices describe the key elements of the development as modifications to permission Reg. Ref. 20/39418 and Reg. Ref. 21/40277 to include the following:

- Change of use at ground floor level of the permitted offices on Catherine Street to hotel to provide 19 no. additional bedrooms. A total of 206 no. hotel bedrooms will be provided.
- Minor internal alterations to permitted ground floor hotel layout including provision of a new corridor alongside the permitted courtyard.
- The relocation of the permitted bicycle parking within the courtyard to provide 20 no. bicycle parking spaces.
- Minor external alterations to Catherine Street, Fitton Street, Keeffe Street and Morrisons Quay elevations.

2.2. The plans and elevations submitted with the application, which was received by Cork City Council on the 22nd of September 2022, included reference to other modifications to the original under a separate application **P.A. Ref. 22/41290** that was the subject of a decision to grant permission on 19th of September 2022 without any requirements for modifications to be made to the plans. This means that the plans before the Board in this appeal are reflective of the building that has been constructed or was due to be constructed (unless stated otherwise in the assessment). The applicant submitted further plans and elevations on 6th December 2022 as part of the response to the request for further information and these plans also refer to P.A. Ref. 22/41290.

2.3. The application was accompanied by:

- A Flood Risk Assessment Report.
- A Planning Report.
- An Architects cover letter referring to the drawings.
- Pre-planning email correspondence indicating that the Planning Authority had no objection in principle to the proposed change from office use to hotel rooms.

2.4. In response to the request for further information the applicant:

- Proposed to raise the floor level of the proposed bedrooms from 3.20mOD to 3.80mOD as requested.
- Submitted an updated Flood Risk Assessment report, taking account of the proposal to raise the floor level of the bedrooms.
- Submitted a Flood Defence Scheme drawing indicating the locations of demountable flood barriers at all entrances to the hotel.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 11th of January 2023, Cork City Council issued a decision to grant permission subject to the attachment of 7 conditions including:

- Condition No. 2 – Comply with all relevant conditions of permission TP21/39418.
- Condition No. 5 – Flood mitigation measures to be implemented as per the Flood Risk Assessment report of the 6th of December 2022.
- Condition No. 7 – Supplementary Development Contribution required in respect of Cork Suburban Rail Project.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on file, one dated November 2022, which sought further information and the second dated January 2023 which assessed the response to further information and is the basis for the Planning Authorities decision to grant permission.

3.2.2. Planning Officer's First Report

The Planning Officer's first report addresses each of the individual elements of the proposed development. While the development would result in the loss of an entrance from Morrisons' Quay, the proposed changes would be in keeping with the overall character and design of the new built elements of the development. They

raise no objection to the proposal and seek further information as per the Drainage Report.

3.2.3. Planning Officer's Second Report

- The response to the request for further information was deemed acceptable and a grant of permission was recommended.

3.2.4. **Other Technical Reports**

Drainage Division First Report

- Contrary to the suggestion in the Flood Risk Assessment that the development could be considered 'benefiting lands' as a result of the proposed Lower Lee Flood Relief Scheme project, no benefit shall be taken from that scheme as:

a) There is currently no guarantee that it will proceed.

b) The OPW Flood Risk Management Guidelines direct buildings to be designed based on the assumption that flood defences do not exist, to ensure that they are not inadvertently exposed to increased flood risk, in the event of an overtopping or exceedance event occurring.

- Protecting highly vulnerable land uses by reliance on the erection of demountable barriers is not preferred and they disagree with the applicant's assertion that such barriers meet the requirements of Criterion 2(ii) of the Justification Test.
- Further information was sought including a suggestion that the floor level of the bedroom section and entrance lobbies be raised, that up and down ramps be installed to provide access between the different levels and that a drawing is submitted identifying the locations of all the proposed demountable flood barriers.

Drainage Division Second Report

- The applicant has raised the finished floor level of the bedrooms to the defence level of 3.8mOD, which adequately addresses the concerns raised in the request for further information.
- A drawing showing the locations of demountable barriers has been provided.
- The drainage division had no objection and did not propose to attach any conditions.

Development Contributions Section

- No objection subject to conditions regarding standard Section 48 Contribution and a Section 49 Contribution in respect of Cork Suburban Rail.

3.3. Prescribed Bodies

Inland Fisheries Ireland

- Requested that Irish Water or Cork County Council confirms that there is sufficient capacity in the existing public sewer.

3.4. Third Party Observations

- 3.4.1. A third-party observation was lodged by the appellants Seamus and Eileen Lantry, with an address at 6, 7 and 8 Fitton Street East (An Grianan), that is located to the west of the site, on the opposite side of Keefe Street.
- 3.4.2. The observation is set out under three headings:
- The Hedge - They object to the current proposal because the application does not propose to replace a hedge on Keefe Street that was removed as part of the previously permitted development on the site. A hedge would bring back some flora and fauna to the area and make it difficult for pedestrians on the street to interfere with the proposed ground floor bedroom windows.
 - Flooding - The entire site is subject to flooding, particularly the former car park which has been subject to flooding almost every year. Flooding is caused by flat bridges on the River Lee that trap water, which is then forced to flow out onto the Quays and is caused by a combination of high spring tides and fluvial flooding. Protective walls which are proposed by the OPW as a means of flood prevention will not work due to the nature of the soil in the city centre island.
 - Tidal Measurement – Tide tables, which are based on the British Admiralty Chart Datum, which is defined as 0.13mOD above O.D. Dublin, should have been used rather than Malin Head Datum as the site is subject to tidal flooding.
- 3.4.3. The observation is accompanied by a report titled 'Cork City and Environs Flood Protection, which was authored in 2014 by Seamus Lantry, one of the two observers.

- The report refers to four different areas of Cork City that flood and the reasons for that flooding, including low bottom bridges and modern buildings being built on historic floodplains.
- Flooding in the central area of the city is stated to be caused by a combination of any two or more of high spring tides, freshwater flooding, strong winds from the south, southeast or east, and low barometric pressure.
- It suggests that every owner of every building in the city should be encouraged to flood proof their buildings by raising the floor levels and that a condition should be attached to all planning permissions relating to developments of existing buildings requiring that interior floor levels are raised by 0.2m, while the floor levels of all newly constructed buildings should be raised by 1.2 metres, so that at some time in the future the whole city will be flood-proofed.

4.0 Planning History

Application Site

- 4.1. **P.A. Ref. 20/39418** – Permission granted to the applicant Quakeside Ltd by Cork City Council on 3rd of November 2020 for a development that can be summarised as:
- Demolition of existing building, modification of 3 protected structures and development of a new 4/5 storey office and hotel development containing 187 bedrooms. The ground floor of the new building fronting onto Catherine Street will be an office development, with pedestrian accesses to the offices from Morrisons Quay and Catherine Street.
- 4.1.1. An appeal was lodged in respect of the decision to grant permission (**ABP-308386-20**) but was withdrawn prior to the making of a decision by the Board.
- 4.2. **P.A. Ref. 21/40277** – Permission granted to Quakeside Ltd by Cork City Council on 15th September 2021 for the following development: -
- Modifications to permission reg. ref.: 20/39418 to include for minor internal alterations and external changes to windows, doors, roof angle and steps.
- 4.2.1. The permitted amendments are reflected in the plans and elevations submitted the with current application.

- 4.3. **P.A. Ref. 22/41290** – Permission granted to Quakeside Ltd by Cork City Council on 1st of November 2022, for:
- Modifications to permission Reg. Ref.: 20/39418 and Reg. Ref.: 21/40277 to include the following: Modifications in angle and finishings of the plant room roof and internal layout changes to the plant room. Removal of upstands on roof plan. Minor external alteration to Catherine Street, Fitton Street, and Morrisons Quay elevations. Minor external alterations along Keefe Street elevation including relocation of a gate, addition of a gas meter room exit door, and alterations to vent layouts. Minor internal layout changes to ground floor plan along Keefe Street due to relocation of gas meter room.
- 4.3.1. An error is noted in Condition No. 2, where the incorrect planning reference number TP21/39418 was cited, rather than the correct reference TP20/39418.
- 4.4. **P.A. Ref. 22/41261** – Permission granted to PL Hotels and Restaurants Ltd. by Cork City Council on 17th of October 2022, for:
- Permission for development of 3 no. illuminated external signs and building façade lighting.

Nearby Sites

- 4.5. Under Board Ref. **JP28.303247** the Board approved the ‘Morrison’s Island Public Realm and Flood Relief’ development on 17th June 2022, that includes remedial works to existing quay walls, construction of public realm improvement works, and flood defence works between Parliament Bridge and Parnell Bridge along Morrison's Quay and Fr. Matthew Quay and a short section along Union Quay close to Trinity Footbridge.
- 4.5.1. This development has not yet commenced.
- 4.6. Under Board Ref. **PL28.300917 (P.A. Ref. 17/37530)**, **permission was granted on 23rd August 2018, for:**
- Construction of a 4-storey tourist accommodation building consisting of 192 No. bedspaces of tourist accommodation and associated works
- 4.6.1. This development was not constructed and the duration of the grant of permission will expire in December 2023.

5.0 Policy Context

5.1. Cork City Development Plan 2022-2028

- 5.1.1. The relevant Development Plan is the Cork City Development Plan 2022-2028 that came into effect on the 8th of August 2022.
- 5.1.2. The site is zoned 'ZO 05 – City Centre' with a stated objective 'to consolidate and facilitate the development of the central area and to promote its role as a dynamic mixed-use centre for community, economic, civic, cultural and residential growth'.
- 5.1.3. ZO 5.2 states that primary uses in this zone include but are not limited to offices and hotels while ZO 5.3 states that mixed use developments should achieve a vertical and horizontal mix of uses.
- 5.1.4. The site contains three protected structures: No.11 Morrison's Quay (Ref:PS1152), Nos. 12 and 13 Morrison's Quay (Ref:PS1155) and a post box on the façade of No.10 Morrison's Quay (Ref:PS998). Chapter 8 Heritage, Arts and Culture set out policies and objective related to works to protected structures including:
- Objective 8.19 Record Of Protected Structures
 - Objective 8.21 Enabling Development
- 5.1.5. The site is also located within the boundary of the 'South Channel' Architectural Conservation Area (ACA) and Sections 1.179 to 1.192 of Volume 3 of the Cork City Development Plan 2022-2028 set out the description of the area, building typologies and defining character as well as the Architectural, Technical, Historical, Social and Cultural elements that collectively make up the ACA.
- 5.1.6. Under the heading of 'Tourism', Section 7.79 of the Development Plan addresses Visitor Accommodation. Section 7.81 continues by stating that 'In the majority of cases, hotel accommodation should be delivered within the City Centre and Urban Town Centres where public transport capacity and associated visitor services are most prevalent.
- 5.1.7. Chapter 11 addresses 'Flood Risk Assessment, Land Use Zoning, Climate Change and Flooding and in paragraph 11.263, it states:

- Proposals seeking to change the use of existing buildings from a less vulnerable use to a use that would be more vulnerable to the effects of flooding may not be permissible in areas of elevated flood risk, whilst some change of use proposals not increasing the vulnerability to the effects of flooding or small-scale extensions to such buildings will be considered on their individual merits but are acceptable in principle.

5.1.8. Key elements of paragraph 11.269 are stated below:

- Applications for vulnerable development in flood risk zones, including within Flood Zones A and B in the City Centre and the Dockland areas and in areas at risk under the OPW's Mid-Range Future Scenario, shall provide details of structural and non-structural risk management measures to include, but not be limited to specifications of the following:

- 1. Floor Levels - In areas of limited flood depth, the specification of the threshold and floor levels of new structures shall be raised above expected flood levels to reduce the risk of flood losses to a building, by raising floor heights within the building structure using a suspended floor arrangement or raised internal concrete platforms.

- 2. Internal Layout - Internal layout shall be designed and specified to reduce the impact of flooding (e.g., living accommodation, essential services, storage space for provisions and equipment shall be designed to be located above the predicted flood level). In addition, designs and specifications shall ensure that, wherever reasonably practicable, the siting of living accommodation (particularly sleeping areas) shall be above flood level.

- 3. Flood-Resistant Construction - Developments in flood vulnerable zones should specify the use of flood-resistant construction aimed at preventing water from entering buildings - to mitigate the damage floodwater causes to buildings.

The design of the flood resistant construction shall specify the need to protect the main entry points for floodwater into buildings - including doors and windows.

5.2. National Policy

5.2.1. The following National Policy documents are relevant:

- Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009).
- Circular PL 2/2014 of the Flood Risk Management Guidelines for Planning Authorities (which added new sections 4.27 and 5.28).

5.3. **NIAH**

- 5.3.1. 11 Morrisons Quay that is on the of the buildings that was retained and restored as part of the overall development of the site, is listed on the NIAH as a Terraced four-bay three-storey building, c. 1845; meeting hall of Ancient Order of Hibernians, that is of Regional Architectural Importance.

5.4. **Natural Heritage Designations**

- 5.4.1. The site is located c.4.8km upstream of Cork Harbour SPA (Site Code 004030) and is located c.9.5km from the Great Island Channel SAC (Site Code 004219) via the River Lee that runs parallel to the front of the site on Morrisons Quay.

5.5. **EIA Screening**

- 5.5.1. Having regard to the existing development on site, the limited nature and scale of the proposed works within the footprint of an existing building in a serviced urban area and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended). 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. A third-party appeal was lodged by the original observers Seamus and Eileen Lantry. The issues raised in the introduction to the appeal can be summarised as:
- Their home is located eight metres across the street from the site of the proposed development.

- The existing building extends the full length of Keeffe Street and is orientated in such a way that the sun is blocked until 11:30am. The sun deprivation seriously impacts their enjoyment of their dwelling.
- The building is obtrusive from seven of their windows and blocks out of the sky from one of their velux windows.
- Cracks have developed as a result of the development and damage to the integrity and stability of the structure will be evident to the Board Inspector who was invited to view this damage.

6.1.2. The grounds of appeal continue under six separate headings being:

Flooding

- Flooding is a big problem for those who live in Cork, especially those who live on Morrisons Island and mainly occurs when the high spring tides coincides with freshwater floods on the river Lee in front of the site.
- In 2022, flooding that was previously absorbed by that part of the site, which was previously a carpark, flowed along Morrison's Quay and across the South Mall where it entered buildings including the Maldron hotel which had never before flooded.
- Representatives of the applicant informed the appellants that they had raised floor levels which solved the flooding problem on the application site but increased the spread of flooding to other properties on Morrisons Island including the appellant's home.

The Hedge

- Reference is made to a hedge that was removed before this application was submitted, as part of the original grant of permission for the hotel and office development.

Privacy and overlooking

- The appellant's living space is overlooked from hotel rooms in the 23m high building, which is a serious invasion of their privacy.

Access

- Plans for the building indicated that food and bar storage areas are to be accessed from Keefe Street while waste is also to be removed from Keefe Street. This will create cause serious congestion as it is a busy street for traffic and pedestrians.
- The appellants have to take their waste to a recycling center because waste collection trucks refused to enter the narrow medieval streets.
- If the development proceeds the appellants will be subject to the heavy noise of garbage trucks at night and their comfort and lifestyle will be greatly effective.
- If permission is granted, the appellants want to condition attached that requires all deliveries of supplies and collection of empties and waste to be done by vehicles of less than 3,500kg.

Energy

- The overall building on the site will have substantial energy consumption and it is necessary that conditions are imposed requiring that proper and safe ventilation system be installed to include air washers.
- The appellants have been the victims of dust and other material microparticles over the last two years and their respiratory problems have gotten much worse.

Telecommunications Blockage

- The appellants object to the height of the building as it interferes with their satellite communications. Their reception is blocked, and they have had to increase the height of their receiving aerial on three occasions to date.
- The overall building on the site is much too high for a residential area and if permission is granted it should be on the condition that the height of building is reduced by two floors as any building over five floors is by definition not sustainable.

6.2. Applicant Response

- None

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- 6.4.1. An observation was submitted on behalf of Ms. Anne Marie Bowen O'Regan with an address at Upper Deck, Coast Road, Fountainstown, County Cork, c17km southeast of the site. The observation supports the third-party grounds of appeal and makes brief reference to all of the issues raised therein.
- 6.4.2. The observation notes that the First Schedule of the decision to grant permission referenced the need for compliance with the conditions set out in the Second Schedule, but that Condition No. 2 contains an error in that it has cited an incorrect planning reference being TP21/39418 rather than the correct reference number, which should have been TP20/39418, and which contains 32 No. conditions.
- 6.4.3. They also refer to Condition No's 5 and 12 of TP20/39418 that address protection of biodiversity and noise and vibration during piling. By citing the incorrect previous application number, the applicant is absolved from having any regard to these or other conditions of the previous grant of permission, which is inappropriate.
- 6.4.4. It is requested that the concerns of the third-party appellants are taken into account and that the incorrect reference in Condition No. 2 is corrected.

7.0 **Assessment**

- 7.1. Having examined the application details and all other documentation on file, including information received in relation to the appeal, having inspected the site and surrounding area including the interior of the building subject to the application, which has been constructed and is substantially complete, and having regard to the relevant local planning policies and the planning history of the site, which is relevant, as this application refers to modifications to earlier grants of permission that have been put into effect, I am satisfied that the main issues in this appeal that relate to the proposed development, are those raised in the grounds of appeal and the third party observation in respect of the grounds of the appeal.

7.1.1. The grounds of appeal contain an introduction and six individual headings (see section 6.1.2). Many of the grounds of appeal relate to the principle of the development of the overall site, which is almost completed at this time pursuant to previous grants of permission and not to the specific elements of development that are the subject of this application. Therefore, I am satisfied that the following grounds of appeal are outside the scope of this appeal being:

- The appellants seeks the removal of the top two of the floors of the building the building interferes with telecommunications signals.
- Cracks are stated to have appeared in the appellant's home since works commenced on the main hotel/ office development/ redevelopment.
- The existing building will cause overlooking and the loss of privacy at the appellants home from hotel rooms looking down at it.
- Air scrubbers should be installed to make air emissions safe.
- The removal of a hedge as part of an earlier grant of permission.

7.1.2. It is also noted that the grounds of appeal have raised no objection to the following elements of the proposed development:

- The principle of the provision of additional bedrooms in the permitted hotel rather than retaining the permitted office use.
- The provision of a new corridor within the courtyard to connect the proposed bedrooms to the hotel lobby and ramped access from 3.2mOD to 3.8mOD.
- The relocation of bicycle parking within the central courtyard to facilitate the construction of the corridor connecting the new bedrooms and the lobby.
- Proposed external alterations to the facades of the building.

7.1.3. I am satisfied that each the elements of the proposed development referred to in paragraph 7.1.2 above is an acceptable form of development and would not have a negative impact on the character of the protected structures that make up part of the overall site or the character of the South Channel ACA and furthermore they will not have a detrimental impact on the residential amenities of properties in the vicinity including the appellant's property.

7.1.4. I am satisfied that the ground of appeal that need to be addressed in detail can be dealt with under the following headings:

- Principal of Development
- Flooding
- Access for Collection and Deliveries
- Incorrect Planning Reference in Condition No. 2
- Other Matters
- Appropriate Assessment

7.2. Principle of Development

7.2.1. Section 7.79 of the Cork City Development Plan 2022-2028 addressing 'Visitor Accommodation', states that an under-supply of visitor bed spaces in Cork City pre-2018 is being addressed through new hotel proposals and extensions to existing facilities, that there is likely to be more demand for accommodation to support commercial and leisure tourism and this will need to be supported by visitor accommodation growth into the future. Section 7.81 continues by stating that in the majority of cases, hotel accommodation should be delivered within the City Centre and Urban Town Centres where public transport capacity and associated visitor services are most prevalent. It is noted that the original grant of permission on this site included a condition that no parking was to be provided on site.

7.2.2. The site is zoned 'ZO 05 – City Centre' and ZO 5.2 states that primary uses in this zone include but are not limited to offices and hotels. The principle of a hotel at this site is established by the grant of permission issued under P.A Ref. 20/39418 and I am satisfied that the principle of the provision of 19 additional hotel rooms on the ground floor of the existing building as well as associated developments including the link corridor, revised bike parking arrangement and minor revisions to existing building facades are acceptable, subject to the detailed assessment below.

7.2.3. It is proposed to raise the level of the bottoms of the windows in the proposed bedrooms from 1.4m to c.2m above the level of the adjacent footpath, primarily on Catherine Street to the south as well as on parts of Morrisons Quay and Keffe

Street. The floor levels of the bedrooms would be 1.3m above the footpath level and 700mm below the cill level and I am satisfied that this arrangement will provide for a level of security and privacy for the occupants of the bedrooms while also facilitating surveillance of the adjoining street.

7.3. **Flooding**

- 7.3.1. Section 11.263 of Chapter 11 of the Cork City Development Plan provides that land use zoning objectives are subject to a number of conditions with respect to lands that have already been developed in Flood Zones A or B. Potential conflict between zoning and highly or less vulnerable development in Flood Zone A will be avoided by requiring development proposals to be accompanied by detailed Flood Risk Assessments, which the applicant has provided. The Development Plan also states that proposals seeking to change the use of existing buildings from a less vulnerable use to a use that would be more vulnerable to the effects of flooding may not be permissible in areas of elevated flood risk, whilst some change of use proposals not increasing the vulnerability to the effects of flooding or small scale extensions to such buildings will be considered on their individual merits but are acceptable in principle.
- 7.3.2. Section 4.27a of the Flood Risk Management Guidelines referring to existing, developed, zoned areas at risk of flooding, notes that additional development such as changes of use that could increase the risk or number of people in the flood-prone area can be expected in such a zone into the future. Section 5.28 of Guidelines states that applications for most changes of use of existing buildings are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. It states that applications must demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities.
- 7.3.3. The grounds of appeal refer to the loss of what the appellants consider to be a natural floodplain, in the form of the former carpark area on the site, that has been developed on foot of the earlier grants of permission and does not form part of this application. The grounds of appeal also note that the applicant has informed the

appellants that floors have been raised on the application site, which solves the flooding problems on application site, but, as a result, in the appellants opinion, has resulted in an increase in the spread of flooding to other properties on Morrisons Island including their home.

- 7.3.4. It is noted that the appellant's original observation to Cork City Council included a report authored by one of the appellants titled 'Cork City and Environs Flood Prevention.' It recommended that the floor levels of new buildings in the city centre area should be raised, by 1.2m to help remove all potential flood threats in the city. The grounds of appeal take a different view and highlight potential negative impacts of raising floor levels on a site-by-site basis, as they consider the floodwaters that previously filled the application site have now been responsible for flooding in areas that never previously flooded. No technical or hydrological evidence was provided in the ground to appeal to support the appellants opinion.
- 7.3.5. In granting permission for the original development of the site under P.A Ref. 20/39418, Cork City Council took into consideration the Flood Risk Assessment Report that was submitted with that application. Sections 4.1 of that Report set out 'Proposed Flood Protection and Mitigation Measures' and referring to the proposed office area to the south of the site, which is now the area where the proposed hotel bedrooms would be located, stated that it will have a ground floor level of 3.20mOD, and that all external walls will be constructed of reinforced concrete up to a level of 3.9mOD, with demountable flood barriers located at each entrance location up to 3.9mOD.
- 7.3.6. Condition No. 27 of P.A Ref. 20/39418 required flood defence and flood mitigation measures be carried out in accordance with the submitted Flood Risk Assessment Report and that the works are to include actual measures selected to address the risk of flooding within the property, i.e., flood defence to minimum of level proposed, flood resilience of the building and egress from the building in the event of flood.
- 7.3.7. The effect of Condition No. 27 is that entire site will already be provided with flood protection measures up to 3.90mOD, which includes based on a maximum current scenario flood design level for a 1:200 year return event which is 3.00mOD, plus a 500mm allowance for climate change, freeboard of 300mm and an additional 100mm of freeboard.

- 7.3.8. The key difference between the permitted flood prevention arrangement from P.A. Ref. 20/39419 and what is proposed in the current application is that the floor level in the area accommodating the proposed hotel bedrooms would be solid up to a level of 3.8mOD rather than 3.2mOD, as permitted in P.A Ref. 20/39418. The additional protection proposed to be provided to 3.90mOD in the form of demountable entrance barriers that would be placed at all entrances to the hotel/office development was already permitted in P.A. Ref. 20/39418.
- 7.3.9. In light of the above, I am satisfied that the proposal to raise part of the ground floor level of the existing building from 3.20mOD to 3.8mOD would constitute an internal amendment only to the already permitted and protected structure and would not increase the result in the displacement of any water from the site and will not contribute to any increase in the spread of flooding to other properties on Morrisons Island, including the appellants property.

7.4. Access for Collection and Deliveries

- 7.4.1. The appellants have requested that a condition is attached to limiting the size of delivery and waste collection vehicles to less than 3,500 KG, as trucks and lorries visiting the site would compromise their home. 3,500 kg would equate to very small vehicles servicing the development, which it is important to remember includes the already permitted and soon to open hotel development, which already has 187 bedrooms, kitchen, dining area and bar, as well as 1092.2sqm of office space.
- 7.4.2. Condition No. 13(a)b attached to the grant of permission for P.A Ref. 20/39418 required a Waste Management Plan to be submitted, which it was, and the Planning Authority confirmed that the compliance submission was satisfactory. A similar condition was attached as condition No. 9 to Planning Ref. 21/40277 following the submission of the same Waste Management Plan, by way of compliance, Cork City Council confirmed in a letter dated 27th September 2023 that compliance had been achieved.
- 7.4.3. The Waste Management Plan shows the bin store opening out onto the Keefe Street facade and it anticipated that large 3-axle refuse vehicles of 9.86m in length will collect waste from the development. the waste collected for the site will form part of the existing refuse collection route and strategy already operating in the area and

would not be a dedicated route solely for the hotel and office development. The Waste Management Plan anticipates four waste collections per week.

- 7.4.4. Attaching a condition to this application to limit the size of waste collection vehicles that can serve as the overall site, would be contrary to an existing agreement in respect of the overall site and would not have the effect of preventing large vehicles travelling along the local street network servicing other developments in the area. It could also have unintended consequences, as it would mean that many more small vehicles would have to service the development on a more frequent basis that would be expected from larger vehicles and could lead to more disruption to the appellants than would be experienced from less frequent visits from larger vehicles.
- 7.4.5. Deliveries of goods will be organised by individual suppliers who will have a range of different vehicle sizes.
- 7.4.6. I am satisfied that it would be appropriate to attach a condition to this application limiting the size of vehicles that would service the entire hotel and office development, as the servicing of the nineteen proposed bedrooms is indivisible from the overall hotel development.

7.5. **Incorrect Planning Reference in Condition No 2**

- 7.5.1. In condition No. 2 of the decision to grant permission reference was made to a previous permission planning register reference TP21/39418. This matter was raised in the grounds of a third-party observation submitted in respect of the appeal. Having checked the planning register, I am satisfied that the correct planning register reference number should have been TP20/39418.
- 7.5.2. Regardless of the typographical error in condition No. 2 of the decision to grant permission, the developer continues to have an obligation to comply with all of the conditions of TP20/39418 under the terms of that grant of permission. This matter can be corrected by way of condition if the Board decides to issue a grant of permission.

7.6. **Other matters**

Minor discrepancy in permitted Catherine Street elevation

One minor discrepancy is noted in ground floor elevation of the 'Elevation – Catherine Street' Dwg. No. 1062-MDO-XX-ZZ-DR-A-08010, where a window is shown to extend to ground floor level, whereas the bottom of the window is actually raised above ground level by c300mm. It is proposed to raise the level of this window as part of the development, and I am satisfied that the difference between the window as permitted, and the window as constructed, is not material to the consideration of this appeal.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development which constitutes a change of use and minor modifications to an existing building within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the ZO 05 zoning provision of the Cork City Development Plan 2022- 2028, the site's planning history, the pattern of development and recent permissions in the area and to the nature and scale of the development proposed, it is considered that subject to the compliance with the conditions as set out below, the proposed development would not increase the risk of flooding in the area, would not seriously injure the visual or residential amenities of the area, would respect the character and pattern of development in the area 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 22nd of September 2022, as amended by revised plans and particulars submitted on 6th December 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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The development shall comply with all relevant condition of the previous grant of permission P.A Ref. 20/39418</p> <p>Reason: In the interests of orderly development.</p>
3.	<p>The flood protection and mitigation measures set out in the Flood Risk Assessment Report and Flood Defence Scheme drawing received by the planning authority on 6th December 2022 will be implemented in full. Any proposed deviations from the proposed flood mitigation measures will be discussed with and agreed in writing with the planning authority prior to implementation.</p> <p>Reason: To prevent flooding of the development and in the interest of public health.</p>
4.	<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 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</p>

	<p>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>
5.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rial Project 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.</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>

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.

Joe Bonner
Senior Planning Inspector

23rd November 2023