



An
Bord
Pleanála

Inspector's Report

ABP-315887-23

Development

Protected Structure: Modifications to development permitted under ABP-307217-20 (P.A. Ref. No. 4423/19) including the change of use to 86 hotel rooms, alterations to building together with all associated site works and services. The site includes Protected Structure (RPS Ref. No. 5821).

Location

No. 27-29 New Row South, Dublin 8.

Planning Authority

Dublin City Council South.

Planning Authority Reg. Ref.

4778/22.

Applicant(s)

TC Fumbally Properties Limited.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party.

Appellant(s)

Aloft Hotel Group.

Observer(s)

None.

Date of Site Inspection

30th day of January, 2024.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. Having carried out an inspection of the site and its setting I consider that the Site Location and Description provided by the Boards inspector in recent appeal case ABP-307217-20 for No. 27 to 29 New Row South is still largely applicable. It reads:

“The subject site is located approximately 1.6km to the south west of Dublin City Centre and to the west of the R137, Clanbrassil Street Lower / New Street South. St. Stephens Green lies within 1km of the site. The site occupies a large corner site with frontage onto New Row South to the west and Blackpitts and Fumbally Lane to the southwest.

New Row South is a narrow residential street with two storey, red brick terraced housing to the north east of the subject site. Directly across the road from the site, there is an apartment development rising to 3 and 4 storeys. The Aloft hotel, which rises to 7 storeys, occupies the corner site to the south west of the site, with the Mill Street Student Accommodation building, further south west, and also rising to 7 storeys. The wider area enjoys a variety of uses and has been undergoing redevelopment through the redevelopment of a number of large sites”.

- 1.1.1. To this I note that this irregularly shaped site has a stated 2,248m² area. It has a prominent corner position at the staggered junction of New Row South, Blackpitts, Wards Hill, Fumbally Lane and Mill Street. With the main area of the site cleared and the existing 3-storey stone with brick dressings as well as slate roof over building on site dating back to the early 1800s setback c25m from this junction and addressing the southern side of New Street South.
- 1.1.2. This building is a Protected Structure (RPS Ref. No. 5821) and is a surviving part of the Liberties industrial heritage. This building is described in the RPS as a former laundry building but has had several uses in its history, including a distillery and more recently it has been used as a studio / office space. It would appear to be in a vacant state. Adjoining this building on its northern side is a gated vehicle access onto New Row with a restricted in width linear stretch of land running alongside this building and providing separation between it and a period two storey terrace of dwellings.
- 1.1.3. At some recent point in time all the 20th Century buildings on this site have been demolished and the site cleared. This area has now been fenced to prevent access

with access to this area via a gate located at the westernmost end of its Fumbally Lane boundary.

- 1.1.4. The surrounding area contains a mixture of land uses but it is predominantly residential in its functional land use character.

2.0 Proposed Development

- 2.1. Planning permission is sought for modifications to a mixed-use development scheme granted permission by the Board under ABP Ref. 307217-20 (P.A. Ref. No. 4423/19) on the 19th day of November, 2020. The application site contains a protected structure (referred to as a former laundry building under RPS Ref. No. 5821). The proposed modifications to the permitted development consist of the following:

- Change of use of the 69 no. permitted single occupancy shared accommodation units and amenity spaces from fourth to seventh floor level and extension to permitted 7th floor level to provide 86 no. hotel bedrooms.
- Internal alterations to permitted first to third floor level to provide 5 no. additional hotel bedrooms on previously permitted floors.
- The proposed development will increase the total number of permitted hotel rooms to 235 no. rooms.
- Internal alterations to permitted ground floor level including the removal of residential lounges, gym, restaurant, and public community/event space.
- The proposed ground floor level comprises co-working, café/restaurant event space, hotel reception, lounges areas and ancillary back of house areas.
- Omission of the basement and relocation of plant to an enclosure at 7th floor level.
- Provision of 3 no. new window openings to the existing building, a Protected Structure (Note: RPS Ref. No. 5821).
- Alterations to the previously permitted works to the façade to the Protected Structure including reconfiguration of main entrance points and modifications to the fenestration at first floor level.
- The proposed development includes elevational changes to the permitted 8 storey building to the southwest of the site including enclosure of the multi-storey staircase.

- Provision of a c.1.4-metre pop-up area at roof level for ventilation purposes and increased parapet height of the building by 300mm to accommodate blue roof system.
- Reduction in cycle parking provision at ground floor level.
- All associated development works and services.

According to the accompanying planning application form the 555m² ground floor area of the existing building on site would be used for co-working, café/restaurant as well as back of house and plant use. With its first and second floor areas both with a stated 570m² first floor area forming part of the hotel use. In total 1,526m² floor area is to be retained on site with the proposed floor area of new buildings stated as 7,690m². This I note to the Board is an increase of 1,481m² from that permitted under the previous application. This gives rise to a proposed plot ratio of 3.4 and a site coverage of 51%.

Table 1: Breakdown of Mixed-Use Development Sought

Class of Development	Gross Floor Area in M ²
Hotel (including back of house)	7,336
Café/Restaurant	205
Co-working	149

This application is accompanied by the following documents:

- Planning Report
- Consulting Civil Structural Engineers Covering Letter
- Daylight & Sunlight Assessment
- Landscape Design Statement
- Photomontages of Existing, Permitted and Proposed Visual Context
- Operational Management Plan
- Operational Waste Management Plan
- Site Lighting Report
- Sustainability & Energy Report

- 2.1.1. On the 21st day of December, 2022, the applicant submitted their further information response to the Planning Authority. This essentially consisted of revised architectural elevational treatment to create a more vertical emphasis to the fenestration treatment at upper-level windows and included differences in brickwork detailing as well as the removal of the two storey in-set feature along New Row South and Blackpitts elevation with the building line of the floors brought out to the elevations below. This change results in slightly larger floor area for the fourth and fifth floor levels with each of these floors now including a wheelchair accessible room. These have been relocated from the first and second floor of the Protected Structure in the drawings as lodged. Additionally, the chamfered south west corner to the colonnade design permitted under ABP-307217-20 (P.A. Ref. No. 4423/19) is reintroduced to provide an adequately sized public footpath and access.
- 2.1.2. No change in hotel bedroom number, co-working or café/restaurant area arises from these changes; notwithstanding the total floor area of new and retained floor area is given as 7732m² with 7,162m² relating to the hotel use and the plot ratio rises to 3.44.
- 2.1.3. The further information response is accompanied by a:
- Cover Letter
 - A response from their consulting engineers which include TRICs examination of the proposed development and Autotrack Analysis
 - Archaeological Impact Assessment

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By Order dated the 26th day of January, 2023, Dublin City Council issued a notification of decision to **grant** planning permission subject to 20 no. conditions including:

Condition No. 6: Agreement of external finishes.

Condition No. 7: Signage to be subject to a separate planning application.

Condition No. 8: Restricts use of the building.

Condition No. 9: Restricts advertisement signs.

Condition No. 10:	Restricts ground floor glazing treatment.
Condition No. 11:	Restricts any further development at roof level.
Condition No. 12:	Restricts provision of telecommunications apparatuses.
Condition No. 13:	Transportation Planning Division requirements.
Condition No. 14:	Engineering Department requirements.
Condition No. 15:	Conservation Department requirements.
Condition No. 16:	Archaeological Department requirements.
Condition No. 18:	Noise Controls.
Condition No. 19:	Dust Monitoring.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer's report** is the basis of the Planning Authority's decision. This report included the following considerations:

- The overall revised elevational treatment which includes the main façade being divided into three plots which are marked by three different shades of bricks with the darker brickwork adjoining the Protected Structure and becoming lighter towards New Row and Blackpitts together with the loss of the three storey upper floor level opening is acceptable subject to safeguards.
- The updated proposed ground floor plan and topographical survey demonstrates that the amendments do not encroach onto the public footpath.
- The reinstalled chamfered corner is welcomed.
- The amendment does not seek to alter the permitted service access arrangements.
- The details provided of the trip generation are satisfactory.
- 28 cycle parking spaces should be conditioned.
- The mitigation set out in Section 3 of the Archaeological Assessment is concurred with.

- Given the sensitive location and high archaeological potential of the site it is recommended that the applicant agree preservation *in situ* and presentation of a section of the 18th century Recorded Monument within the new scheme prior to the commencement of development.
- No AA or EIA issues.
- Concludes that having regard to the planning history of the site which determined the scale of development that is acceptable it is considered that the proposed development would not seriously injure the amenities of neighbouring properties. It also considered that the proposed development would provide a high-quality hotel accommodation with active ground floor uses opening onto a prominent corner of New Row South and Blackpitts in a manner that is compliant with the Development Plan provisions. There are no material considerations to outweigh a grant of permission.

The **initial Planning Officer's report** concluded with a request for further information on the following matters:

Item No. 1: Correct permitted plans were sought.

Item No. 2: Concerns were raised in relation to the proposed revisions of the elevational design, in particular the loss of vertical emphasis to the upper floor windows.

Item No. 3: Considered that the large two storey feature opening along New Row South and Blackpitts elevation is no longer necessary given that it does not serve any social spaces.

Item No. 4: Sets out the Transportation Planning Divisions further information request.

Item No. 5: Requests an updated Archaeological Assessment.

I further note the following considerations set out in the initial Planning Officer's report:

- The operator of the previous living and hotel development went into liquidation and the now proposed operator is understood to be a world-wide experienced hotel operator.

- The loss of residential accommodation within the city is of concern to the Planning Authority as is the proliferation of hotels within the wider Dublin 8 area and therefore a clear case in support of the proposal was requested from the applicant.
- The proposed hotel use represents an employment generating use that is permissible under the 'Z6' land use zoning objective and that additional jobs will be created both during the construction and operation. Additionally, the hotel use has the benefit of an extant permission. In this case it is considered that this proposal is a more effective means of meeting hotel accommodation needs in the city rather than committing another site to this use.
- There is a proliferation of student accommodation with limited tourist accommodation use in this area.
- There has been a change to National Policy since the grant of permission of the parent application which now places a presumption against the provision of shared living accommodation.
- A detailed management plan for the hotel, café and co-working should be required by way of condition.
- The impact on the Protected Structure is not considered to be any greater than that previously approved.
- An updated archaeological assessment is required.
- The boundary appears to have been altered from the previous development.
- The amended proposal includes a further pedestrian access from New Row South serving the plant room at the northern end of the site. This is not objected to.
- Concerns arising from the outward opening doors can be addressed by condition.
- The previously permitted development had a chamfered corner to colonnade design at the south western corner/Blackpitts elevation. This provided for a better public domain outcome than that now proposed.
- A review of the design of the vehicle entrance off Fumbally Lane to clearly demonstrate that vehicle service access and drop off can be facilitated is required.
- A review of trip generation of the hotel use is required.

- The quality of the cycle spaces is unclear.
- More detailed operational management plan can be required by way of condition.
- It is concluded that the proposed development would give rise to additional employment on a highly accessible site, the development accords with the site's 'Z6' land use zoning but concerns are raised that the design requires elevation improvements.

3.2.2. Other Technical Reports

Archaeology: Final report noted that the proposed development sought does not include a basement level, notwithstanding, considered that it would impact on the subsurface remains of the 'Dutch Billy' houses, a Recorded Monument (DU018-020350). It supports the preservation by record be undertaken comprising an open plan excavation within the Recorded Monument, with monitoring undertaken within the 19th century Protected Structure alongside the inclusion of a presentation feature within the new scheme where a section of the Recorded Monument is preserved *in situ* and presented under glass. They concurred that this ideally should comprise of a corner fireplace, a prominent feature of the Dutch Billy building type and overall concurred with the mitigation presented by the applicant in their further information submitted documentation.

Given the sensitive location and high archaeological potential of the site and in accordance with the Dublin City Development Plan, 2022-2028, they recommend that the site be excavated as per their recommendations provided.

They further seek that the applicant agree details for the preservation *in situ* and presentation of a section of the 18th Century Recorded Monument within the new scheme with the Planning Authority prior to the commencement of development.

This report concludes with no objection subject to the imposition of their recommended archaeological safeguards.

Conservation Officer's Report: Final report raised no objection to the amendments set out in the applicant's further information and considered that the proposed works comprise of minor revisions to the previously approved planning permission for development on this site. It was also considered that the proposed development would achieve a clear conservation gain for the building and reverse unsympathetic works

executed in the past. The previous imposed conservation related conditions for the previous application in their view still relevant and applicable to the development now sought.

Drainage Division: Final report raised no objection subject to standard conditions.

Transportation Division: Final report raised no objection subject to compliance with recommended standard and not standard conditions including:

- *“Prior to the commencement of development, details of works and materials proposed within the public domain, New Row South and Blackpitts footpath and carriageway is required and shall be submitted to the Planning Authority for written agreement. Works and materials shall be in accordance with Construction Standards for Roads and Street Works in Dublin City Council, and all works shall be provided at the applicant/developer’s expense”.*
- *“A minimum 28 no. bike parking spaces shall be provided. Cycle parking shall be secure, conveniently located, sheltered and well lit. Shower and changing facilities for staff shall be provided as part of the development. Key/fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.”*

This final report in relation to cycle parking spaces considered that the revised 20 number spaces to not be acceptable and that the Dublin City Development Plan requires 1 long term space per 5 employees and additional/visitor guest spaces. The provision of 28 no. spaces were deemed to be acceptable to comply with the requirements of the Development Plan.

Environmental Health Officer: No objection subject to compliance with recommended standard conditions.

3.3. Prescribed Bodies

- 3.3.1. **TII:** The proposed development falls within the area for the adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen’s Green to Broombridge Line) and is a type of development that is not exempt from the payment of this levy. It is therefore requested that an appropriate condition be imposed in the event of a grant of permission.

3.4. Third Party Observations

- 3.4.1. The Third-Party Appellant submitted an observation during the Planning Authority's determination which raised the same substantive issues as their appeal submission.

4.0 Planning History

4.1. Site – Recent & Relevant

- **ABP-307217-20 (P.A. Ref. No. 4423/19):** On the 19th day of November, 2022, the Board **granted** permission subject to conditions for a mixed use 4 to 8 storeys over basement development that included a hotel, build-to-rent shared living accommodation, co-working/artistic-creative studios, restaurant, and public community/event space together with all associated works and services.

4.2. Site – Other

- **P.A. Ref. No. 3335/17:** On the 16th day of February, 2018, permission was **granted** for a variation to extant permission, P.A. Ref. No. 3099/09/x1. The modifications included: changing the existing warehouse building to office use; replacement of the roof of the Protected Structure with a revised design; creation of roof terraces on the warehouse building and the 7th floor of the new apartment building; construction of a new 5 storey annex to the permitted apartment building; omission pool and extend gym into that space; change 3 retail units to provide a restaurant; amend floor levels of office; redesign elevations of apartment building; all associated site works and services.
- **P.A. Ref. No. 3099/09:** On the 16th day of July, 2009, permission **granted** for a development which proposed the restoration, refurbishment, and extension to the rear of No.26 and 27 New Row South (a Protected Structure). The development included the demolition of No. 28 and 29 New Row South and the construction of a 6-storey and roof top plant area with an overall height of 21.5m with the upper two levels of residential accommodation (1, 2 and 3-bed apartments) set back, over basement residential building with commercial / retail use at ground floor. * P.A. Ref. No. 3099/09/x1 granted permission to extend the duration of permission.
- **P.A. Ref. No. 3840/08:** On the 15th day of September, 2008, permission was **refused** for a development which proposed the restoration, refurbishment, and

extension to the rear of No.26 and 27 New Row South (a Protected Structure). The development included the demolition of No. 28 and 29 New Row South, an existing occupied industrial building, and the construction of a 10-storey over basement residential building (1, 2 and 3 bed apartments) with retail and café use at ground floor. The given reasons for refusal related to adverse amenity impact to the visual amenities and properties in its vicinity; adverse impact on the Protected Structure; and, the development was considered to be contrary to the 'Z6' land use zoning objectives for the site and its setting.

4.3. Setting

- **ABP-314978-22 (P.A. Ref. No. 3826/22):** On the 11th day of January, 2024, permission was granted for the demolition of all structures and the construction of mixed use development comprising 25 apartments, change of use of No. 4 Sweeney's Terrace to office use incorporating an extension and all associated site and development works at Sweeney's Terrace, Dublin 8, including No. 4 Sweeney's Terrace (a habitable house to the rear of No. 1 Sweeney's Terrace) (Note: c.0.2km to the south west).
- **ABP-PL29S.316189 (P.A. Ref. No. 3021/23):** Concurrently with the Board is a Third Party Appeal which relates to a planning application which seeks permission for amendments to ABP-307062-20 (P.A. Ref. No. 3752/19) which consists of increase of total floor area and height of plant screen at roof level, basement level reconfiguration, and all floors to be extended, at a c.0.152-ha site at New Street off New Street South, Dublin 8 (Note: adjoining the site to the rear of the Protected Structure). Note: this development was granted permission by the Planning Authority on the 13th day of March, 2020.
- **ABP-311864-21 (P.A. Ref. No. 2046/21):** On the 16th day of March, 2023, permission was **granted** for the demolition of all buildings on site, construction of 2 buildings with retail units and 33 apartments and all ancillary site works at No.10-12 Newmarket and No. 32 Mill Street (Note: c.103m to the west of the site).
- **ABP-312268-21 (SHD):** On the 13th day of September, 2022, permission was **granted** for 134 no. Build to Rent apartments and associated site works at site bound by Newmarket Square to the North, Ardee Street to the west and Mill Street to the south Including City House and Unit 3, Newmarket (Note: c.0.2km to the north west).

- **ABP-307067-20 (SHD):** On the 31st of August, 2020, permission was **granted** for 413 no. Build to Rent apartments and associated site works at site formerly known as the IDA Ireland Small Business Centre/Newmarket Industrial Estate bounded by Newmarket, Brabazon Place, St. Lukes Avenue and Newmarket Street, (Note: c.117m to the north west of the site).
- **ABP-307062-20 (P.A. Ref. No. 3752/19):** On the 22nd day of September, 2020, the Board **granted** permission for a development consisting of the demolition of basement slab and supporting structures, carpark ramp podium and basement level. Construction of a six storey over basement enterprise centre to 23.37m in height with shared workspace from ground to fifth level, cafe and collaboration zone, roof terrace substation and hard and soft landscaping and vehicular access from New Street. 16 car spaces, 2 lift cores 3 stair cores 57 cycle spaces ancillary development at a c.0.152-ha site at New Street off New Street South, Dublin 8 (Note: adjoining the site to the rear of the Protected Structure).
- **ABP-PL29S.249055 (2449/17):** On the 9th day of February, 2018, permission was **granted** for the demolition of vacant structure including part of boundary wall. Relocation of office floor space over gym building, modification of gym building, external staircase and associated site works at the site on the opposite side of the Mill Street and Blackpitts, junction.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dublin City Development Plan, 2022-2028, is the operative plan, under which the site is in a transitional zonal area with the site subject to the 'Z6' (Employment/Enterprise) land use zoning objective. The stated objective for such land is: *"to provide for the creation and protection of enterprise and facilitate opportunities for employment creation"* with these areas seen as key Strategic Development Areas (Note: Chapter 6: City Economy and Enterprise) which the City Council seeks to support investment, job creation, and overall economic growth within the city.
- 5.1.2. Section 14.7.6 of the Development Plan in relation to 'Z6' lands states that these: *"constitute an important land bank for employment use in the city, which is strategically*

important to protect. The progressive consolidation and development of these lands will be supported. The primary objective for this zone is to facilitate long-term economic development in the city. It is important that these remaining Z6 zoned lands provide for intensive employment and accommodate a wide range of local services. The uses in these areas will create dynamic and sustainable employment and include innovation, creativity, research and development, science and technology, social enterprise, creative industry and the development of emerging industries such as green/clean technologies and the marine sector. These uses will be accommodated in primarily office based industry and business technology parks developed to a high environmental standard and incorporating a range of amenities, including childcare facilities, public open space and enhanced public realm, green networks and leisure facilities”.

- 5.1.3. This section of the Development Plan further states that: *“a range of other uses including local support businesses, are open for consideration on lands zoned Z6 but are seen as subsidiary to their primary use as employment zones. The incorporation of other uses, such as recreation/leisure and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, nor with the vitality and viability of nearby Urban Villages”* and that: *“proposals for development of these lands should create a high quality physical environment; coherent urban structure; provide the opportunity to develop sustainable employment use; and, contribute to developing the strategic green network”*.
- 5.1.4. Hotel is listed as an open for consideration and café/restaurants as well as offices are listed as permissible land uses.
- 5.1.5. The site is bound by ‘Z1’ (Sustainable Residential Neighbourhoods) land to the north, on the opposite side of New Row and with this land use encompassing the nearby area of Wards Hill. To the west of the junction with Blackpitts the land is predominantly zoned ‘Z10’ (Inner Suburban and Inner City Sustainable Mixed-Uses) with a small section opposite the site also zoned ‘Z1’. The land on the opposite side of Fumbally Lane is zoned ‘Z6’. Section 14.6 of the Development Plan deals with Transitional Zone Areas and state: *“it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional*

zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones”.

- 5.1.6. Section 4.5.4 of the Development Plan deals with increased building height and refers to Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City). In summary, relevant policies and objectives include the following: Policy SC14 – sets out a strategic approach to accord with the Building Height Guidelines; Policy SC15 – seeks to promote a mix of uses in large scale development with increased height; and Policy SC17 – sets out guidance for proposals with increased scale/height to protect and enhance the skyline of the city.
- 5.1.7. Sections 4.5.5 and 4.5.6 of the Development Plan deal with the matters of Urban Design, Architecture, and the Public Realm.
- 5.1.8. Chapter 6 of the Development Plan outlines the strategic approach to safeguard and enhance Dublin’s role as Ireland’s internationally competitive capital and global gateway to the region and state. It includes a number of relevant policies including Policy CEE8 which seeks to support the development including tourism related and cultural activities in the city centre and to facilitate the regeneration and development of key potential growth areas; Policy CEE28 which sets out that applications for additional hotel, tourist hostel and aparthotel development will be considered having regard to stated criteria. They are:
- The existing character of the area.
 - 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.
 - The existing and proposed type of existing visitor accommodation.
 - The impact of additional visitor accommodation on the wider objective to provide a rich and vibrant range of uses in the city centre.
 - The need to prevent an unacceptable intensification of activity.
 - 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 with reference made to Chapter 12 and Development Plan Objective CUO38.

- 5.1.9. Section 15.14 of the Development Plan deals with commercial development/miscellaneous development on the matter of 'hotels' and 'aparthotels'. It states: *"to ensure a balance is achieved between the requirement to provide for adequate levels of visitor accommodation and other uses in the city such as residential, social, cultural and economic uses, there will be a general presumption against an overconcentration of hotels and aparthotels"*; and, that: *"pending the outcome of an analysis of the supply and demand for tourism related accommodation in the Dublin City area (to be carried out by Dublin City Council), hotels and aparthotels will be considered on a case by case basis having regard to the location of the site and existing hotel provision in the area"*.
- 5.1.10. Section 15.14.1.1 on the matter of hotel developments states that: *"hotel developments are encouraged to provide for publicly accessible facilities such as café, restaurant and bar uses to generate activity at street level throughout the day and night. Hotels are also encouraged to provide a mix of publicly accessible uses vertically throughout the building such as roof terrace restaurant and bars to further generate activity"*. Additionally, it states: *"hotel development should also be accompanied by operational management plans that demonstrate how the hotel will be serviced and traffic / drop off managed. All loading, waste collection and servicing must be provided off road in a designated loading area where feasible. Pick up and drop off services can be accommodated on street subject to adequate space being provided. Hotel room size and layout should be designed and to ensure a high level of amenity is obtained to accommodate both short and long stay durations. Adequate provision should also be provided for the storage of laundry facilities and materials"*.
- 5.1.11. Policy CUO39 of the Development Plan is relevant. It states out in relation to hotels that exceed 100 bedrooms that the Planning Authority will: *"encourage the opportunity presented by new larger developments, including a requirement for all new large hotels* and aparthotels*, within the city to provide high quality, designed for purpose spaces that can accommodate evening and night time activities, such as basement/roof level "black box" spaces that can be used for smaller scale performances/theatre/music/dance venues, and/or for flexibility in the design of larger spaces, such as conference spaces, to be adaptable for evening and night-time uses"*.
- 5.1.12. Chapter 8 of the Development Plan deals with 'Sustainable Movement and Transport' and presents an integrated strategy that supports and prioritises the use of sustainable

modes of transport and promotes active travel and a pro-active and collaborative approach to influencing travel behaviour. Section 8.5.7 emphasises that a strong car-parking policy in the city has been instrumental in changing travel behaviour and promoting sustainable development and confirms that policies to discourage commuter car parking are further strengthened in the plan.

5.1.13. Section 15.5 of the Development Plan sets out Site Characteristics and Design Parameters for new developments.

5.1.14. Chapter 11 of the Development Plan deals with Built Heritage.

5.1.15. Appendix 3 of the Development Plan sets out the height strategy for the city.

5.1.16. Appendix 5 'Transport and Mobility' expands on the Sustainable Movement and Transport framework and sets out technical development standards which are applicable to all developments.

5.1.17. Appendix 6 outlines further detail on Conservation.

5.2. Regional Policy

5.2.1. **Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019:** The primary statutory objective of the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Authority is to support the implementation of the NPF. The RSES identifies regional assets, opportunities and pressures and provides policy responses in the form of Regional Policy Objectives. RPO 6.18 is of relevance as it seeks to "*support the preparation and implementation of local authority tourism strategies and diaspora strategies. All tourism strategies and plans should include clear monitoring protocols to monitor the ongoing effect of tourism on sensitive features with particular focus on natural and built heritage assets*".

5.3. National Policy and Guidelines

- **Project Ireland 2040 - National Planning Framework (NPF)**, 2018-2040, is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040 and within this framework Dublin is identified as one of five cities to support significant population and employment growth.

A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings.

It contains a number of policy objectives that articulate the delivery of compact urban growth, including the following:

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

- **Urban Development and Building Heights Guidelines for Planning Authorities**, (2018): The Guidelines highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

- **Architectural Heritage Protection Guidelines for Planning Authorities**, 2011: Section 1.1 of the Guidelines state: *“our architectural heritage is a unique resource, an irreplaceable expression of the richness and diversity of our past. Structures and places can, over time, acquire character and special interest through their intrinsic quality, continued existence and familiarity. The built heritage consists not only of great artistic achievements, but also of the everyday works of craftsmen. In a changing world, these structures have a cultural significance which we may recognise for the first time only when individual structures are lost or threatened. As we enjoy this inheritance, we should ensure it is conserved in order to pass it on to our successors”*.

- **Climate Action Plan, 2023**: This plan refers to the need to reduce car parking, both for developments and on-street. Alternative construction materials should be substituted for high carbon products.

- **National Sustainable Mobility Policy, 2022**: This policy document aims to support this modal shift between now and 2030, through infrastructure and service improvements, as well as demand management and behavioural change measures. This is with a view to encouraging healthier mobility choices, relieving traffic congestion, improving urban environments and helping to tackle the climate crisis. It

also takes account of Irelands commitment to a 51% reduction in our carbon emissions by 2030 and to reach net zero by 2050.

- **Places for People – the National Policy on Architecture, 2022:** This document provides national policy on architecture and outlines ways to promote and embed quality in architecture and the built and natural environment over the coming years in Ireland.

5.4. Natural Heritage Designations

- 5.4.1. The site is located c.3.9km to the south west of South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and c4.1km to the north west of South Dublin Bay SAC (Site Code: 000210) as the bird would fly.
- 5.4.2. Of further note the site is located c.0.8km to the north of the Proposed Natural Heritage Areas: Grand Canal (Site Code: 002104).

5.5. Built Heritage

- 5.5.1. The site contains Recorded Monument DU02982: House and described as: *“a double-fronted Dutch Billy type house that stood at the corner of New Row and Blackpitts until 1903. It had a shuttered winch, plain doorways, semi-circular segmental relieving arches and string courses. It also contained corner fireplaces set in a massive central stack”*.
- 5.5.2. No. 27 & 28 New Row South is a Protected Structure that is also listed in the NIAH Survey (Ref. No. 50080671) where it is rated as ‘Regional’ in its importance and its special interest is given as ‘Architectural’. It is described as follows:

“Attached eleven-bay three-storey former distillery warehouse, built c.1840, later in use as brewery, subsequently in use as tannery and as laundry, now in use as studios. Hipped slate roofs with cast-iron rainwater goods, some corrugated sheeted strip rooflights, and having brick parapet to south-west elevation. Snecked limestone walls with dressed limestone quoins to east end and brick block-and-start quoins to west end. Round-headed window openings, partly infilled, with brick block-and-start surrounds and granite sills having timber casement windows with iron bars to ground floor. Square-headed openings with brick block-and-start surrounds, granite sills and

metal casement windows to first and second floors. Infilled elliptical-headed carriage arches with brick voussoirs and dressed limestone reveals”.

Its appraisal reads:

“The site between New Row South and Fumbally Lane has a historical connection with the brewing, distilling and tanning industries stretching back to the seventeenth century. A significant new distillery complex, of which this building formed part, was constructed by John Busby in the 1830s. By 1845 the distillery was valued at £400. It was taken over by the Dublin City Brewing Company in the 1860s. It is a solidly built industrial building with few embellishments other than the brick block-and-start window dressings, which add colour and textural interest. Many of the former industrial buildings have been converted to residential and office use in recent years, ensuring their continued survival”.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Third-Party grounds of appeal can be summarised as follows:

- The Board is sought to overturn the decision of the Planning Authority.
- The omission of the long-term residential component in a Rent Pressure Zone given the current housing crisis and a proliferation of tourist accommodation in Dublin 8 is questioned.
- There are significant design and buildability related issues arising from the proposed scheme.
- The Development Plan acknowledges that there is a shortage of housing to cater for the city’s growing working population.
- Circular PL10/2017 seeks the protection of residential rental stock in areas of housing demand/need.
- Circular PL4/2019 encourages the bringing back of houses and apartments in designated Rent Pressure Zones which are being used for short-term letting purposes to the traditional long term rental market.

- The site is ideally located to accommodate shared accommodation given its central location and close proximity to employment clusters and public transport.
- The addition of 86 hotel bedrooms would exacerbate the oversupply of tourist accommodation within 1km of the site.
- The Irish Hotel Federation underlines challenges facing hotels into 2023 and outlines that forward bookings are down significantly for this year when compared to pre-Covid figures.
- The omission of the residential element fundamentally changes the mix of uses proposed. The primary use that would arise under this proposal is hotel accommodation with this being an open for consideration land use on 'Z6' zoned land. The omission of a gym and restaurant further diminishes the land use mix that would arise.
- The hotel will result in overbearing impacts on its setting.
- The Development Plan contains key policies that seek to avoid the overconcentration of hotel developments in the city and that prioritise the provision of housing.
- There is an existing culvert running under the site which would complicate the future build.
- There are no additional car parking provisions for the additional 86 bedrooms proposed and there is a vagueness in relation to the provision of drop off spaces as well as a significant reduction in cycle parking spaces. The additional intensification of hotel use would increase traffic and result in additional burdens on the surrounding road network.
- The Travel Management Plan provided is out of date and fails to have regard to the time a taxi must wait for a client or the time it takes to drop off passengers.
- The intensification of the hotel use would give rise to additional impacts on properties in its vicinity, including additional noise impacts and would also diminish property values.
- The proposal would irreparably alter the distinct character associated with the Protected Structure on site.

- The Transportation Department raised concerns that given the scale of the proposed development that some facilities to cater for expected site generated traffic are warranted.
- There is no dedicated drop off/taxi area for guests of the hotel proposed and the vehicular entrance area indicates it is for maintenance.
- The proposed development would result in additional drops and traffic hazards at a heavily trafficked junction.
- The proposed development would give rise to overdevelopment of the site and would seriously injure the amenities of the area.
- Reference is made to examples for where the Board has refused permission for the loss of housing to short stay accommodation.
- The planning history of this site gives an expectation that its redevelopment would include a mix of uses including residential to aid the current shortfall of residential accommodation in this area.
- The Government have recently indicated that housing targets will need to increase due to the growing population and the war in Ukraine and that closer to 40,000 units are needed to meet the demand. This is above the 33,000 outlined in the Housing for All Plan.
- The surrounding catchment area has 3,788 existing tourist accommodation rooms, inclusive of aparthotels, hostels and short stay accommodation. These rooms are comprised of 38 no. existing facilities and exclusive of the existing student accommodation outside of the academic year that is used for tourist accommodation. Within 1km there is 1,135 additional short stay rooms approved under recent years.
- There is a proliferation of student accommodation in this area and two such complexes within the vicinity of the site, i.e., Destiny Student – The Tannery (300 spaces) and Destiny Student – New Mill (400 spaces).
- It should also be noted that there is a significant redevelopment of St. James Gate in Dublin 8 forthcoming with the plans unveiled by its developers showing two hotel schemes for the site.

- The number of jobs this development would create is overstated and exaggerated.
- There is a need to preserve the cultural landscape of this part of the city which this proposal will completely alter its character.
- The second-floor level of the hotel has the hotel bedroom windows setback from the existing façade of the Protected Structure which would give rise to poor visual amenity for these rooms.
- There is a lack of lightness in the proposed amendments to the additions to the Protected Structure.
- It is considered that the plant enclosure indicated is quite small for a hotel of this size and any increase in size of this plant which is now proposed at 7th floor level would have a major impact on the visual appearance of the scheme when viewed from surrounding roadways.
- The introduction of the plant to roof level is not in keeping with the building massing of the surrounding streetscape.
- The location of the substation and switch room adjacent to a prominent corner junction between Blackpitts and Fumbally Lane is poorly chosen. It will not integrate positively with the public realm at this location.
- The amended external elevation complicates the building design from a strong corner block to an inarticulate façade.
- The footpath to the northeast corner of the site is very narrow at c1.3m and gets narrower between Wards Hill and New South Row in what is a very busy vehicle and pedestrian route.
- Permanent railings would also be required to each side of the outward opening doors in compliance with Part M which in turn would force pedestrians out onto the narrow footpath to the north of the building. There is an opportunity to widen the junction and make the area safer for vehicle and pedestrians.
- The analysis undertaken for drop-offs and taxis to the hotel seems to generate a very low and unrealistic number. There is also no location indicated where this would occur.

- A dedicated drop-off zone should be required for this hotel to function without impeding this very dangerous and busy junction.
- The required reverse manoeuvres for service vehicles indicated in the drawings on a congested corner will have significant impacts on vulnerable road users.
- Build to Rent and Shared Accommodation Schemes typically have low level car ownership, and the same conclusion cannot be reached for a hotel use.
- The increase in hotel bedrooms significantly increases demand for taxis which will cause noise and traffic implications.
- The low quantum of cycle parking spaces provided would discourage workers from cycling to work. It would also discourage those using the co-working space.
- The culvert underneath the site is a significant component of the city's drainage infrastructure managing stormwater runoff and aiding in preventing flooding during extreme weather events. The applicant has failed to provide assurance that the proposed works would not cause damage to it and submitted materials appear to inaccurately indicate the culverts position by several meters.
- Local residents will be subject to light pollution from the adjacent hotel and nuisance from noises including from the ancillary equipment in the plant room through to the additional traffic generated.
- This appeal submission is accompanied by a document titled: "27-29 New Row South – Engineering Observations" which includes the following comments:
 - As climate change continues to increase the frequency and intensity of extreme weather events protecting the culvert under this site becomes more critical.
 - The proposed development poses a high risk of damaging the Poddle culvert which could in turn result in severe flooding, damaged property, and loss of business for Aloft Hotel.
 - Inadequate information has been provided to demonstrate that the proposed works would not cause damage to the culvert.
 - The application should be refused until necessary geotechnical analyses and safety measures are provided to ensure the safety and integrity of the culvert as well as the surrounding area.

- The construction works could potentially cause damage to the culvert by way of excavation should the digging process go deeper than the culvert or if the excavation equipment causes vibrations; the heavy loads from the building and construction material could put pressure on the culvert and the soil settlement could cause damage.
- If the culvert were to be damaged this could result in flooding of their property.
- The proposal has gained approval within millimetres of the sewer despite best practice guidance of a 3m setback.
- Inaccurate location positioning has been provided for the culvert and there should be a 3m exclusion zone from its edge.
- The OPW mapping shown the south western corner of the site to be marginally overlapped by 0.1% Fluvial AEP and 1% Fluvial AEP events.

6.2. Applicant Response

6.2.1. The Applicants response can be summarised as follows:

- The Board should have cognisance to fact that the Third-Party Appellant operates a hotel on a site directly opposite the application site and seeks that the appeal be dismissed on the basis that it is anti-competitive in nature. If the Board does not it is requested that the Planning Authority's decision be upheld.
- The operator previously identified for the development permitted under ABP-307217-20 no longer operates and the proposed development arises from the new operator's design requirements. The changes are essential and are made to ensure that the building operates efficiently, and all necessary services are provided.
- The long-term operator of the mixed-use scheme is identified as Sonder who are described as having extensive experience in hotel developments worldwide.
- Since development was permitted the revised Apartment Guidelines have effectively placed a de facto ban on new applications for shared accommodation development and the amendments sought under this application seek to remove the shared accommodation element.

- The replacement of 69 no. permitted single occupancy shared accommodation units and amenity spaces to provide 86 no. hotel bedrooms is consistent with the development permitted and consistent with the established nature of the surrounding area.
- The café/restaurant and the co-working provision at ground floor is in keeping with the zoning objective for employment generating uses. It is envisaged that the development would provide c 50 jobs on this vacant site.
- The Board in their previous assessment of the permitted development on this site did not consider there to be an over concentration of hotels and tourist accommodation in this area.
- The proposed modifications to the Protected Structure and the new build element are minor in nature and maintain a high-quality design that would not materially impact its character or setting.
- Following the submission of this planning application to the Planning Authority it was revised on foot of their further information request.
- The Planning Authority's Planning Officer was supportive of the proposed change of use sought under this application based on the hotel use being established by virtue of the extant planning permission alongside the extension of a permitted hotel is a more effective means of meeting hotel accommodation needs in the city rather than committing another site to this use. They also considered that it would create additional employment opportunities.
- The provision of co-working, café/restaurant/event spaces, hotel reception, lounge areas and the like provide a suitable mix of uses to provide a rich and vibrant range of uses in the city centre.
- The proposed development would contribute to the regeneration of the area and generate footfall.
- The proposed co-working and café/elements will be implemented and managed as complimentary uses to the hotel.
- There is no obligation to provide internal amenity space for hotel guests when compared to the residential amenity required for shared accommodation units.

- There is no reference to shared accommodation or residential as being either a permissible or open for consideration use on 'Z6' zoned land.
- The extant permission includes hotel use and the additional hotel bedrooms are simply an expansion of this permitted use. Additionally, hotels are open for consideration on 'Z6' zoned lands.
- The proposed development provides for the reuse and enhancement of a Protected Structure.
- The proposed development represents a redevelopment of a disused site in a highly accessible inner-city location.
- The issues raised in terms of impact on existing hotels are anti-competitive in nature.
- The site is located on the periphery of the city centre in an area which is not overly concentrated with hotels to serve tourist accommodation.
- It is acknowledged that there is a number of student accommodation in the area that provides tourist accommodation outside of term time, however, this is a different use from hotels and therefore is not included in the number of existing and permitted hotels in the examination provided of hotel accommodation provided with this application.
- This development seeks to enhance and improve the permitted hotel accommodation.
- The introduction of ground floor uses would positively contribute to the regeneration of the Liberties area of Dublin.
- The location is suitable for business and leisure tourists as well as is highly accessible due to being in proximity to major public transport routes.
- The site is near many tourist attractions.
- There is accelerated growth in hotel demand in Dublin.
- Dublin is predominantly an international destination which is fundamentally under supplied in hotel space in key locations.

- This proposal includes a small extension to the setback at 7th floor level to facilitate the additional bedrooms. These changes do not give rise to a significant impact on the massing of the permitted 7-storey building and it has been designed to not be visible from key views as well as not detract from the streetscape scene or residential amenities of properties in its vicinity.
- The proposed redevelopment is a similar level of development to that of the appellants property.
- The plant space indicated in the architectural drawings are accurate in respect to the likely needs of the proposed development.
- It is confirmed that the maximum height of the proposed roof level is 39.94m with the surrounding parapet having a maximum height of 40.095m. This is 112mm lower than the permitted maximum parapet level permitted.
- There is no significant change to the interaction with the public realm when compared with the permitted development.
- The revised elevational treatment is not dissimilar from that previously permitted but provides greater vertical expression that mimic the previous buildings on this plot as a result of the further information response.
- The site is not located within a noise zone and the change of use together with the associated alterations do not necessitate a requirement for a standalone noise impact assessment.
- There are no roof terraces for the hotel guests and no additional negative noise impact to the residential amenity when compared to the permitted development.
- The proposed development will not result in any adverse light overspill or would it devalue property in its vicinity.
- There are long standing proposals to redevelopment properties in the surrounding area.
- The importance of the historic building on site has been fully acknowledged throughout all design development stages.
- The design impact on the Protected Structure will not be significantly different to that permitted previously.

- Should the Board share the concerns of the Third Party in terms of impact of the extension on the Protected Structure an amended design omitting the heavy capping of the previous design is proposed to reduce any overbearing impact.
- The zero provision of car parking will be made clear on the hotel website and on associated bookings. The site is a highly accessible location, the Planning Authority raised no substantive concerns on this matter, city centre hotels generally do not include car parking spaces and there are ample opportunities as well as waiting areas in adjacent streets for Taxis to set down and pick up from the subject site.
- The provision of 28 cycle spaces as required by the Planning Authority's grant of permission under Condition No. 13(b) is not objected to. There is also shower and changing facilities for staff as part of the proposed development as well as key fob access for the bicycle compounds. In addition, the cycle parking design shall allow for the wheel and frame to be locked.
- The current proposal relates to amendments to an existing previously permitted development and will not give rise to any additional impacts on the existing culvert. Additionally geotechnical analysis and temporary works design are not required to be submitted as part of a planning application and comprehensive structural studies as well as surveys have been carried out before the planning application was lodged to make sure the scheme was feasible. In this regard extensive site investigation was carried out in 2017 which included trial pits, foundation inspection pits, slit trenches, cable percussion boreholes, rotary core boreholes, groundwater monitoring wells, geotechnical and environmental laboratory testing. Moreover, detailed site investigation has been carried out identifying the profile of the culvert.
- The River Poddle culvert was a substantive matter from the early stages of the parent permissions design and this application relates to amendments to the previously permitted scheme which allows movement of columns supported on pile capes on piles away from the culvert. The nearest centre of pile is 1.71m away from the culvert wall and not 300mm as indicated in the Engineering Assessment.
- The proposed development is consistent with the Development Plan provisions.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority's response was received on the 28th day of March, 2023, and seeks that the Board uphold its decision and that it applies a Section 48, Bond, and a contribution in lieu of open space conditions.

6.4. Further Responses

- 6.4.1. The Appellants Further Response can be summarised as follows:

- The First Party continually implies that the nature of the appeal is anti-competitive which is not the case. Whilst it is not disputed that there is a need to balance competing demands and land uses in the city area, however, the fundamental issues relate to the principle of the amended design and put forward a number of substantive planning issues which it is considered has not been adequately addressed by the Planning Authority in its determination of this planning application.
- The removal of the residential component based on the requirement that it does not fit the intended operator of the hotel is not a tenable planning rationale.
- It is suggested that the loss of 91 no. hotel bedrooms from the proposed hotel element should the residential component be reinstated would result in the hotel being unviable for the intended user is not sustainable as an argument given that 74% of hotels operating within the vicinity operate with less than 144 no. bedrooms.
- Concern is raised that Sonder, the intended operator, is one of the largest hosts on Airbnb, specialising in the management of short-term rentals and not a leading hospitality group as suggested by the applicant.
- It is not accepted that the update in the Apartment Guidelines means that the current application is now more consistent with National Policy provisions. Shared accommodation is one that is being monitored in terms of its effectiveness and is a type of housing format that has been demonstrated as effective over the past years in the UK and other European cities.
- There are currently 31 no. hotels within a 1km radius of the subject site which account for 3,265 hotel bedrooms and 13 no. additional projects that have planning permission for an additional 1,135 bedrooms. This is equivalent to a 35% increase in

capacity in hotel stock in the vicinity of the site and if this proposal is included this would give rise to a 41% increase in stock.

- This proposal also proposes the removal of the inset feature which in their view diminishes the visual aesthetic of the block.
- Even with the removal of the thick capping it is considered that the addition to the Protected Structure has a heavy and dark appearance that would negatively impact on the main structure below.
- They carried out an examination of vehicle movement over a seven-day period at the Aloft Hotel and this supports that a greater vehicle generation is likely than that indicated by the applicant. It is anticipated that in the order of 60 guests will seek to park per night. It is indicated that their hotel provision requires their 20 on-site car parking spaces and that they rent another 30 to meet this demand.
- The culvert running underneath Aloft hotel was replaced with a purpose built reinforced concrete structure which mitigated the risk of any damage during and after construction. This replacement structure also included provision for maintenance to it. This is not what is being proposed by the applicants in relation to the 200-year-old culvert running under their site.

7.0 Assessment

7.1. Preliminary Comment

- 7.1.1. The Applicant seeks that this Third-Party Appeal is dismissed on the basis that it has been lodged by a Party who operate a hotel on a site directly opposite the application site (Note: No.s 27 to 29 New Row South) on the basis that the Board has the powers to dismiss appeals that are anti-competitive in nature under Section 138 of the Planning & Development Act, 2000, as amended.
- 7.1.2. On this matter having reviewed the Third-Party Appeal in detail it is my considered opinion that the Board should not dismiss this appeal given that the appeal submission sets out a number of substantive planning concerns in relation to the proposed development and the proper planning as well as sustainable development of the area.
- 7.1.3. The primary concerns raised can be summarised as:

- Whether the proposed development is consistent with local through to national policy provisions, particularly in relation to the site's 'Z6' land use zoning through to the provisions set out in the Development Plan in relation to hotel developments.
- Potential of the proposed development to adversely impact on the visual amenities of the area; the potential of the amendments to give rise to further detrimental impact to the Protected Structure on site.
- Potential of the development to give rise to additional traffic hazards on the local road network.
- Potential of the proposed development to damage a Victorian period culvert running through the site.
- This proposal would add to the proliferation of hotel developments in this area of the city and would do so at the expense of much needed housing units in Dublin 8.

7.1.4. These concerns alongside a number of sundry concerns are expanded in greater detail by the Appellant in their appeal submission to the Board as well as their further submission responding to the Applicants response to the grounds of appeal.

7.1.5. While I understand the frustration for any Applicant to have a notification for a grant of permission for a planning application appealed to the Board, notwithstanding, having regards to the above considerations I do not find that there is substantive basis for the Board to dismiss this Third-Party appeal under the provisions of Section 138 of the said Act in this case.

7.1.6. Accordingly, I consider it appropriate that the current application before the Board by way of this Third-Party appeal is assessed on an entirely *de novo* basis and therefore it would be appropriate that a final decision on the appropriateness of this development at this location is made.

7.1.7. In this regard for clarity purposes I am satisfied that the Board in its determination of the appropriateness of this development can confine their assessment to the broad headings noted in Section 7.2 below and that all other sundry matters can be overcome by way of an appropriately worded condition like those included by the Planning Authority in their notification to grant permission for matters including drainage, signage, agreement of palette of materials through to restriction and the like.

7.2. Introduction

7.2.1. Having carried out an inspection of the site and its setting, examined the application details as well as all other documentation on file together with having had regard to all relevant planning policy provisions and guidance, I consider that the main issues in this appeal are as follows:

- Principle of the Development
- Impact on Built Heritage
- Impact on Visual Amenities
- Structural Works and Potential for Adverse Impact on Culvert
- Traffic Related Matters
- Other Matters Arising

7.2.2. The matter of 'Appropriate Assessment' also requires examination. I propose to address each of the broad issues in turn in my assessment below.

7.2.3. Prior to the commencement of this assessment, I first note to the Board that the Applicants response to the grounds of appeal received on the 22nd day of March, 2023, includes a revised elevational treatment for the additional level proposed over No. 27 to 28 New Row South, the Protected Structure on site.

7.2.4. In relation to the same I note that the provision of amendments to elevational treatments is not an uncommon practice in the appeal process and in this case the main aim of the amended elevational treatment of the addition over the Protected Structure is to address the Third-Party concerns that the proposal had lost some of the visual attributes of that previously permitted over this sensitive to change structure and setting. With particular concern raised in this circumstance on the now proposed band of cladding at the top of this new built insertion. This design feature was not considered to be sympathetic to the character of the existing Protected Structure and had the potential to be unduly heavy in its appearance.

7.2.5. I do not consider the provision of an amended design elevational treatment for the proposed addition setback and over the Protected Structure of No. 27 to 28 New Row South to be a material consideration in this case. This is on the basis that all active parties to this appeal have had the opportunity to comment upon this suggested minor

in nature amendment. I am therefore satisfied that there has been adequate opportunity afforded to these parties to comment upon the minor revisions proposed and I have no objection to their consideration as part of the appeal.

- 7.2.6. I also note for clarity purposes that my assessment below is based on the proposed development as revised by the applicant's further information response which was received by the Planning Authority on the 21st day of December, 2022. This is on the basis that this response gave rise to qualitative improvements including but not limited to a more successfully resolved in appearance and material elevational treatment of the proposed main building which addresses the junction of New Row South, Blackpitts, Ward Hill, Fumbally Lane and Mill Street.
- 7.2.7. In this regard I also consider that the reintroduction of the chamfered south western corner of the proposed main building improves the width of the adjoining stretch of public domain.
- 7.2.8. Additionally, the applicant's further information response in my view provides much needed clarity on the likely trip generation of the hotel through to provides an up-to-date archaeological impact assessment. The latter proposes an opportunity for positive future interpretation glazed panels of surviving features of interest relating to the former gabled Dutch Billy houses that occupied the corner of New Row South and Blackpitts, the remains of which are designated a Recorded Monument (DU018-20350). This is a positive over their preservation by record and removal as part of the extant permission that included a basement level.

7.3. Principle of the Proposed Development

- 7.3.1. This proposal seeks modifications to a development that was permitted subject to conditions on appeal to the Board under ABP-307217-20 (P.A. Ref. No. 4423/19) at No.s 27 to 29 New Row South which is a 2,248m² site occupying the corner of New Row South, Blackpitts, Fumbally Lane, New Street and Ward Hill.
- 7.3.2. As set out under Section 4.1 of this report above this application relates to alterations to an extant permission ABP-307217-20 (P.A. Ref. No. 4423/19) which has yet to expire. Under this previous development a mixed use 4 to 8 storeys over basement development that included a hotel (144-bedroom), 69 no. build-to-rent shared living accommodation, co-working/artistic-creative studios, restaurant, and public community/event space together with the integration of this mixed use development

with the existing Protected Structure of No. 27 to 28 New Row South on site alongside all associated works and services was permitted subject to conditions. The proposed changes sought under this planning application now before the Board consist of the following:

- Change of use of the 69-no. permitted single occupancy shared accommodation units and amenity spaces from fourth to seventh floor level and extension to permitted 7th floor level to provide 86 no. hotel bedrooms.
- Internal alterations to permitted first to third floor level to provide 5 no. additional hotel bedrooms on previously permitted floors.
- Increase in total number of hotel bedrooms to 235.
- Internal alterations to permitted ground floor level including the removal of residential lounges, gym, restaurant, and public community/event space.
- The proposed ground floor level comprises co-working, café/restaurant event space, hotel reception, lounges areas and ancillary back of house areas.
- Omission of the basement and relocation of plant to an enclosure at 7th floor level.
- Provision of 3 no. new window openings to the existing building of No. 27 to 28 New Row South, a Protected Structure (Note: RPS Ref. No. 5821) and the alterations to the previously permitted works to the façade of this building including reconfiguration of main entrance points and modifications to the fenestration at first floor level.
- Elevational changes to the permitted main 8 storey building to the southwest of the site including enclosure of the multi-storey staircase. With this including an increase in this building's height from 27.3m to 27.7m.
- Provision of a c.1.4-metre pop-up area at roof level for ventilation purposes and increased parapet height of the building by 300mm to accommodate a blue roof system.
- Reduction in cycle parking provision at ground floor level to 20.
- All associated development works and services.

7.3.3. Of note the amendments proposed under this application result in an increase in gross floor area by 1,481m² to 7,690m² and with the proposed uses having the following

given gross floor areas: hotel - 7,336m²; café/restaurant - 205m² and co-working - 149m². These are the main uses sought however the Operational Management Plan provided indicates occasional community events internally and externally are also proposed. Additionally, on foot of a more up to date examination of the site topography the site area has been reclarified to a slightly reduced area of 2,248m² (Note: previous site area was given as 0.23ha).

- 7.3.4. At the time this application was lodged with the Planning Authority the previous Dublin City Development Plan, 2016-2022, was in place. However, during the Planning Authority's determination of this application a request for further information was made with this as discussed above responded to by the applicant on the 21st day of December, 2022.
- 7.3.5. The further information gave rise to minor changes of the proposed development and provided documentation that included clarity on mainly archaeological and traffic related matters. The main revisions made to the proposed development included the revised architectural treatment of the main building proposed at the corner of New Row South, Blackpitts, Fumbally Lane, New Street and Ward Hill. This included the removal of the in-set feature along New Row South and Blackpitts corner elevation with this giving rise to a slightly higher gross floor area of 7,732m² (Note: an uplift of 1,523m² from the extant permission). I note that the floor area relating to the café/restaurant and co-working at ground floor level as well as the 235 bedrooms remaining unchanged.
- 7.3.6. The amended design also provided the chamfered south west corner to the colonnade design of the parent permission which at this point improves the size of the public footpath at the junction of Fumbally Lane and Blackpitts.
- 7.3.7. Whilst I consider the loss of this architectural design feature results reduces the elevational interest and part of this buildings sense of identity and uniqueness setting it apart from buildings in its setting the other elevational treatment amendments are positive as they include a more successful and qualitative use of external materials, finishes, treatments, colours, and tonal hues. Which have included increased vertical interest in the elevational expression fronting New Row South. With this achieved using different tones of brick that are informed by and seek to interpret the historical plot layout of the former Dutch Billy houses that occupied the corner of New Row South

and Blackpitts. The below ground remains of which as previously noted are afforded protection as a Recorded Monument. As such this provides a visual interpretation of the streetscape elevation that is informed by the historical evolution of this site through time and in turn adds to the streetscape's scene sense of place, identity, and connectivity with the site's past. It also adds to the cultural interest of the area whilst still affording a new built forms that is legible of its time but is informed as well as seeks to interpret the site's past as part of the new builds overall design concept.

- 7.3.8. At the time the Planning Authority determined the proposed development as revised the Dublin City Development Plan, 2022-2028, had been recently adopted by the City Council and under which the site continued to be zoned 'Z6' and being part of an urbanscape with a transitional zonal character due to the site being bound by 'Z1' and being in the immediate vicinity of 'Z10' zoned lands.
- 7.3.9. The objective for 'Z6' (Employment/Enterprise) is to provide for the creation and protection of enterprise and facilitate opportunities for employment creation subject to safeguards.
- 7.3.10. I also note that 'Hotel' as a land use is 'open for consideration' and the site as said benefits from an extant permission for a mixed use which included this use.
- 7.3.11. Additionally, the ancillary café/restaurant and co-working/event space are 'permissible uses' within the zone. I also note that a restaurant type use was also permitted as part of the mix of use permitted under the extant permission for the site.
- 7.3.12. The appellant in this case raises as one of their principal concerns in relation to the principle of the proposed development is that it would give rise to the loss of the approved residential component and also it would erode the mixed-use character of development permitted under the extant permission as well as other previous developments permitted on this site.
- 7.3.13. This loss in their view would not only be contrary to local planning policy provisions but also regional and national provisions as well as guidance that place a primacy on the provision of additional housing units in a time where Ireland finds itself in a housing crisis. Alongside with Dublin 8 in a location where the housing supply forms part of an identified "rent pressure zones" (RPZs) and as such there is significant demand on rental accommodation which also reflects its under supply.

- 7.3.14. I acknowledge that planning policy provision from local to national level indicate a presumption of prioritisation for reversal of the decline in supply of rental properties and supports the increase in permanent housing stock.
- 7.3.15. In my view these are both creditable and worthy interests that contribute to sustainable economic viability as well as vitality of the city and localities within the city like the Liberties/Dublin 8.
- 7.3.16. The proposed change of the extant permission involves a loss of potential future dwelling units at this site irrespective of their sharing accommodation nature. They are not therefore existing tangible dwelling units that contribute to the rental supply and/or permanent housing stock of the area and as said the proposed development should be determined on its merits. In particular its consistency with the site's 'Z6' land use zoning objective which is an employment/enterprise supporting zoning objective within the city and the current vacant nature of this highly accessible serviced brownfield site that includes a Protected Structure in a poor state of condition and in need of a viable future use. It also includes a vacant and boarded up corner junction that fails to meaningfully respond to this prominent location or its lack of uses means that it does not provide any meaningful activation or positive contribution of its streetscape scene or setting. With the site's hoarding showing evidence of vandalism and the interior of the site where demolition has occurred in recent years showing upstanding period structures requiring shoring up and also suffering from dumping.
- 7.3.17. I note that the Planning Officer's initial report indicated that the applicants who had engaged in pre-planning prior to the making of this application were required to provide the Planning Authority with a clear rationale and justification in support of the development now sought under this application. With particular note in given to the proposed loss of 69 potential shared living build to rent accommodation units from the Dublin 8 area.
- 7.3.18. The justification provided by the applicant sets out that the previous intended operator of the parent scheme went into liquidation during the Covid 19 pandemic and with the new intended operator not one who operates shared accommodation unit but rather is one whose focus is hotel hospitality. Therefore, in order for the building to be suitable for the new intended operators use they require what are described by them as essential changes to the building and overall scheme to align it with the now

intended operator's needs. With this having given rise to the now amended design scheme together with the material change of use of the scheme to that of a hotel dominated scheme with the residential element omitted.

7.3.19. In addition to this they note that there is a *de facto* ban on new applications for shared accommodation under the subsequent amendments to the Apartment Guidelines.

7.3.20. They also contend that the provision of café/restaurant alongside co-working floor spaces at ground floor level as part of the amended scheme would accord with the employment and enterprise generating uses supported on 'Z6' zoned land. On this point they note that jobs would be created during construction, but it is envisaged that when operational 50 jobs would be generated from the proposed development as well as spin-off employment and enterprise benefits for local contractors of various services.

7.3.21. It is further contended that the site is located at the periphery of the inner city and is not a location that is overly concentrated with hotels despite the presence of Third Party's 'Aloft' hotel on the opposite side of the junction from this site but rather there is a proliferation of student accommodation within the area.

7.3.22. Overall, it is their view that the proposed development would contribute positively to the mixture of land uses in this area and reverse the vacant situation of the current site with a positive building as well as land use response that includes built heritage positive, employment, enterprise, and local community gains.

7.3.23. I note that the initial Planning Officer's report having had regard to the changes in national policy since the grant of the extant permission acknowledged that there is now a general presumption against the provision of shared living accommodation and considered that the principle of hotel accommodation has been established by the extant permission on this site.

7.3.24. They also considered that hotel as a land use is one that is 'open for consideration' on 'Z6' zoned land and it would align with the vision for such zoned land because of the additional employment opportunities that would arise on a long-standing vacant site in a highly accessible serviced location. Moreover, they considered that despite the loss of the residential component that the principle of amendments now sought under this application to be acceptable, and they raised no further substantive issues or concerns on this matter.

- 7.3.25. As said the further information was lodged with the Planning Authority after the Dublin City Development Plan, 2022-2028, was adopted. This current Development Plan is supportive of tourism sector and includes policies like Policy CEE26 for example which seeks to provide a balanced provision of tourism facilities, that promotes and enhances Dublin as a world class tourist destination through to seeks to improve accessibility of tourism infrastructure.
- 7.3.26. The current Development Plan also seeks to address more recent concerns about the overconcentration of hotels in particular areas of Dublin city.
- 7.3.27. For example, with Section 15.14.1 of the Development Plan on this matter setting out: *“pending the outcome of an analysis of the supply and demand for tourism related accommodation in the Dublin City area (to be carried out by Dublin City Council), hotels and aparthotels will be considered on a case-by-case basis having regard to the location of the site and existing hotel provision in the area”*.
- 7.3.28. This analysis I note has yet to be carried out by the City Council in accordance with Objective CEE01 of the Development Plan.
- 7.3.29. Section 15.14.1 of the Development Plan also sets out that in all instances: *“where the planning authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment providing a justification that the development will not undermine the principles of achieving a balanced pattern of development in the area, and demonstrating that the proposed development fully complies with the criteria set out in Policy CEE28 and in Section 15.14.1.1 and 15.14.1.2”*.
- 7.3.30. The Planning Authority did not request such a support from the applicant as part of this application. Though I note that an analysis of this matter was carried out by them as well as an analysis supporting the appellants opposing view point was carried out as part of their observation to the Planning Authority. Both of these analyses have been updated by these parties in their submissions and responses to the Board during its determination of this appeal case.
- 7.3.31. In any case, this planning application was submitted prior to this requirement being incorporated into the new Plan and was not raised as a substantive issue by the Planning Authority as part of the initial assessment of the submitted planning

application. With the Planning Authority's Planning Officer considering that the extension of a permitted hotel use on the subject site should be considered as a more effective means of meeting hotel accommodation needs in the city rather than committing to another site for this type of land use.

7.3.32. Additionally, the Planning Authority's Planning Officer, further accepted that the site is located outside of an area that displays a concentration of hotels and notes in this regard the concentration of hotels being located to the north east of the site. With the site context being one that has in their view limited hotels existing and permitted. But also, one that has the appearance of having a proliferation of student accommodation which they noted is a different type of land use to the expansion of the hotel land use now sought under this application.

7.3.33. Moreover, the Planning Authority's Planning Officer indicated in their report that they were satisfied that the hotel lounge, café/restaurant, and co-working spaces at ground floor level were uses that were for both residents and non-resident guests that would be beneficial to the locality, including having the potential to serve as a local meeting space.

7.3.34. I am of the view that the current Development Plan sets out that the concerns in relation to over concentration of hotel uses only apply: "*where the planning authority deems there to be an overconcentration of such facilities in an area*".

7.3.35. As set out above it is clearly not raised as a substantive issue by the planning authority in their assessment of the development sought under this application, despite their acknowledgement that the loss of residential land uses is a concern, but it is a loss of accommodation that was not provided and like hotel developments as a land use it is a use that is open for consideration on 'Z6' zoned land. With this land use zoning objective seeking developments that would lead to additional employment and enterprise opportunities on a prominently located highly accessible site as well as reversing the issues arising from the vacant nature of the site.

7.3.36. I also note that having examined the recent planning history of the site's surrounding setting it does include a number of extant permissions for additional dwelling units as part of a strong emerging pattern of compact and high-density residential development together with other synergistic land uses in the Dublin 8 area. With this including targeted redevelopment of vacant and underutilised plots of land. As such the vitality

and vibrancy of this area is being positively improved by more robust recent regeneration of this area.

- 7.3.37. Further in relation to local planning policy provisions considerations for hotel developments Policy CEE28 of the Development Plan is of relevance to note as part of the consideration of the principle of the proposed development sought.
- 7.3.38. This policy in essence outlines criteria for the assessment of hotel proposals. Much of which concerns the effect of such proposals on the existing and proposed mix of land uses/activities in the area through to opportunities for this type of land use to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities. Thus, their ability to positively contribute to the vibrancy of an area.
- 7.3.39. In tandem Section 15.14.1.1 of the Development Plan encourages the provision of publicly accessible facilities such as café, restaurant, and bar use to generate activity at street level throughout the day and night. It also seeks that hotel rooms and their layout are designed to accommodate high level of amenity for both short and long stay durations.
- 7.3.40. The proposed ground floor level is designed to positively contribute to and activate its surrounding public domain by way of placing its active resident and non-resident uses at ground floor level, i.e., its hotel front of house, the café/restaurant, its lounge spaces, co-working areas through to community events and other occasional activities internally and externally as part of its operation. With the ground level being light weight in terms of its elevational treatment and design through to entry points included into the Protected Structure to re-establish this important surviving industrial heritage building as a vital and reintegrated with its locality building in a manner that accords with not only 'Z6' zoned land objectives but also Policy CEE28 and Section 15.4.1.1.
- 7.3.41. In terms of quantum of development, as discussed, the amended design whilst omitting the basement level would give rise to an uplift in floor area and a modest increase in this building's overall height. When this is considered against the resulting plot ratio of 3.44 and 51% site coverage, I note that the plot ratio exceeds the indicative plot ratio standards set out in Table 2 of Appendix 3 of the Development Plan. Notwithstanding, the indicative plot ratio for this type of urban locality is 3.0 under this table and the site coverage is one that is not in consistent with that indicated as

indicative for regeneration areas or city centre areas depending on what one considers is the appropriate locational characteristics of this site. Irrespective of which this table sets out an indicative site coverage of between 50 to 60%.

- 7.3.42. I consider that these indicative standards allow a degree of flexibility in terms of considering the merits of a proposed development alongside other factors including for example height and impact on properties in its vicinity.
- 7.3.43. In this case while there is an upward lift in floor area over that permitted in the extant permission, the increase in the building height is a modest 300mm and the modulation of the additional floor area has been done in a manner that it is not a highly visible alteration to the appearance of the building or one that has the potential to give rise to any significant additional amenity impacts on properties in its vicinity. Particularly in terms of overshadowing and daylight/sunlight penetration.
- 7.3.44. I also note that the Development Plan's core strategy also encourages the delivery of compact growth through active land management measures and by way of a co-ordinated approach to developing appropriately zoned lands aligned with key public transport including vacant sites and underutilised sites (Note: Objective CSO7). Through to it supports development of brownfield, vacant and regeneration sites. (Note: CSO10).
- 7.3.45. Additionally, it is the policy of the City Council to develop the city character with that including the protection of its heritage assets (Policy SC2 and Chapter 11) and to promote development which seek to positively contribute to the city's-built environment and that promotes healthy place making with architecture and urban design that befits the city's heritage and diverse range of locally distinctive neighbourhoods (Policy SC19).
- 7.3.46. Moreover, Policy SC22 of the Development Plan also seeks the promotion of understanding of the city's historical character as well as facilitate new development which are in harmony with the city's historical spaces and structures.
- 7.3.47. The overall design amendments through to the revisions made by way of the further information in my view accord with the principle of these local planning provisions.
- 7.3.48. Conclusion: Taking the above considerations into account together with having regard to the documentation provided and examination of the surrounding area I concur with

the Planning Authority that the proposed expansion of hotel bedroom number from the permitted 144 bedrooms to 235 bedrooms now sought when taken together with the mixture of resident and non-resident facilities at ground floor level would complement the existing as well as emerging mixture of land uses on a prominent vacant corner site that includes a Protected Structure and a tract of vacant land surrounded mainly by hoardings with no current supporting land use.

- 7.3.49. It would not result in an overconcentration of hotel and/or other short-term accommodation uses in a manner that would be inconsistent with the Development Plan provisions on this matter. Or would the proposed development give rise to a development that was not consistent with achieving the 'Z6' land use objective and vision for such zoned land which includes employment generating and enterprise supporting uses. Whilst at the same time the proposed development is consistent with provisions in the Development Plan that support tourism, employment, the provision of respectful to setting mixture of land uses at this inner-city location and that safeguards the Protected Structure on site by providing for its restoration and viable future use whilst allowing for presentation by interpretation of part of the Recording Monument.
- 7.3.50. Moreover, the proposed development would include internal and external spaces that would encourage movement and interaction with the public realm as well as would accommodate evening and night-time activities through to occasional events that would further add vibrancy and vitality to this locality.
- 7.3.51. I am therefore satisfied that the general principle of the expansion of the hotel use as part of the amendments proposed to parent permission ABP-307217-20 (P.A. Ref. No. 4423/19) is acceptable subject to safeguards and that it accords with the proper planning and sustainable development of the area.

7.4. Impact on the Built Heritage

- 7.4.1. No. 27 to 28 New Row South is a designated Protected Structure (RPS Ref. No. 5821) and at the time of inspection did not appear to be in any active use and it forms part of a larger site where the previous buildings thereon have been demolished and thus its setting has been compromised.
- 7.4.2. Additionally, the site is one of high archaeological sensitivity given that it contains the Recorded Monument RMP Ref. No. DU0180020359 which I note is afforded specific

protection under Section 12 of the National Monuments (Amendment) Act, 1994, and the site also forms part of the larger zone of archaeological potential associated with the Recorded Monument of the historic city of Dublin (Note: DU018-020). The site also contains a section of the Victorian built Poddle Culvert and culverted mill race. As part of dealing with the built and archaeological heritage sensitivity of the site the conditions included in the Planning Authority's notification to grant permission Condition No. 15 which sets out their Conservation Department requirements and Condition No. 16 which set out their Archaeological Department requirements.

- 7.4.3. In relation to the Protected Structure on site this mainly stone eleven bay three storey former distillery warehouse building dating to c1840 is also listed in the NIAH Survey (Ref. No. 50080671) where it is rated as 'Regional' in its importance and its special interest is given as 'Architectural'. It is an important in its own right surviving part of the Liberties industrial heritage and under the extant permission a wide range of additions, alterations through to its change of use was approved.
- 7.4.4. In brief these works included the removal of its roof, its internal floors and stairs, sections of existing walls, alterations to some window openings through to the construction of an additional setback floor over.
- 7.4.5. It also included the construction of a single storey extension to the north east of the building, the consolidation and repair of existing external masonry walls, the removal of an ESB sub-station from the south western corner of the building, the re-opening of the carriageway arches on the New Row South elevation, the retention and re-use of the historic cast-iron columns and lattice girders within the development and the retention and re-use of the historic stone paving within the development.
- 7.4.6. Against this context I acknowledge that the extant permission deemed this scope, nature and extent amendments, alterations, and additions to be acceptable subject to safeguards.
- 7.4.7. Under this current application the amendments proposed consist of the provision of three new window openings, minor alterations to the previously permitted façade through to modifications to the fenestration detailing at first floor level.
- 7.4.8. In relation to these changes, I note that two of the new openings relate to re-opening of existing windows and as such only one is a new opening and it has been designed

to be of a height, width and materials that harmonise with existing and other permitted openings to this Protected Structures.

- 7.4.9. Additionally, the previously permitted revisions to the existing openings at first floor level by way of dropping down the cill levels are now omitted and as such this results in less loss of this Protected Structures built fabric.
- 7.4.10. Moreover, the glazed infill of two no. large arched openings at ground floor level are now proposed to be replaced with gates to facilitate recessed outward opening timber exit doors and as such these key arched openings will still survive as legible features of this Protected Structures elevation.
- 7.4.11. In relation to the additions to this Protected Structure the proposed development also seeks minor changes to its external elevational treatment.
- 7.4.12. These do not dilute the legibility of this addition as a new building layer of its time and as such this feature maintains its contemporary distinction setback from the parapet height of this structure. With the tonal use of materials picking up the grey stone hues that characterise the main external palette of materials, finishes and treatments present on the exterior of this Protected Structure.
- 7.4.13. Given the overall modest nature of the amendments sought when compared to the extent of development already permitted to this Protected Structure under the extant permission and when taken together with non-sympathetic changes that have occurred to its exterior I concur with the Planning Authority's Conservation Officer that they would not give rise to any significant diminishment to its surviving authenticity or observable legibility as appreciated from the public domain in a manner that could be considered to conflict with the protection provided for such buildings and their setting.
- 7.4.14. In particular, Policy BHA2 of the Development Plan, which seeks to conserve, enhance, and protect such buildings from inappropriate development that would diminish their character and/or setting and Policy SC22 of the Development Plan which seeks the promotion of understanding of the city's historical character as well as facilitate new development which are in harmony with the city's historical structures.
- 7.4.15. Further, the provision of a viable future use may require some level of change with this acknowledged under Chapter 11 of the Development Plan but also under the Architectural Heritage Protection Guidelines for Planning Authorities, 2011.

- 7.4.16. The change that would arise if the proposed development were to be permitted is in my considered opinion no greater than that already permitted to this building, and it does provide for some less loss of original built fabric.
- 7.4.17. I also consider that the extension in height sought to the permitted building is a modest 300mm (Note: Building Height of 27.7m given) and this would not have any greater impact on the setting of this Protected Structure or its visual appreciation as part of its streetscape or urbanscape setting.
- 7.4.18. I further consider the improved verticality of the design's elevational treatment that is included in the applicant further information response also results in a level of meaningful design concept interpretation of the site's historical evolution in the buildings contemporary expression.
- 7.4.19. In particular, the use of brick and the changes in tone of the brick elevation are nods to the historical subdivision of the site's plot that previously contained two former Dutch Billy buildings. With their subsurface archaeological remnants that are recognised to be still largely *in situ* afforded protection by way of their designation as a Recorded Monument.
- 7.4.20. Moreover, the replacing of the metal spandrels of the 4th, 5th, and 6th floors of the main building with glazing also results in additional lightness to the overall main building that would slightly exceed the 27.3m height of the main building of the extant permission by as said 300mm.
- 7.4.21. The additional lightness achieved by the larger areas of glazing when taken together with the improved verticality as well as the improved quality of the external palette of materials, finishes and treatments would not give rise to any greater or lesser visual impact on the immediate visual setting of this Protected Structure. With this lightness also echoed in the light weight mainly glazed link that would connect the Protected Structure to the proposed main hotel building.
- 7.4.22. Notwithstanding the modest nature of the revisions now sought to the Protected Structure and the main building on site, I consider that there is some merit in the Appellants concerns that the addition above the parapet level of this building as now proposed is a heavier elevational treatment due to the introduction of a top metal band of capping.

- 7.4.23. In response to this concern, I note to the Board that the applicant has provided a suggested amended elevational design treatment that omits this band and in turn this adds to the verticality as well as glazing to this setback addition that would be highly visible above the parapet height of the Protected Structure.
- 7.4.24. I consider this minor change is a welcome improvement to this contemporary in design built addition.
- 7.4.25. I note this amendment is set out under Figure 3.8 of their response which shows the omission of the top band of capping thus providing a taller vertical glazed windows at the uppermost level of this addition.
- 7.4.26. The First Party also suggests that this amendment could be achieved by way of appropriate worded condition which they would not object to complying with should the Board share this concern.
- 7.4.27. I also note that the Appellant in their further response received by the Board consider this an improvement however they indicate that it does not overcome their visual and built heritage issues of concern in relation to the proposed development.
- 7.4.28. I consider that many of the appellants concerns cannot be overcome as they relate to matters that have already been agreed and permitted as part of the extant permission.
- 7.4.29. I also consider that further improvement to the elevational treatment will arise through appropriate conservation and the agreement of a qualitative palette of materials, finishes as well as treatments by way of conditions for this Protected Structure. And as discussed, the additions and alterations to the Protected Structure now sought under this application together with those sought to the main building are not a significant departure from what has the benefit of permission under ABP-307217-20 (P.A. Ref. No. 4423/19). The facilitation of the regeneration of this building and its setting would ultimately safeguard its future and allow it to contribute to the vibrancy as well as vitality of its New Row South streetscape scene more positively. Moreover, it would also be observable as a reinvigorated industrial heritage building that in its own right would sit as a unique heritage asset with its own sense of self with its original built fabric and new building layers respectful and distinctive from one another but also synergising in appearance and function with the contemporary design aesthetic of the main building.

- 7.4.30. In relation to the Recorded Monument onsite, I note that unlike the development permitted under the extant permission that this amended proposal does not include a basement level.
- 7.4.31. I also note that this site at the time of inspection apart from the Protected Structure, had been substantially cleared of buildings to grade.
- 7.4.32. In addition, I note that documentation provided with this application and previous planning applications on this site indicate that it has been subject to previous archaeological analysis. With this having included test trenching to establish the levels of archaeological survival which found remnants of the Recorded Monument to be *in situ* despite the likely removal of the Dutch Billy houses structure above ground level in c.1907.
- 7.4.33. It also found during this test trenching that extensive cobbles surface remain as well as the large Victorian brick culvert which still functions as part of the city's drainage infrastructure relating to the River Poddle.
- 7.4.34. No test trenching occurred within the Protected Structure, and it was also considered that there was further potential for further sub archaeological material to be present below it and on the remainder of the site on the basis of Rocques 1756 map which suggested the presence of a row of houses with gardens to the rear through to the fact that there is a long established history of human habitation at this location.
- 7.4.35. Whilst the removal of the basement level is now proposed notwithstanding it is clear from the information provided on file that the proposed development will still have a severe impact on the Recorded Monument. It is also clear in my view that it would similarly have a severe impact on yet to be uncovered archaeology material below ground level of the Protected Structure given the extensive excavation that is required to facilitate the overall proposed development and given the likely shallow nature of this structure's foundations.
- 7.4.36. As such like the extant permission there will be a loss of surviving archaeological material below ground but known and potentially unknown.
- 7.4.37. The extent of the latter is unclear until more detailed examination of the site is carried out.

- 7.4.38. The applicants acknowledge that the removal of the basement element now presents an opportunity for archaeological material to be recorded *in situ* and presented for view at ground floor level of the scheme by means of glazed presentation panels cut through the ground slab in a manner similar to that undertaken at the Lidl premises in Aungier Street where an *ex situ* Hiberno-Norse structure has been exposed as well as a pit trap from an 18th Century theatre.
- 7.4.39. In this situation the panels were bespoke solutions, and the technicalities of this type of solution are one that required exact specifications to be derived as part of more detailed archaeological investigations prior to the commencement of construction and as part of the finalising the construction details in consultation with the City Archaeologist which the applicants are open to exploring and replicating in this circumstance given the high level of archaeological sensitivity of this site to changes sought.
- 7.4.40. The Planning Authority's Archaeology Division in their report welcome this outcome and subject to appropriate conditions raise no objection to the amendments proposed to the extant permission, including a condition that requires preservation in situ of a section of the 18th Recorded Monument within the scheme with the details to be agreed with them prior to the commencement of any development on site.
- 7.4.41. The reason for their recommended conditions is in the interest of preserving the special character and archaeological interest of the monument. Alongside preserving *in situ* or by record archaeological material likely to be damaged or destroyed in the course of development.
- 7.4.42. In this case I acknowledge that the proposed development will result in a significant impact on surviving structures and deposits associated with the Recorded Monument and any other potential archaeology that may survive *in situ* on this sensitive to change historical site. Notwithstanding, I concur with the Planning Authority that the omission of the basement gives rise to an opportunity to provide preservation not only by record but also by appropriate presentation of archaeological material of interest surviving on site, particularly that relating to the Recorded Monument. Thus, there is not only an opportunity to examine in more detail the archaeology of this site as part of human habitation of this locality as part of gaining a more informed knowledge based on surviving archaeological material. But also, the provision of presentation glazed

panels internally within the resulting ground floor level of the hotel with this level being one that is accessible to residents and non-residents given these floors intended use as set out in the submitted drawings would add to this scheme creating a unique sense of place and identity whilst allowing surviving built heritage of interest to be conserved and appreciated for future generations *in situ*.

7.4.43. In addition to this the proposed development like the parent permission seeks to re-use the historic cobbles known to be present on this site. The re-use of the cobbles would add to creating a sense of place that ties the proposed scheme to the site's former past uses and as such would add further richness as well as authenticity to the end outcome for its external spaces.

7.4.44. Conclusion

Having regard to the above, I consider that the proposed amendments subject to the improvements suggested by the applicant in their response to the grounds of this appeal together with appropriate conservation supervision condition would not give rise to any additional loss of character to the Protected Structure of No.s 27 & 28 New Row South, subject to safeguards, and would accord with Policies BHA2 and SC22 of the Development Plan.

Moreover, I am of the view that subject to the mitigation set out under Section 3 and 4 of the Archaeological Impact Statement provided by the applicant with their further information response to the Planning Authority that the proposed amendments potentially could give rise to a more positive outcome in terms of preserving surviving archaeological material of interest of the Recorded Monument under glazed panels for its interpretation as part of the final ground floor level of this hotel scheme.

Equally should there be any other yet undiscovered archaeology of significance on site this could be similarly considered for interpretation and/or preserve by record from a more detailed examination of the site's latent archaeological potential in consultation with the City Archaeologist.

I therefore consider that the conditions imposed by the Planning Authority in their notification of decision to grant permission in relation to archaeology and presentation deal appropriately with the matter of preserving the special character of archaeology in this site as well as is consistent with Policy BHA26 of the Development Plan which aims to protect and preserve archaeological heritage.

When taken together with the limited nature of the amendments proposed under this application in terms of built heritage impacts and outcomes, I consider that the proposed development accords with the proper planning and sustainable development of the area.

7.5. Visual Amenity Impact

- 7.5.1. The appellant considers that the proposed development would give rise to an overbearing addition into its streetscape scene and setting that would in turn seriously diminish the overall visual amenities of the area.
- 7.5.2. The First Party on the other hand contend that this is not the case. In this regard they contend that the amendments proposed to the extant permission are minor in nature. They further contend that the resulting main building with its modest additional height together with the extension of the seventh-floor level. With the latter providing additional bedroom spaces. Alongside the elevational changes which they have illustrated in a number of photomontages that show the existing, permitted, and proposed context from key viewpoints. That altogether these support that the resulting visual impact in terms of height, scale and architectural treatment outcome vary little from that already approved.
- 7.5.3. The Planning Authority's Planning Officer considered that the visual amenity concerns that they had were overcome by the elevational improvements and amendments to palette of materials, finishes and treatments including the omission of the inset architectural feature put forward by the applicant in their further information response.
- 7.5.4. Additionally, the Planning Officer in their final report concluded that the proposed development in terms of scale is acceptable and that it would not seriously injure amenities. They also considered that the active ground floor uses opening onto a prominent corner accord with the proper planning and development of the area as provided for under the Development Plan. This report concluded with a recommendation for a grant of permission which was the basis of the Planning Authority's decision. With the safeguards including a number of conditions that seek to ensure a qualitative visual amenity outcome. I note that these conditions include but not limited to agreement of the external palette of materials, restriction of advertising and other additional structures to the building including at roof level, the keeping free of the window treatments on ground floor from stickers and signage, the

protection of original historic built fabric of the Protected Structure, through to the appropriate conservation expert oversight of works to the Protected Structure.

- 7.5.5. I concur with the Planning Authority's Planning Officer in that the proposed development is an amendment to an extant permission granted by the Board. That whilst including an uplift in floor area and modest increase in the main buildings overall height it would not give rise to any significant or adverse visual amenity impact when compared to development as originally permitted under ABP-307217-20 (P.A. Ref. No. 4423/19). I also concur with the Planning Officer that the applicant's further information response satisfactorily deals with the Planning Authority's visual amenity concerns arising from the elevational treatment, the lack of any connectivity between the inset feature and the functioning interior spaces of the hotel.
- 7.5.6. Whilst I consider the loss of this inset feature and the potential to have provided a suitable use that would activate it in a manner that is consistent with Section 15.14.1.1 of the Development Plan. That is to say this section seeks that hotels of this size provide active uses vertically throughout the building. Notwithstanding, the Planning Authority did not raise this as an issue.
- 7.5.7. Additionally, I concur with the Appellant that there is a missed opportunity at this site to maintain the limited in width public domain adjoining the building for increased pedestrian comfort. Particularly given that this proposal includes no dedicated drop off/collection point for customers and staff of this 235-bed hotel use which in itself will generate significant additional footfall. Notwithstanding, the building line now that the chamfered corner has been reintroduced by way of the applicant's further information response maintains the building line of the extant permission.
- 7.5.8. The photomontages provided with this application and with the revised response show that the amended proposal will have a minimally different visual outcome when compared with the extant permission with the increase in height, the additional scale and mass sensitively modulated into the amended built form, through to the architectural treatment seeks to provide sensitive interventions and repair of the Protected Structure's elevation in the round whilst providing a light weight link to a main building that is of its time.
- 7.5.9. Conclusion: Having regard to the amended design, I do not consider it will negatively impact on the visual amenities of its setting at a prominent corner site. It would also

reverse this vacant site so that it can meaningfully contribute to its streetscape scene with its active ground floor level uses providing day, evening and night time animation as well as vitality to its streetscape scenes.

- 7.5.10. I am satisfied that the amended height, scale, mass through to architectural treatment and detailing of the Protected Structure of No. 27 and 28 New Row South, its light weight glazed link which attaches to a slightly taller main building that would in totality largely function as a hotel with restaurant and co-working space is an acceptable visual and function intervention at this setting that is not out of character with the emerging pattern of development in this locality. Including having regards to the height, scale, and mass of the Aloft hotel building on the opposite side of the junction.
- 7.5.11. Further, I consider the modest amendment proposed to the elevational treatment of the proposed addition over the Protected Structure would result in visual improvement to resulting built outcome when appreciated from and as part of the public domain. For these reasons I am satisfied that the proposed development would not give rise to any significant or material visual impact difference on its setting when compared to the extant permission and like it would result in the positive reversal of this site's vacant state in a manner that accords with the provisions of the Development Plan.

7.6. Structural Works and Potential for Adverse Impact on Culvert

- 7.6.1. The Appellant raises concerns that the proposed development may damage and weaken the Victorian brick culvert that flows through the site in proximity to the foundation works required for the main building and in such an event if this infrastructure was compromised it could potentially result in flooding of their property. With this culvert described as being an important part of the city's drainage infrastructure, managing stormwater runoff and aiding in preventing flooding during extreme weather events.
- 7.6.2. They also note that a section of this culvert during the construction of their property was replaced with a purpose-built reinforced concrete structure which was designed to effectively mitigate the risk of damage during and after construction. With this replacement structure designed to include access should that be required for maintenance purposes.
- 7.6.3. It is the appellants view that the information provided with this application and during appeal does not satisfactorily identify or assess the risk of damage to the culvert to a

high degree of certainty that the proposed development would not adversely impact this asset and therefore they recommend that the development be refused until the necessary geo-technical analysis and safety measures be provided by the applicant.

- 7.6.4. The Planning Authority raised no objection to the proposed development subject to the developer complying with the conditions attached to the extant permission and subject to complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0. This is provided for under Condition No. 14 of the Planning Authority's notification to grant permission.
- 7.6.5. The applicant in their response to the grounds of appeal do not accept that the proposed development which has been subject to rigorous engineering assessment by the same design team that were involved with the past recent applications including that granted by the Board under ABP-307217-20 (P.A. Ref. No. 4423/19) on the site would give rise to any adverse impact on this historic culvert.
- 7.6.6. On this point they contend that their reports and drawings accompanying this application have been informed by detailed analysis of the site from an early design stage of the different schemes having regard to the potential for impact on the River Poddle culvert. They indicate that like under previous schemes it has been shown and accepted that this proposed development would not give rise to any impact on the culvert and that this proposal relates to amendments of a permitted scheme.
- 7.6.7. It is also noted by them that it is not a planning requirement for structural calculations, geotechnical analysis, and temporary works design to be lodged with a planning application. With the design scheme as amended before the Board being both feasible and buildable.
- 7.6.8. The design of the proposed building sought under this application omits the previous basement structure and the north south ground level access running from New Row South to Fumbally Lane. With this design also including a courtyard area positioned over the route of the culvert.
- 7.6.9. The overall design is one that would involve more shallow excavation and less extensive below ground works with the proposed building sitting on a reinforced by concrete slab with RC columns with these columns providing lateral stability and the foundation of the structure consisting of pile caps on 450mm diameter CFA piles.

- 7.6.10. It is also indicated that the proposed pile supports to the columns are founded below the formation level of the culvert and that the design would be one that proposes a significant reduction in loading on the culvert when compared to its pre 2017 situation when this section of the site accommodated a warehouse structure with pallet storage and forklift operation on structurally impaired concrete slab.
- 7.6.11. It is put forward by the applicant that the overall design is one that seeks to ensure no transfer of any building loading onto and over the culvert. With the culvert protected during works and being maintained *in situ* with no access which is and has been the case previous to this, including in relation to the previous development permitted.
- 7.6.12. Moreover, it is indicated that as part of the previous application a detailed Site-Specific Flood Risk Assessment was prepared and lodged with the previous application which was permitted. With this report concluding and its conclusion being accepted that the new building would be located on Flood Zone C lands and therefore at low risk of flooding. The development previously permitted which this application seeks to amend was also accompanied by a hydraulic analysis was also provided with the previous application. Like the previous application permitted a small section of the site on its south western corner is located in Flood Zone B (Note: in proximate area of chamfered corner feature).
- 7.6.13. As such the permitted mitigation measures have been carried forward with this including the FFL of 12.15mOD and a freeboard of 0.74m is to be provided over the 1% AEP pluvial and fluvial flood event levels at the Flood Zone B and along New Row South it is proposed to provide a freeboard of c0.22m over the footpath level to protect against potential pluvial flooding.
- 7.6.14. The Planning Authority's Drainage Division raised no substantive concerns in relation to the amendments sought to the extant permission subject to standard conditions. The Planning Authority's Officer concurred with this and considered that all drainage matters could be satisfactorily addressed by way of condition.
- 7.6.15. Having examined all documentation on file and having regard to the planning history file of ABP-307217-20 (P.A. Ref. No. 4423/19) I concur with the Planning Authority's conclusion on drainage matters. I also consider that the amendments sought to the extant permission are one that are likely to give rise to less potential for any adverse impact to arise to this historic culvert due to the more shallow nature of below ground

works now required with the proposed column bases founded below the level of culvert and therefore not transferring any building load onto it and also with the nearest centre pole to culvert being clarified as being located 1.71m away at its nearest point as opposed to the 300mm indicated in the Engineering Assessment.

- 7.6.16. The documentation also indicates that unlike the appellants scheme which is located directly over the culvert this proposal has been designed to be setback from the culvert with the overall design having been agreed with the City Councils Flood Projects and their Water Frameworks Directive Division.
- 7.6.17. In relation to the concerns raised in terms of the accuracy of the location of the culvert it is reiterated by the applicant in their response to the appeal submission that the correct exclusion zone has been shown on the drawings provided with this application by JJ Campbell Engineers and that the discrepancy noted by the Third Party relates to an architects drawings that shows a schematic representation of the culvert as opposed to an engineering drawing.
- 7.6.18. It is also clarified that whilst this is a variation of a permitted development that the proposed scheme has been analysed in the documentation and drawings provided as a totally new structure for clarity.
- 7.6.19. I am satisfied that the documentation provided on this matter shows that the risks to the River Poddle culvert section that runs through the site is minimal and is no greater than that of the potential for impact that would have arisen from the extent permission which unlike this design included more substantive below ground works by way of this building under this previous design including a basement.
- 7.6.20. Moreover, I am also satisfied that the details provided in relation to flood risk are adequate and the precautionary approach taken by the applicant in terms of the investigations for this site which included the preparation of a hydraulic analysis, which is normally carried out for sites located in Flood Zone A or where CFRAM maps are not up to date together with the sites freeboard levels particularly in the south western corner and the sustainable drainage measures proposed, demonstrate that the proposed development would not give rise to any additional flood risks outside of the confines of the site.

7.7. Traffic Related Matters

- 7.7.1. The Third-Party Appellant expresses concerns are that the proposed development will exacerbate traffic and road safety issues, particularly at what they describe as a heavily trafficked junction as well as place an unreasonable additional burden on the limited publicly available on-street car parking in the vicinity of the site because of the proposed development.
- 7.7.2. They also contend that from their experience of running a hotel offer on the opposite side of the Blackpitts junction that there is a need for them to provide access to a level of car parking to meet some of their customers' needs.
- 7.7.3. With their hotel operation currently providing 50 car parking spaces to customers with 20 of these on-site and the remainder rented off site.
- 7.7.4. Based on their experience they are of the view that a hotel of the size sought under this application is likely to generate a requirement in the order of 60 guests per night seeking offsite parking.
- 7.7.5. In relation to this concern, I note that it is national and local policy to develop urban sites with more compact and dense developments with this including the reduction of car parking provision particularly at highly accessible urban locations.
- 7.7.6. In this regard I note that Objective 13 of the National Planning Framework allows for a 'range of tolerance' for car parking standards in urban areas to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- 7.7.7. Additionally, Goal 5 of the National Sustainable Mobility Policy - Action Plan, 2022-2025, encourages people to choose sustainable mobility over the private car.
- 7.7.8. The lack of car parking provision under this application is justified by the applicant on a number of basis including the site's inner city central location, its proximity to sustainable transport modes, the presence of multi-storey car parking provision within its vicinity, planning policy through to the lack of car parking provision in itself, a fact that it is said would be made clear to customers of the hotel in terms of information available on it as well as when booking accommodation and this lack of provision would also reduce trip generation to the hotel once operational.

- 7.7.9. On this last point it is contended by the applicant that it is not uncommon for hotels in city centre locations to not provide car parking and the lack of car parking provision is supported by the existing public transport in the area which is described as the site's close proximity to a Quality Bus Corridor on Cork Street and Clanbrassil Street which is served by Dublin Bus Routes No.s 27, 56a, 77a, 77x, 151, 49 and 54a.
- 7.7.10. In this regard I note that Clanbrassil Street lies c132m to the east of the site via Fumbally Lane.
- 7.7.11. In addition, I note that Harcourt Luas green line station is situated less than 1km to the east of the site. The site is in close proximity to employment centres and the city centre is within walking as well as cycling distance of the site.
- 7.7.12. It is of further note that as part of the applicant's further information response they sought that the Planning Authority had regard to the fact that proposal would be a 235-bedroom hotel within a city centre environment and that all deliveries and refuse collection would be carried out at off-peak times like is the case for other similar commercial entities. This they contend minimises the potential for delays to the delivery vehicles and avoids disruption to residents as well as customers of the hotel.
- 7.7.13. They also contend that the nature of their proposed use is one that for the most part it would be serviced using transit vans and short wheel-based trucks with large heavy goods articulated vehicles would not be expected as well as deliveries would be scheduled and carefully planned as well as monitored by management company staff. And as part of reducing vehicle trips generated to the hotel when operational the design includes for example an over-sized central linen/laundry stores which would reduce the frequency of linen companies accessing it.
- 7.7.14. I also note that as part of the applicant's additional information response they carried out a review of the estimated trip generation of a typical hotel containing 235 bedrooms using the 'multi-modal feature' within the TRICs database to examine the generation by type across the day.
- 7.7.15. Additionally, they provided an autotrack analysis of varying sizes of vehicles including a refuse truck and a 10m rigid truck entering and exiting the proposed service area is provided.

- 7.7.16. Other design amendments that positively improves access to the site by bicycle is that the cycle lane that formed part of the development permitted under the extant permission has been reintroduced and the public domain adjoining the site has been improved by re-incorporating into the amended design now sought the chamfered south western corner to the main building.
- 7.7.17. They also indicate in their additional information response that it will be clearly communicated on their website and associated booking websites that there is a zero-parking provision as well as it will be identified where alternative paid parking is available accessible to customers of the hotel.
- 7.7.18. Alongside this it is proposed that a working Mobility Management Plan will assist in the promotion and encouragement of alternatives to the private car.
- 7.7.19. In relation to taxi drop off and set down it is noted that there are ample opportunities for this in the adjacent streets with most forms of taxi services benefitting from modern communication devices which allow for them to be ordered on a demand basis without the requirement for formal taxi ranks or dedicated holding areas.
- 7.7.20. I also note that the Operational Management Plan provided indicates that the hotel operator envisages that most deliveries/servicing would take place during the hours of 07:00 to 19:00 with these managed to ensure that congestion in the surrounding area is avoided and that use is made of the proposed designated loading bays provided in the service area.
- 7.7.21. They set out that they envisage a maximum of 10 deliveries/collections per day on average with these relating to linen, food and beverage supplies, general and recycling waste etc. During deliveries and collections, it is set out that drivers will be required to switch off engines when loading and unloading to reduce noise and air pollution.
- 7.7.22. In relation to the type of vehicle expected this is broken down to 6 to 10 mid-sized vehicles and it is stated that all deliveries would be made via Blackpitts and Fumbally Lane side entrance as well as that as part of all contractors they would provide a window suitable for all contractors to reduce any congestion.
- 7.7.23. At the time of my inspection the streets I observed that the surrounding the appeal site were lightly trafficked and moderately parked. However, my site inspection was carried out in the early afternoon on a week day and as such I accept that it is not likely to

reflect the parking as well as the traffic movement situation in the evenings, mornings, and weekends when most residents of dwellings in the vicinity of the site would for example be at home and/or journeying from properties that are dependent on-street car parking spaces using permits.

- 7.7.24. The zero and limited car parking provision is one that is not inconsistent with the changing and emerging character of the Liberties area of Dublin. A situation where this locality's character is being transformed by compact and dense regeneration as well as renewal developments.
- 7.7.25. Further, I observed that there are several road controls in place in the adjoining and surrounding public road network, a network that is characterised by its historical layout of mainly narrow streets. Within the immediate setting of the site including the one-way traffic flows of New Row South and Fumbally Lane, the double yellow lines running along the entire public footpath kerbside adjoining the site's roadside boundaries, the presence of a number of speed reducing ramps in the immediate vicinity, the low posted speed limit through to the on-street publicly provided street parking restricted in its usage by way of pay and display/permit parking. With this on-street car parking provision including a dedicated disabled space in proximity to the site on Fumbally Lane.
- 7.7.26. I am also cognisant that the Planning Authority's Transportation Planning Division considered that the proposed development subject to the revisions set out in the applicant's further information response together with an increase in number of cycle parking spaces to 28 and other mainly standard safeguards would not give rise to any adverse traffic and/or road hazard concerns. With both their initial and final reports on file raising no substantive concern with the zero-car parking provision for the material change of land use, i.e., the replacement of the mixed-use development with a 235-bedroom hotel, as part of reaching this conclusion.
- 7.7.27. The Planning Authority's Planning Officer concurred with the Transportation Planning Division's conclusion and considered it to relate to a change of use of an extant permission with limited difference in the expected volume of vehicle traffic generated.
- 7.7.28. I also note that the applicant in their submissions to the Board raises no concerns in relation to the requirements set out by the Planning Authority's Transportation Planning Division under Condition No. 13 of the notification to grant of permission,

including the increased provision of eight additional cycle parking spaces on site. The latter requirement I consider is reasonable having regard to the nature and scale of the development sought together with the zero provision of car parking within this hotel scheme with ancillary café/restaurant and co-working spaces through to the nature of events indicated by the intended operator when operational.

7.7.29. I also note that the extant permission like this application seeks to maintain access onto the Fumbally Lane junction onto Blackpitts for servicing the amended development scheme which as discussed now seeks permission for a larger hotel of 235 bedrooms (Note: an increase of 91 bedrooms) with ancillary café/restaurant and co-working space with this catered for in an amended design of the building permitted under the extant permission as well as including an uplift in floor area.

7.7.30. Conclusion: Given the change of use proposed and the nature of the proposed development I concur with the Planning Authority in this case that the development of the subject site in the absence of car parking so close to the city centre with good public transport facilities available accords with the principles of sustainable development and the provision of more climate resilient development.

7.7.31. In this regard, I am not convinced that the proposed development particularly at operational stage would generate any significant additional traffic over and above the mix of uses of the extant permission. It is not uncommon for hotels in highly accessible locations to not provide car parking and to utilise pragmatic measures that encourage safe and viable alternatives to car use for accessing them.

7.7.32. This includes the utilisation of a Mobility Management Plan and clear information that those requiring car parking will have the necessary information on where this is available in the vicinity.

7.7.33. The site is one that is readily accessible through cycling and walking as well as is in the vicinity of a Quality Bus Corridor along Clanbrassil Street (R137) with a range of buses providing connectivity to key city locations including the city centre, Connolly Station, employment hubs, hospitals through to tourist attractions.

7.7.34. There are also employment hubs and tourist attractions within walking distance.

7.7.35. I therefore consider the development of the subject site in the absence of car parking like was the case with the extant permission so close to the city centre with good public

transport facilities available accords with the principles of sustainable and climate resilient development. It also in this case allows for the efficient use of the site whilst the omission of the basement under this proposal provides for the public gain of improved on-site interpretation of the site's sub archaeological material of interest.

7.7.36. For these reasons it is not considered that the proposed development would give rise to any additional traffic inconvenience or road safety issues over the extent permission and the proposed amendments, including the material change of use to hotel with ancillary spaces is acceptable subject to the safeguards.

7.8. Other Matters Arising

7.8.1. Standard of Amenity

The appellant raises concerns that the hotel bedrooms that are setback from and look directly onto the inside wall of the Protected Structure would suffer from poor amenity in terms of access to light and outlook.

I note that this setback and design feature carries through from what was permitted in the extant permission. With the second-floor level of the principal façade addressing New Row South also containing 11 openings (Note: dimensions 940mm wide and 1150mm high) which will be maintained permanently closed and transparently glazed as well as there are also window openings similar kept and treated on the eastern side.

Moreover, the contemporary design addition over consists of a mainly glazed external façade treatment with the new build setback elevation from the wall of the Protected Structure measuring between less than a meter to c1.5m together with the treatments of these elevation being one which seeks its sensitive restoration and presentation. This is not a tight setback or one that in totality is solid due to the presence of the fixed glazed openings. This setback subject to qualitative treatments could be a positive and unique design feature of the new addition for hotel bedrooms facing onto this setback and the surviving upper wall of the Protected Structures main building envelope.

I note that the Board raised no issue in the second-floor level setback design feature when considering the extant permission.

Additionally, the Planning Authority in their determination of the amended scheme did not consider this to be an issue of concern.

Whilst this proposal makes amendments to the external façade treatment of the proposed addition that would be setback from the main envelope of the Protected Structure at second floor level, I am of the view that the quantum of changes sought are minor in nature and do not give rise to any compromised qualitative amenity for the hotel bedrooms, including diminishment of outlook. I am also of the view that they do not significantly alter the outcome of the permitted works in the extant permission to this sensitive to change Protected Structure.

For these reasons, I am therefore of the view that this is not an issue that requires revisiting in the assessment of this application and that subject to appropriate conditions that seek appropriate conservation outcomes and the use of qualitative palette of materials, finishes and treatments that this setback element is a design feature that has the potential to add positive interest to this development scheme.

7.8.2. Construction Impacts

The main impact that would arise to the amenities of this area would in my view result from the excavation and construction phases. During these phases the works required to facilitate the proposed development would inevitably result in noise, dust, building debris and so forth. There is also potential for obstruction of traffic movements along the site's road frontage which I note is a corner location on a junction. Notwithstanding, such nuisances would be of a temporary nature and would be required to be carried out in compliance with standard codes of practice.

Further, I am satisfied that they would not be significantly different to that of the development permitted under the extent permission. It is also standard planning practice to include conditions that seek to minimise such impacts in the event of a grant of permission.

7.8.3. Daylight and Sunlight

This application is accompanied by a Daylight and Sunlight Assessment which examines the changes to the extant permission sought under this application. In particular it includes an updated examination which includes the extension to the permitted 7th floor level, the increase in floor area to the west of the permitted top floor

level, the internal alterations to provide additional bedrooms on previously permitted floors, the elevational changes, the provision of a 1.4m pop up at roof level for ventilation, the increased parapet height of the building by 300mm and the recessed top floor back from the main façade.

This assessment was carried out in accordance with accepted best practice and shows that the amended development will have the same minor adverse impact on surrounding buildings in terms of access to daylight for their window openings through to access to sunlight to gardens/amenity spaces when compared to the previously permitted scheme.

Additionally, it shows that the level of overshadowing arising would not be materially different to that of the previously permitted scheme.

I am satisfied that the examination provides a realistic scientifically based and robust analysis of this matter and I note that this is not a matter raised as a key issue by the Third-Party Appellant in this appeal case.

I am therefore of the view that the amendments sought under this application now before the Board on appeal would not give rise to any significant or additional adverse impact on properties in its vicinity by way of diminished access to sunlight, daylight, or increased levels of overshadowing.

7.8.4. Devaluation of Property Values

I note that concern is raised by the appellant regarding the depreciation in adjoining property values should permission be granted for the proposed development. This contention is not supported by any expert based opinion on this matter.

In relation to this concern, I am satisfied having regard to the vacant nature of the site which currently adds little positive contribution to its location that when developed the proposed development would result in a development that is consistent with the type of development envisaged for this highly accessible urban site as provided for under local through to national planning policy provisions and guidance.

I am also satisfied that it would also contribute to the on-going regeneration of Dublin 8 lands that in turn improves the vitality and vibrancy of this area.

Accordingly, I am not satisfied that there is any basis to include that the amendments sought under this scheme would result in any depreciation of property value and/or

loss of amenity to adjoining properties that could be considered a material departure over that previously permitted under the extent permission.

7.8.5. **Noise**

The Third-Party grounds of appeal raise noise nuisance as an issue on the basis that the amendments would give rise to additional noise nuisance impacts resulting from the provision of plant from the basement to the roof level and because of the lack of car parking provision to serve the proposed development. They therefore raise concerns that the proposed development would result in additional noise disturbance and a loss of amenity for properties in its vicinity, including existing residential properties in close proximity to the proposed hotel building and its spaces.

In terms of noise nuisance and disturbance, I accept that during the demolition and construction periods, it is inevitable that elevated noise and other disruptions will occur during the excavation and construction phases of the proposed development. This is unfortunately the case with such activities located in close proximity to residential dwellings and other sensitive land uses in a relatively tight grain inner city setting. Notwithstanding, these impacts will be short-term in their nature and extent. Further, it is standard practice to include conditions that seek to reasonably mitigate any potential issues in relation to this type of development to mitigate these concerns.

Once completed, however, I acknowledge that the proposed development will have a different land use to that permitted under the extant permission due to it primarily functioning as a hotel and with the restaurant as well as co-working space forming part of the ancillary uses provided by the intended future hotel operator.

While I accept that the plant associated with this use has been substantially relocated including at roof level, I do not consider that the proposed development includes significant noise generating plant that could be considered as exceptional for an urban development of this nature and/or inner-city location.

Moreover, noise nuisance is a matter that can be dealt with by way of condition including for example appropriate conditions that limit noise emanating from the development alongside limiting the development to that set out in the accompanying planning documents. Conditions like Condition No. 11, 17 and 18 of the Planning Authority's notification to grant permission together with conditions requiring the agreement of a Construction and Operational Management Plan, a Mobility

Management Plan through to conditions that restricts music or amplified sounds would in my view satisfactorily deal with these particular concerns.

Moreover, other types of noise and disturbance arising during the operational phase is primarily a matter for the management of the hotel facilities. With the proposed hotel use, in my view, forming part of a variety of uses located in a regeneration area of the inner city where a wide range of uses are permissible including the site itself has permission for hotel use with café/restaurant under its extant permission. I am therefore satisfied that the matter of noise and other such nuisances likely to arise during excavation, construction and operation can be addressed by way of condition and as such that no significant diminishment of amenities of properties would arise that could sustain or warrant a refusal of permission for a development that essentially seeks modifications to an extant permission.

7.8.6. Lighting

The Third-Party grounds of appeal raise external lighting as an issue that has the potential to adversely impact properties in its vicinity. I again reiterate that this is an amended scheme, and that the documentation accompanying this application includes a 'Site Lighting Report' prepared by experts in this field.

I note that this report also sets out the lighting simulation of the proposed lighting scheme at key points in the site and provides comparison with industry standards.

These calculations show that the light levels that would arise are in line with best standards and that little or no light pollution would arise on adjacent properties as the design is one that sets out to avoid lighting direction on surrounding properties whilst allowing for the proposed development to blend seamlessly into its surrounding environment.

Should the Board be minded to grant permission a suitable condition requiring adherence with the measures of an updated Site Lighting Report/Scheme should be imposed.

7.8.7. Operational Management Plan

This application is accompanied by an Operational Management Plan prepared by the intended occupier of the hotel development when complete. It sets out that they seek to capture leisure and corporate demand in this hotel provision at this location which

they believe can also serve as a hub for local community, guests, and residents to enjoy shared spaces with high quality food and beverage offerings alongside co-working spaces with landscaped shared outdoor areas dedicated events and artist spaces.

They also set out that curated schedule of community events would be provided by them at this location with the aim of promoting social interaction and integration of guests with existing communities adding to the areas sense of identity and local community that builds on strong ties with the locality.

They parallel the hotel offering as being like that which it provides at 'Britain Quay' where there is a mixture of both long and short stay accommodation.

In terms of staffing, it is set out that the proposed development would expect to create 35 plus positions covering management of the hotel and another 15 plus roles to manage the food, beverage, and co-working outlets.

Additionally, local Third-Party contractors will be engaged for maintenance of the interiors and exteriors of the property.

In terms of hours of operation, it is indicated that the main hotel will operate 24 hours but with resident access restricted after 22:00. It sets out the café would operate between the hours of 07:00 to 22:00; the co-working space 07:00 to 22:00 (with residents having 24-hour access to this space); the public courtyard 07:00 to 23:00 Sun to Thurs /0:00 Fri to Sat; and, the Delivery Bay 07:00 to 19:00 seven days a week.

Having regard to the above considerations I consider that the Operational Management Plan should be updated by way of condition to ensure that it accurately reflects the operations of the hotel by its end user. With this including clarification on any variation in operational hours which could have the potential to give rise to disamenity to properties sensitive to change in its vicinity.

I also consider the level of employment generated at the hotel together with the spin off synergies with local business as set out in the Operational Management Plan accord with the 'Z6' land use zoning employment and enterprise objective as well as vision for this type of zoned land.

I therefore raise no substantive concerns in relation to this matter that can not be dealt with by way of appropriately worded conditions.

7.8.8. **Sustainability and Energy Report**

This application is accompanied by a Simplified Building Energy Model to demonstrate Part L compliance of the proposed amended and extend building and to produce the anticipated end BER for the development. This indicates that the anticipated BER is 'A3' and that it would be 'Part L' compliant with the design refined to keep the results up to date.

Overall, I consider that the details set out in this report accord with Chapter 3, Policy CA8 and Section 15.7 of the Development Plan as well as Dublin City Climate Action Plan (2019-2024).

Having regard to the above should the Board be minded to grant permission it may wish to require by way of condition an updated report but specifically a Climate Action and Energy Statement that aligns with the local planning policy provision requirements. There has been significant progress and improvements in terms of renewables and sustainable as well as climate resilient measures for building/construction methodologies since this application has been lodged. This statement should reflect these changes and make improvements to the build where possible so that the end development accords with local through to national planning policy provisions, guidance, and best practice on such matters.

7.8.9. **Operational Waste Management Plan**

This application is accompanied by an Operational Waste Management Plan that is based on ensuring maximum recycling, reuse, and recovery of waste with diversion from landfill, wherever possible, for the hotel development and its ancillary uses. It correlates with the design and layout of the hotel which includes a waste storage area located at ground floor level on the southern side of the building adjacent to the vehicular access that opens onto Fumbally Lane in proximity with its junction to Blackpitts. It recommends staggering of collection of the different types of waste by a nominated contractor. The overall waste strategy appears to align with best practice and Dublin City Development Plan requirements. Management of waste arising during excavation and construction requires a separate plan.

These matters can be adequately dealt with by way of condition should the Board be minded to grant permission.

7.8.10. **Plant and Telecommunications**

Should the Board be minded to grant permission I recommend that it include an appropriately worded condition that restricts the provision of additional structures ranging from plant, telecommunications, equipment, cables, and other fixings. This is based on ensuring that the proposed development accords with local planning provisions which seeks to restrict such additional structures to buildings, particularly at roof level, outside of that which are permitted by way of a grant of permission and in the interest of safeguarding the visual amenities of the site's visually sensitive to change setting and in the interest of orderly development.

7.8.11. **Development Contribution**

The subject development is liable to pay development contribution under Section 48 of the Planning and Development Act 2000, as amended.

In addition, the proposed development also falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen's Green to Broombridge Line) under Section 49 of the Planning and Development Act, as amended.

Therefore, conditions should be included as part of any grant of permission seeking the payment of these contributions on the basis that it is reasonable that the development pay development contributions towards public infrastructure and facilities that would benefit this development.

I further note to the Board that the Planning Authority in their response to the grounds of appeal seek that a Bond condition be included as part of any grant of permission. This is not in my view unreasonable to ensure the satisfactory completion of the development.

8.0 **Appropriate Assessment**

- 8.1.1. This appeal site does not form part of, it does not adjoin or is it located in close proximity to any designated site. As set out under Section 5.4 of this report the closest Natura 2000 sites are located c.3.9km to the south west, i.e., South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and c4.1km to the north west, i.e., South Dublin Bay SAC (Site Code: 000210), as the bird would fly. Of further distance to the

site is the North Bull Island SPA (Site Code: 004006) which lies approximately 6.8km to the east of the site.

- 8.1.2. The subject site is located within an established urban area and is entirely composed of artificial or highly modified habitats, which are of negligible ecological and/or biodiversity significance. The River Poddle Culvert also runs under a portion of the site and no works, or interference will occur to this culvert in the redevelopment of the site.
- 8.1.3. It is accepted that the pathways between the site and the Natura 2000 sites noted above, all of which are located in Dublin Bay would be via surface water drainage and wastewater drainage. The hydrological pathway would be greater than the lateral separation distance identified above.
- 8.1.4. Like the previous Appropriate Assessment carried out by the Planning Authority in relation to the amended development now sought and that carried out by the Board for the extant permission I concur that there is no relevant hydrological connectivity to any Natura site.
- 8.1.5. The proposed development is to connect to existing public water services and whilst the Ringsend Wastewater Treatment Plant is not currently compliant with its emission limit standards, works are underway to increase its capacity. There are no effects arising which could act in combination with the subject proposal to result in significant effects to Natura 2000 sites.
- 8.1.6. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

9.0 Recommendation

- 9.1. I recommend that permission be **granted**.

10.0 Reasons and Considerations

10.1. Having regard to the site's 'Z6' land use zoning provision as provided for under the Dublin City Development Plan, 2022- 2028, the site's planning history for which the proposed development seeks modifications to (Note: ABP-307217-20 (P.A. ref. No. 4423/19)), the nature and scale of the modifications now sought which essentially seeks a material change of use to accommodate a hotel with 235-bedrooms with ancillary café/restaurant and co-working areas, the pattern of development in the surrounding area including recent permissions in an area that has a transitional zonal as well as a rich built heritage character and is undergoing significant regeneration, renewal and change mainly in the form of more compact and denser developments with taller buildings, it is considered that subject the compliance with the conditions as set out below, the proposed development would constitute an acceptable quantum of development in this accessible urban location, it would respect the character or pattern of development in this area, it would not seriously injure the amenities of surrounding properties or the visual amenities of the area and in its own right make a positive contribution of the streetscape scene by reversing the site's vacant state, providing a viable future use for the Protected Structure of No. 27 to 28 New Row South (Note: RPS Ref. No. 5821) and by way of providing active uses at ground floor level, it would also be acceptable in terms of pedestrian and traffic safety. Moreover, the removal of the basement level provides the potential for interpretation by presentation surviving archaeological material of interest, particularly that relating to the Recorded Monument DU0180020359 and could potentially unknown archaeological material relating to Recorded Monument DU018-020 (Historic City). In turn this would add to the historical knowledge and accessibility of archaeological finds of interest but would also add to the resulting scheme's unique sense of place and identity. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

11.0 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 21st day of

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.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the applicant shall submit revised plans for the written agreement of the Planning Authority revising the elevational and materials to the extension over the Protected Structure. This revision shall include the omission of the thick heavy capping from the elevation and include a light weight palette of materials, treatments and finishes that appropriately harmonise and are sympathetic to the Protected Structure of No.s 27 to 28 New Row South (RPS Ref. No. 5821).

Reason: In order to protect the character of the protected structure.

3. Apart from the departures hereby permitted, the development shall comply in full with the terms and conditions attached to planning permission ABP-307217-20 (P.A. Ref. No. 4423/19) and the conditions of this permission.

Reason: In the interests of orderly planning.

4. The bedrooms and associated facilities and amenities hereby permitted shall be used as a hotel and for no other purpose within Part 2 or Schedule 2, Part 4 of the Planning & Development Regulations (as amended), without the prior grant of planning permission.

Reason: To clarify the scope of the permission, in the interests of amenity and the proper planning and development of the area.

5. All signage associated with the proposed use shall be the subject of a separate planning application to the Planning Authority.

Reason: In the interests of orderly development and the visual amenities of the area.

6. Notwithstanding the provisions of the Planning & Development Regulations 2001 (As Amended), no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage or attached to the glazing without the prior grant of planning permission.

Reason: In the interests of visual amenity.

7. Window treatment of the ground floor units shall be clear glazed and kept free of stickers and signage at all times.

Reason: In the interests of visual amenity.

8. Notwithstanding the provisions of Class 31 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001, as amended, (or any equivalent provisions that may subsequently replace these provisions), no telecommunications apparatus that would otherwise constitute exempted development shall be installed on the application property without the written consent of the Planning Authority.

Reason: In order to afford the Planning Authority the opportunity to control these items in the interests of visual amenity.

9. The following requirements of the Planning Authority's Conservation Department shall be strictly adhered to:

- a) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor, and implement the works to the building

and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

b) A conservation architect with proven and appropriate expertise shall be employed to design, manage, monitor, and implement the works to the building and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

c) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric *in situ*. Items to be removed for repair off-site shall be recorded prior to removal, catalogued, and numbered to allow for authentic re-instatement.

d) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.

e) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.

f) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

Reason: To ensure that the integrity of this protected structure is maintained and that the proposed repair works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.

10. The following requirements of the Planning Authority's Archaeology Department shall be strictly adhered to:

a) The developer shall retain a licensed archaeologist to carry out the archaeological requirements of the City Archaeologist.

- b) An archaeological method statement for impact mitigation (including temporary and enabling works) shall be provided in advance to the City Archaeologist. The method statement shall contain a detailed archaeological and historical desktop study of the subject site, to include industrial heritage. A copy of the license application to the National Monuments Service shall also be provided.
- c) No construction or site preparation work shall be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.
- d) The applicant shall agree details in writing for the preservation *in situ* and presentation of a section of the 18th century Recorded Monument within the new scheme with the Planning Authority prior to the commencement of development.
- e) Details of the proposed construction methodology, including the phasing of any archaeological excavation, and the location of site compound, shall be agreed with the City Archaeologist prior to the commencement of development.
- f) The City Archaeologist recommends that Archaeological Excavation, as described below, be carried out prior to the commencement of development.
- g) The subject site in its totality is to be archaeologically excavated to the level of natural subsoil. All *in situ* features, including post medieval, shall be fully recorded prior to removal by hand excavation (unless methodology otherwise agreed) in these areas.
- h) The archaeologist shall provide the City Archaeologist with progress updates during the ongoing excavation on a bi-weekly basis or otherwise as agreed.
- i) All piling is to be monitored by an archaeologist.
- j) Removal of the existing ground slab and all ground reduction to formation level shall be monitored by an archaeologist. If archaeological deposits are encountered above the formation of the new build, these are to archaeologically excavated.
- k) In the event of *in situ* articulated human remains, being located during the course of this work, the archaeologist retained by the developer shall immediately notify the City Archaeologist and The National Monuments

Service. Should such archaeological features be of great significance their preservation *in situ* shall be required. This may negate, or curtail, aspects of the development.

l) A finds-retrieval strategy shall be developed by the licensed archaeologist and submitted for agreement with The National Monuments Service and the City Archaeologist.

m) An environmental sampling and analysis strategy shall be developed by an environmental specialist in consultation with the licensed archaeologist with reference to best practice environmental standards. The strategy shall be submitted for agreement with The National Monuments Service and the City Archaeologist.

n) The developer shall fund the post-excavation work and sufficient resources allocated to ensure that correct archaeological procedures are adhered to.

o) The following shall be submitted to the Planning Authority:

I. A bi-weekly report on the archaeological excavation during the excavation and post excavation period.

II. A preliminary report on the archaeological excavation not later than four weeks after the completion of the excavation.

III. A final report on the archaeological excavations not later than twelve months after the completion of the excavation. The final report must contain a full account of the stratigraphy, features, and finds and must include specialist reports and be suitably illustrated. It must interpret the site and place it in its archaeological and historical context.

IV. Following submission of the Final Report to the City Archaeologist, the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council) and lodged with the Dublin City Library and Archive, Pearse Street, Dublin or with another appropriate repository to be otherwise agreed with City Archaeologist within 2 years of excavation completion.

Reason: In the interest of preserving the special character and archaeological interest of the monument and of preserving or preserving by record

archaeological material likely to be damaged or destroyed in the course of development.

11. The following requirements of the Planning Authority's Transportation Planning Division shall be strictly adhered to:

a) Prior to the commencement of development, details of works and materials proposed within the public domain, New Row South and Blackpitts footpath and carriageway is required and shall be submitted to the Planning Authority for written agreement. Works and materials shall be in accordance with Construction Standards for Roads and Street Works in Dublin City Council, and all works shall be provided at the applicant/developer's expense.

b) A minimum 28 no. bike parking spaces shall be provided. Cycle parking shall be secure, conveniently located, sheltered and well lit. Shower and changing facilities for staff shall be provided as part of the development. Key/fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.

c) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

d) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: in the interest of orderly development.

12. The following requirements of the Planning Authority's Engineering Department – Drainage Division shall be strictly adhered to:

a) There is no objection to this development, subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).

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

13. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

14. Prior to the commencement of above ground development, details of the materials, colours, and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing by the Planning Authority. A panel of the proposed finishes to be placed on site to enable the planning authority to adjudicate on the proposals. Any proposed render finish to be self-finish in a suitable colour and shall not require painting. Construction materials as well as detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

Reason: In the interests of orderly development and the visual amenities of the area.

15. Prior to the commencement of development, a comprehensive boundary treatment, hard surfacing and landscaping scheme shall be submitted to and agreed in writing with the planning authority. This scheme shall include the following:

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing, surfaces for the services drop/collection point and how the historic cobbles on site would be reused within the development;
- (b) the proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of external furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeters of the site, including how repair of historic boundary structures are to be treated together with heights, materials and finishes of new boundary

treatments, including gates and/or other structures proposed to enclose open space areas/routes within the scheme.

The boundary treatments, surfacing and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity and to ensure a satisfactory standard of development.

16. Comprehensive details of the proposed lighting scheme to serve the development, including its external spaces, shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational before the hotel opens.

Reason: In the interest of public safety and visual amenity.

17. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Any such approval may be subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

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

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

19. During the construction phases, the proposed development shall comply with British Standard 5228 ' Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

20. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust, and vibration, and monitoring of such levels;

- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

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

21. The operational noise level of the hotel shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at any point along the boundary of the site between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

22. During the construction and demolition phases dust monitoring shall be carried out on a real time basis and all results made available to the Air Quality Monitoring and Noise Control Unit upon request.

Reason: In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

23. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority an updated Climate Action & Energy Statement.

Reason: In the interest of the proper planning, sustainable and climate resilient development.

24. Prior to the opening of the hotel, an up-to-date Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and measures to reduce and regulate the extent of customer/staff parking that may be required and where such is required adequate measures can be provided off-site in the vicinity third party car parking providers. The mobility strategy shall be prepared and implemented by the operator of the hotel. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

25. Prior to the commencement of hotel operation an up-to-date detailed Operational Management Plan shall be submitted to the Planning Authority for their written agreement. This shall include operational hours of the hotel, café/restaurant, lounges, and co-working spaces.

Reason: In the interest of amenities of the area and in the interest of orderly development.

26. Prior to the commencement of hotel operation an up-to-date detailed Operational Waste Management Plan shall be submitted to the Planning Authority for their written agreement. This shall include operational hours of the hotel, café/restaurant, lounges, and co-working spaces.

Reason: In the interest of amenities of the area and in the interest of orderly development.

27. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit or a bond of an insurance company/bank.

(a) to secure the satisfactory maintenance, completion, and any reinstatement of services/infrastructure currently in the charge of Dublin City Council, including roads, open spaces, car parking spaces, public lighting, sewers, and drains.

or

(b) to secure the satisfactory completion of services until taking in charge by a Management Company or by the Local Authority of roads, footpaths, open spaces, street lighting, sewers and drains to the standard required by Dublin City Council. The form and amount of the security shall be as agreed between the planning authority and the developer, coupled with an agreement empowering the planning authority to apply such security or part thereof. In the event that land to be used as open space is taken in charge, the title of any such land must be transferred to Dublin City Council at the time of taking in charge.

Reason: To achieve a satisfactory completion of the development.

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

29. 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 planning 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.

Advisory Note to the Applicant: Section 34(13) of the Planning and Development Act, 2000, as amended, states that *‘a person shall not be entitled solely by reason of a permission under this section to carry out any development’*.

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.

Patricia-Marie Young
Planning Inspector - 29th day of February, 2024.

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315887-23		
Proposed Development Summary	Modifications to development permitted under ABP-307217-20 (P.A. Ref. No. 4423/19) including the change of use to 86 hotel rooms, alterations to building together with all associated site works and services. The site includes Protected Structure RPS Ref. No. 5821.		
Development Address	No. 27-29 New Row South, Dublin 8.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	✓	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No	N/A		No EIAR or Preliminary Examination required
Yes	Class 12 specifically relates to tourism and leisure. Class 12(c) relates to holiday villages which would consist of more than 100 holiday homes outside built-up areas, hotel complexes outside built-up areas		Proceed to Q.4

		<p>which would have an area of c.20 hectares or more or an accommodation capacity of 300 bedrooms. The subject site is located within a built-up area and does not exceed the 300 bedrooms.</p> <p>Therefore, the provisions under Class 12(c) would not apply in this instance.</p> <p>Additionally, Class 10(b)(iv) also does not apply in this instance.</p>		
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4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315887-23	
Proposed Development Summary	Modifications to development permitted under ABP-307217-20 (P.A. Ref. No. 4423/19) including the change of use to 86 hotel rooms, alterations to building together with all associated site works and services. The site includes Protected Structure RPS Ref. No. 5821.	
Development Address	No. 27-29 New Row South, Dublin 8.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
Nature of the Development		
Is the nature of the proposed development exceptional in the context of the existing environment?	It is consistent with the nature of development that is deemed to be open for consideration on land zoned 'Z6' in Dublin's city centre under the Dublin City Development Plan, 2022-2028, with this land use zoning reflecting the dynamic mixture of uses present and that can positively contribute to such locations. The nature of the proposed development is not exceptional with the existing environment which includes existing hotel developments and the site itself has an extant permission which includes hotel use as part of the mixture of land uses approved for which this application seeks amendments to.	No.
Will the development result in the production of any significant waste, emissions, or pollutants?	The proposed development would produce standard expected waste, emissions/pollutants that correlate with its nature and extent during excavation, construction, and operational stages. The waste, emissions and/or pollutants are not significant having regard to the nature and the extent of the proposed development in a built-up inner-city area and can be appropriately managed by standard best practice measures and controls.	No.
Size of the Development		
Is the size of the proposed development exceptional in the context of the existing environment?	The proposed development relates to an amendment to an extant permission and the additional uplift in floor area including modest additional height is one that is not inconsistent with the size of development within Dublin 8 where compact, denser, and taller buildings are encouraged and where plot sizes are generally small through to medium in size where plots have included amalgamation like in the case	No.

<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>of No.s 27 to 29 New Street South. Further the site occupies a corner and prominent position where a taller building can positively address the junction of New Row South, Blackpitts, Wards Hill, Fumbally Lane and Mill Street.</p> <p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments arising from the proposed development if permitted. The surrounding context is an inner city urban landscape where most developments have been completed and where regeneration of available land is encouraged as well as is on-going in a manner consistent with local through to national planning policy provisions that encourages efficient use of serviced and accessible land at appropriate locations within cities.</p>	<p>No.</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The proposed development relates to a brownfield site located in a built-up serviced inner city urban area with no connectivity between it and the nearest Natura 2000 site or any other such sites.</p> <p>Given the nature of the proposed development, the characteristics of the site, its surroundings through to the nature and extent of development between it and the nearest significant environmentally sensitive area, it would not likely have the potential to significantly affect significant environmental sensitivities in the area.</p>	<p>No.</p> <p>No.</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>N/A.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>N/A.</p>

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(Only where Schedule 7A information or EIAR required).