



An  
Bord  
Pleanála

## Inspector's Report 316103-23

<b>Development</b>	Demolish part of 3-storey building and 2-storey extension, retain and re-use concrete floors of 3-storey building and construct an additional 5-storey building comprising a hotel containing 81 no. bedrooms, and all ancillary site development works
<b>Location</b>	3-4 Kevin Street and Liberty Lane, Dublin 8
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	5494/22
<b>Applicant(s)</b>	Derek Murtagh
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Derek Murtagh
<b>Observer(s)</b>	Philip O'Reilly
<b>Date of Site Inspection</b>	11 <sup>th</sup> July 2024
<b>Inspector</b>	Mary Kennelly

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## **1.0 Site Location and Description**

- 1.1.** The site is located on Kevin Street Lower in Dublin 8, approx. 250m from St. Stephen's Green. The site is on the southern side of Kevin Street, between Wexford Street and Liberty Lane. It comprises an end-of-terrace property, on the corner of Kevin St and Liberty Lane, with shops and cafes at ground floor level and accommodation/commercial overhead. The streetscape of this part of Kevin Street is comprised of a series of terraces (both traditional and more modern), some of which have been redeveloped as larger blocks, with mixed architectural styles with varying heights and designs. Most of the properties in the immediate vicinity are 4-5-storeys in height. There is a cycle lane and a footpath in front of the property.
- 1.2.** The terrace, of which the site forms part, comprises three buildings, two of which are 4-storeys and of a traditional design and a three-storey more recent building with two ground floor retail/café/restaurant units. The traditional buildings include the Landmark Pub (Protected Structure), on the corner with Wexford Street, and a restaurant (Goose on the Loose) with a commercial use overhead. The appeal site, with a stated area of 343sq.m, forms the majority of the 3-storey building with a café on the ground floor and offices overhead. The second restaurant (Hot Chilli) does not form part of the site. The northern frontage of this building is double the width of the street frontages of the traditional buildings to the east. The fenestration pattern is at odds with the traditional glazing pattern and the eaves level is lower than that of the traditional buildings. The site frontage extends along Liberty Lane with a blank 3-storey gable wall and a 2-storey extension at the rear. There is also a fenced off parking area behind the rear extension, which is accessed from Liberty Lane.
- 1.3.** The immediately adjoining property to the west comprises a 5-storey block of apartments (with an additional recessed floor) fronting onto Kevin Street Lower and Liberty Lane, College Court, which is of more recent origin. It occupies the Kevin Street frontage between Liberty Lane and Church Lane South, and the frontage extends along part of these two lanes. There are five retail units at GF level along the Kevin Street frontage, the corner units of which extend into the adjacent lanes. The ground floor of Liberty Lane includes a series of vacant ground floor units with two storeys of residential accommodation overhead and the ground floor of Church Lane South contains one retail unit. The remainder of Liberty Lane comprises vacant/derelict sites with graffiti covering the facades and boundary walls. Church

Lane South bounds the construction site on the former Kevin Street College of Technology (DIT/TUD) site, which recently received planning permission for a mixed-use development of mainly offices and residential units over five blocks ranging in height from 1 to 14 storeys.

## **2.0 Proposed Development**

- 2.1.** It is proposed to demolish part of the existing building and to erect an eight-storey hotel building with setbacks and terraces at the third and sixth floors. The proposal includes the retention of the GF segment of the building on the north-western corner, (No. 4 Kevin Street) which incorporates the entire ground floor retail unit (Hot Chilli) as well as the retention of the concrete floors and support structures of the remainder of the existing building, but it is proposed to remove its external walls and to demolish the rear extension and car park. It is proposed to re-use and incorporate the concrete floor plates from ground to second floor level into the new building. The floor area to be demolished is given as 283m<sup>2</sup>.
- 2.2.** The proposed use of the building is as an 81-bedroom hotel with a retail unit on the ground floor (57m<sup>2</sup>). The total floor area is given as 2,046m<sup>2</sup> with a plot ratio of 6.9 and a site cover of 100%. The proposed building is tall (8 storeys and 29.7 metres) and narrow (frontage of 13.5m) and is brick-clad with Aluclad windows. The entrance to the hotel for both guests and servicing is from Liberty Lane, approx. 16m from the Kevin Street junction. There is a proposed taxi set down adjacent to the entrance to the north and a car park accessed from Liberty Lane to the south. The proposed building is recessed at the third-floor level adjacent to Liberty Lane and again at sixth floor level, which is at the north-western corner of the building. The building recesses provide for two terraces, one on each of these floors, which are long and narrow and overlook Liberty Lane.
- 2.3.** Notwithstanding the area shown on the proposed ground floor plan as a car park, the Planning Report (5.1.5) submitted with the planning application indicated that there is no car parking proposed to serve the development. It is proposed to provide 10 bicycle parking spaces.
- 2.4.** A Revised Scheme was submitted to the Board with the Grounds of Appeal on the 21<sup>st</sup> March 2023. The main differences between the revised scheme and the one which the P.A. decision was based on are as follows:

Original scheme (P.A. 5494/22)	Revised Scheme (with Appeal 21/03/23)
81-bed hotel	61-bed hotel
8-storeys (29.7m tall)	6-storeys (21.4m tall)
GFA – 2, 046m <sup>2</sup>	GFA – 1,663m <sup>2</sup>
Plot ratio 6.9	Plot ratio 4.8
Site cover 100%	Site cover 100%
No guest entry from Kevin Street	Guest entry from Kevin Street
Taxi set-down Liberty Lane	No Taxi set-down
Terraces at third and sixth floors	Terrace at third floor
Ambiguity re car parking	Confirmation no car parking provided
10 cycle spaces	Additional visitor cycle spaces

### 3.0 Planning Authority Decision

#### 3.1. Decision

The planning authority decided to **refuse** permission for three reasons as follows: –

1. Having regard to the requirements of the Dublin City Development Plan 2022-2028 it is considered that the proposed development would exacerbate the existing over-concentration of hotel developments and prevent the delivery of other uses in the southeast quadrant of the city such as residential, social, cultural and economic uses and would fundamentally undermine the vision of the City Development Plan for the provision of a dynamic mix of uses within the city centre and fail to sustain the vitality of the inner city. The proposal would therefore be contrary to section 15.14.1 of the Dublin City Development Plan 2022-2028 and if permitted, would be contrary to the proper planning and sustainable development of this location.
2. The proposal, by way of its design, scale, bulk, massing and height represents overdevelopment of the site, would not complement the

established built form and character of the surrounding area, would appear overly dominant in relation to the wider terrace and townscape context and fails to respond positively to the prevailing architectural character. The proposal would appear visually incongruous and would cause serious injury to the setting and amenity of the Conservation Area and would negatively impact the setting of the adjacent Protected Structure. The proposal, therefore, contravenes Policy BHA9, Sections 4.5.3, 4.5.4 and 11.5.3 and Appendix 3 of the Dublin City Development Plan 2022-2028, the Urban Development and Building Height Ministerial Guidelines and the proper planning and sustainable development of the area.

3. Having regard to the design, scale, bulk, massing and height of the proposed building and to the results set out in the submitted Daylight And Sunlight Assessment, it is considered that the proposed development would seriously injure the residential amenities of opposing properties to the east No.5 Kevin St. Lower and No.22 Liberty Lane by reason of overbearance, overlooking, potential noise disturbance and access to daylight and sunlight. As a result, the proposed development would be contrary to the City Development Plan 2022-2028, would set an undesirable precedent for similar developments in the area and be contrary to the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **Planning Reports**

- 3.2.1. The planning report noted that the proposed hotel use was permissible, having regard to the Z5 zoning. However, it was considered that the proposed use did not comply with the zoning objective which seeks to provide for a rich and vibrant range of uses in the city centre and having regard to Policy CEE28 and Section 15.14.1 of the Development Plan, the proposed use was not considered to be appropriate in principle due to the over-concentration of hotels in the area. Although demolition was considered acceptable in principle, given that the existing building was not of any architectural merit, but it was noted that the third-parties had raised concerns

regarding the demolition of structures surrounding the retained unit, which is in operation as a take-away.

- 3.2.2.** It was noted that a very similar development was refused on this site under P.A. Reg. Ref. 4235/22 on three grounds, namely excessive height and scale which would result in overdevelopment of the site, an overly dominant structure which would have adverse impacts on the residential amenities, character of the Conservation Area and visual amenities of the area. It was pointed out (in tabular form) that the key elements of the proposed development (including height, scale, mass, plot ratio and site coverage), had not been altered and, as such, the proposed development had not addressed the previous reasons for refusal.
- 3.2.3.** The plot ratio at 6.9 and the site coverage at 100% was noted as exceeding the maximum indicative PR of 2.5-3.0 and the SC of 60-90%. As such, concern was expressed regarding overdevelopment of the site and the negative impact on the character of the area and neighbouring occupiers. Appendix 3 of the CDP requires that all proposals with significant increased height and density over the prevailing context must demonstrate full compliance with the performance criteria in Table 3. It was further noted that the CDP sets a default position of 6 storeys for the city centre and requires that where a site immediately adjoins a lower density development, that appropriate transitions of scale and separation distances must be achieved. Furthermore, the location of the site in a Conservation Area and in close proximity to a Protected Structure required additional sensitivities to the local context to be achieved.
- 3.2.4.** It was considered that the proposed development did not address the criteria in Table 3 of Appendix 3, as the justification for the increased height and density relied on the city centre location, accessibility by public transport, availability of amenities and services. It made reference to several infill sites throughout the city including the nearby Kevin Street Redevelopment. However, it was considered that these developments have an entirely different context and are not considered to be of relevance to the current proposal. The photomontages submitted with the Visual Impact Assessment were considered to demonstrate that the development would be overly dominant, overbearing, excessive, out of scale and character with the prevailing scale and character of the Conservation Area. It would, therefore, “create an insensitive imbalance within the immediate historic urban block and streetscape,



failing to relate to or integrate with the existing character of the area and would harm the setting of the adjacent Protected Structure”.

- 3.2.5.** In terms of impacts on residential amenity, serious concerns were expressed regarding the daylight and sunlight impacts on adjoining properties, in particular, No. 5 Kevin Street (College Court) and No. 22 Liberty Lane, with multiple windows affected and the failure to adequately assess the impacts on the terraces of these properties. It was further considered that the proposed hotel would result in unacceptable degrees of overbearance and overlooking of the residential properties on the other side of Liberty Lane, as well as noise and disturbance from the servicing area and the two proposed terraces.
- 3.2.6.** Concern was expressed regarding the concentration of all pedestrian (guest/staff) access and servicing access at a single point along Liberty Lane with no direct access from Kevin Street. It was noted that the taxi set-down appeared to subsume the public footpath, which was unacceptable. The car parking provision was stated as nil in the submitted Planning Report, yet a ‘car park’ was annotated on the plans. It was considered that inadequate cycle parking was provided for visitors. There was particular concern regarding the concentration of all servicing activities on the narrow Liberty Lane and the capacity of the lane to cater for the servicing requirements of a hotel of this scale. This matter as well as the construction impacts on the lane would have to be adequately assessed.
- 3.2.7.** It was noted that the site is located within a Zone of Archaeological Interest and that the City Archaeologist had raised concerns regarding the potential for archaeological and industrial heritage material may be present at sub-surface level within the site.
- 3.2.8.** In conclusion, it was considered that given the over-concentration of hotels within a 500m radius, the proposed development would fundamentally undermine the mixed-services and vision for this part of the city centre. In addition, the proposal was considered to represent overdevelopment and would be excessively scaled with associated negative impacts on the residential and visual amenities of the area.

**3.2.9. Other Technical Reports**

City Archaeologist – concerns were raised regarding the lack of prior consultation and the absence of an archaeological impact assessment report, as required by the CDP (BHA26(4)). It was noted that the site has clear archaeological potential as it is located within the Zone of Archaeological Potential for the Historic City (RMP Ref.

DU018-020) and is located c.75m from St. Kevin's Church (an eighteenth-century church, RMP DU18-020078), which was built on the site of a 12<sup>th</sup> century church dedicated to St. Kevin of Glendalough. There is also a possibility of a town gate known as St. Kevin's Gate (RMP DU018-020036) approx. 25m to the east of the site.

It was also pointed out that the site is located just to the south of the medieval core and that the excavations c.10m to the west of the site in 1997 had uncovered medieval floor layers, a substantial medieval ditch running East West and extensive post medieval features/deposit including evidence of a market/ slaughterhouse. Furthermore, the site is located in a busy post-medieval industrial area with evidence of a sawmill recorded c.124m to the southwest of the site.

In light of the foregoing, it was considered that potential archaeological and industrial heritage may be present within the site at sub-surface level, and it is also within the Zone of Archaeological Interest. A condition was therefore recommended which prohibited any works until all archaeological requirements have been complied with and required the submission of an Archaeological Impact Assessment, a Method Statement and a comprehensive monitoring and mitigation scheme.

Transportation Planning – (21/12/22) Concerns raised regarding negative impact of development on Liberty Lane causing congestion, delays and disruption as well as the potential impact of construction traffic on this lane. It was noted that Liberty Lane is a narrow one-way lane which is accessed via Camden Row to the south and has the benefit of footpaths on either side, but which are substandard in width. The capacity of the lane to accommodate all access arrangements and servicing activity, including refuse collection was questioned. As such, further information was requested regarding the details of access and servicing as well as the number, type and frequency of service vehicles and swept path analysis. It was further requested that the taxi-set down be omitted, and that clarification be provided on the purpose of the 'car park', given that the planning report and transport report state that no car parking would be provided. It was pointed out that car parking provision would be discouraged (in terms of CDP policy) at this location and that additional bicycle parking should be provided for staff and visitors.

Environmental Health Officer (27/01/23) – no objection from Air Quality Monitoring and Noise Control Unit, but the Construction Management Plan was not considered

to be sufficient and should be amended to include dust and noise monitoring methodology.

Drainage/Engineering Division – (19/01/23) No objection subject to conditions.

### **3.3. Prescribed Bodies**

Transport Infrastructure Ireland – (19/01/23) – no objection subject to conditions. A Section 49 Levy Scheme for Light Rail is required (unless exempt).

Irish Water – no response.

Dept. of Housing, Local Government & Heritage – no response.

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

3.4.1 Three third-party submissions in support and eleven objections were received by the P.A. The main concerns may be summarised as follows :-

- Height, scale and mass of proposed building is excessive and is unsuitable in the context of the streetscape and would overwhelm historical character of street and have a negative impact on the Protected Structure nearby.
- Overdevelopment of site with excessive plot ratio and site coverage which is more-or-less double the maximum standards.
- Design of building, fenestration pattern and use of materials are inappropriate and out of character with the surrounding area.
- Concerns about structural stability and impacts on the operation of the existing business from the GF unit of no. 4 Kevin Street due to noise/dust etc.
- Inadequate road capacity, traffic generation and loss of access in the laneway. Adverse impacts on traffic and parking in the area due to construction, deliveries, coaches, private cars, taxis. Impact on bus corridors also. Construction traffic on Liberty Lane would be problematic.
- Loss of residential amenity due to significant overshadowing and loss of light, as well as an increase in noise and disturbance from vehicles dropping off/picking up at night, servicing vehicles. Negative impact on College Court apartments and residential properties on Liberty Lane. Proposed building would also reduce the energy efficiency of adjoining premises.

- Construction and structural issues arising from the demolition of the building with potential impacts for immediately adjoining neighbours. Insufficient information on construction methodology and structural impacts on adjoining properties provided. Likely to encounter problems with access to properties, noise and dust pollution, dirt on streets, and material damage.

**3.4.1.** The letters of support welcomed the proposed development as it would enhance the area and provide much-needed hotel beds.

## **4.0 Planning History**

### **4.1.1. Subject site**

**PA Reg Ref 4235/22** - Permission for an 8-storey hotel with 81 bedrooms was refused on 9<sup>th</sup> August 2022 (same applicant). Similar to current application/appeal.

Permission was refused for three reasons. These related to firstly, adverse impact on the visual amenity and conservation are due to the excessive height and scale of the development; secondly, overdevelopment of the site due to significant exceedance of plot ratio and site coverage standards and its overly dominant effect on the streetscape and adjacent protected structures; and thirdly, the impact on the residential amenities of adjoining properties having regard to the results of the Daylight and Sunlight Assessment.

### **4.1.2. On adjoining sites**

**Landmark Pub – ABP.315509-23** – Permission granted for alterations and extension to the pub (Protected Structure).

**Kevin Street Former DIT/TUD – ABP.309217-21** – permission **granted** for mixed use development including commercial offices and 299 apartments in five blocks ranging in height from 1 to 14 storeys.

**ABP.313366 – former Kevin St TUD site** - A subsequent application/appeal for an increase in scale, density and height was **refused** on the grounds of overdevelopment and overbearing impact.

**10/11 Liberty Lane – ABP.317464-23** – permission refused for tourist hostel.

## **5.0 Policy Context**

### **5.1. National Planning Framework 2018-2040**

**National Strategic Outcome 1** - Compact Growth - recognises the need to deliver a greater proportion of urban development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

**NP Objective 4** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

**NP Objective 5** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.

**NP Objective 11** in urban areas, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

**NP Objective 13** in urban areas, planning and related standards, including in particular, building height and carparking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

### **5.2. Urban Development and Building Height Guidelines (2018)**

These guidelines set out national policy on building height in urban areas. Consolidation and densification, with greater building heights, can be considered in appropriate locations such as city and town centre areas, sites with significant public transport capacity and connectivity, but having regard to the need to achieve very high quality in terms of architectural, urban design and public realm outcomes.

### 5.3. Architectural Heritage Protection Guidelines for P.A.s (2011)

These guidelines include advice on appropriate development within Architectural Conservation Areas and for Protected Structures and their settings.

### 5.4. Dublin City Development Plan 2022-2028

#### 5.4.1. The site is **zoned Z5 City Centre** the objective for which is

“To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.”

It is stated (14.7.5) that the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. Hotel use is listed as a permissible use under the land use zoning objective.

#### 5.4.2. **Chapter 4 – Shape and Structure of the City** seeks to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. Relevant policies are -

#### 5.4.3. **4.5.1 Approach to the Inner City and Docklands** – Consolidation and development of brownfield lands.

**SC2 – Develop the City’s Character** – protect the grain, scale and encourage appropriate building heights to ensure efficient use of resources.

**SC3 – Mixed Use Development** – promote mixed-use including high quality sustainable residential development.

**SC5 – Urban Design and Architectural Principles** -To promote the urban design and architectural principles set out in Chapter 15, and in the Dublin City Public Realm Strategy 2012, in order to achieve a climate resilient, quality, compact, well-connected city and to ensure Dublin is a healthy and attractive city to live, work, visit and study in.

#### 5.4.4. **4.5.3. Urban Density** – the objective is to provide opportunities for increased density in a sustainable manner whilst ensuring the highest standard of design as well as the protection of existing amenities and the natural and historical assets of the city. In some instances, higher density development will be informed by Architectural Conservation Areas (ACAs), the Record of Protected Structures and other heritage designations. In this regard, such development will be required to minimise potential

adverse impacts through appropriate siting, scale and massing. (See also Appendix 3 – Achieving Sustainable Compact Growth: Policy for Density and Building Height in the City).

**5.4.5. 4.5.4 Increased Height as Part of the Urban Form and Spatial Structure of**

**Dublin** – when considering building height, regard must be had to the prevailing context within which the site is located, and broader consideration must be given to potential impacts such as overshadowing and overlooking. Key considerations also include locations within the historic core, where it must be demonstrated that increased height will not adversely impact these sensitive environments and that they will make a positive contribution to the historic context.

**SC10 – Urban Density** – ensure appropriate densities and creation of sustainable communities in accordance with national guidance.

**SC11 – Compact Growth** – promote compact growth and sustainable densities through consolidation and intensification of infill and brownfield lands, particularly on public transport corridors subject to certain criteria.

**SC14 – Building Height Strategy** – ensure a strategic approach in accordance with Building Height Guidelines and in particular SPPR 1 to 4.

**SC15 – Building Height Uses** – support the development of an adequate mix of uses in proposals for larger scale development which are increasing height or proposing taller building in accordance with SPPR 2.

**SC16 – Building Height Locations** - recognise the predominantly low-rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre subject to achieving a balance between reasonable protection of amenities and environmental sensitivities, protection of residential amenity and the established character of an area.

**SC17 – Building Height** – Protect the skyline and ensure that proposals for enhanced scale and height comply with certain criteria including responding sensitively to the historic city centre.

**SC18 – Landmark/Tall Buildings** – promote a co-ordinated approach in a plan-led manner in order to prevent visual clutter or cumulative negative visual disruption of the skyline and that such proposals comply with the performance-based criteria set out in Appendix 3.

**5.4.6. 4.5.5 Urban Design and Architecture** - Well-considered urban design and architecture, including use of high-quality materials and finishes, and well-designed buildings, spaces and landscapes make a positive contribution to the urban environment and improve the environmental performance, competitiveness and attractiveness of the city.

**SC19 – High Quality Architecture** - To promote development which positively contributes to the city's built and natural environment, promotes healthy placemaking and incorporates exemplar standards of high-quality, sustainable and inclusive urban design and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods.

**SC21 – Architectural Design** - To promote and facilitate innovation in architectural design to produce contemporary buildings which contribute to the city's character, and which mitigates, and is resilient to, the impacts of climate change.

**SC22 – Historical Architectural Character** - To promote understanding of the city's historical architectural character to facilitate new development which is in harmony with the city's historical spaces and structures.

**5.4.7. Chapter 6 – City Economy and Enterprise** seeks to encourage balanced economic investment with an increased focus on liveability, enhanced public realm and mobility measures.

**CEE 8 – The City Centre** - To support the development of a vibrant mix of office, retail, tourism related and cultural activities in the city centre and the development of key potential growth areas such as Diageo lands, St. James's Healthcare Campus and TU Dublin Campus at Grangegorman.

**6.5.6 Key Economic Sectors – Tourism, Hotels and Events** – Avoid overconcentration of hotel development in areas of the city which currently have high levels of existing hotel development or where there is a significant number of planning applications for such development, and have regard to the existing and proposed mix of uses in the vicinity, in order to achieve wider city objectives such as to create a rich and vibrant range of uses in the city centre.

**CEE 28 – Visitor Accommodation** - To consider applications for additional hotel accommodation having regard to:



- the existing character of the area in which the development is proposed including local amenities and facilities;
- the existing and proposed mix of uses (including existing levels of visitor accommodation i.e. existing and permitted hotel, aparthotel, Bed and Breakfast, short-term letting and student accommodation uses) in the vicinity of any proposed development;
- the existing and proposed type of existing visitor accommodation i.e. Hotel Classification/Rating, Hostel Accommodation, Family Accommodation, Alternative Accommodation etc., in the vicinity of any proposed development;
- the impact of additional visitor accommodation on the wider objective to provide a rich and vibrant range of uses in the city centre including residential, social, cultural and economic functions;
- the need to prevent an unacceptable intensification of activity, particularly in predominantly residential areas;
- the opportunity presented to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities.

**Objective CEE01 – Study on the Supply and Demand for Hotels, Aparthotels and Hostels** - To carry out an analysis of the supply and demand for tourism related accommodation including hotels, aparthotels, hostels, Bed and Breakfast Accommodation and other short-term letting in the Dublin City area.

#### **5.4.8. Chapter 11 – Built Heritage and Archaeology –**

**5.4.9. 11.5.3. Z2 and Z8 Zonings and Red-Hatched Conservation Areas** - Whilst red-line conservation areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.

They include extensive groupings of buildings, streetscapes and associated open spaces and include (parts of) the medieval/walled city, the Georgian Core, the 19th and 20th century city, and the city quays, rivers and canals. The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special

care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.

As with Architectural Conservation Areas, there is a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area. Such proposals will require detailed justification from a viability, heritage, and sustainability perspective.

**BHA 9 – Conservation Areas** - To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

**BHA 10 – Demolition in Conservation Areas** - There is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such loss would also contribute to a significant public benefit.

#### **5.4.10. Archaeological Heritage Policy BHA 26 – Protect and Preserve Monuments and Places (on RMP).**

To protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way of re-use of standing buildings, the construction of light buildings, low impact foundation design, or the omission of basements.

To seek the preservation in situ of all archaeological monuments and other archaeological features, or as a minimum preservation by record.

Where development proposals are located within the RMP, sites of over 0.5ha with potential underwater impacts and sites on the Industrial Heritage Record will be subject to consultation with the City Archaeologist.

#### **5.4.11. Chapter 15 Development Standards**

##### **Section 15.4.2 Architectural Design Quality and Design Principles**

Imaginative, innovative and contemporary architecture is encouraged in all development proposals, provided that it respects Dublin's heritage and local

distinctiveness and enriches the city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. Design Principles include:

- The character of both the immediately adjacent buildings, and the wider scale of development and spaces surrounding the site.
- The existing context and the relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid to void relationships, degree of uniformity and the composition of elevations, roofs and building lines. The scale and pattern of existing streets, squares, lanes and spaces should be considered.
- The existing palette of materials and finishes, architectural detailing and landscaping including walls, gates, street furniture, paving and planting.
- The context and orientation in relation to daylight, sunlight and overshadowing and environmental performance including climate impacts such as downdraft or wind tunnelling.
- Landmark features which can be used to give treatment to main entrances to a development, complement open spaces and assist in place-making and identity.

**5.4.12. Section 15.5.2 Infill Development** should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape. Specifically, it is required that –

- To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.
- To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.

- Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.

**5.4.13. Section 15.14.1 Hotels and Aparthotels** - 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. 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.

**5.4.14.** 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.

**5.4.15. Section 15.14.1.1 Hotel Development**

- 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.
- Applications for roof top uses will be assessed having regard to the impact on neighbouring properties in terms of noise levels and overlooking.
- 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 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.

- 5.4.16. Appendix 3 Achieving Sustainable Compact Growth Policy for Density and Building Height in the City** – This section sets out a policy approach for the assessment of development of increased height, scale and density in the city that aligns with the Building Height Guidelines, including identifying areas where increased building height will be supported (SPPR 1) and providing a series of performance based development management criteria to ensure protection of residential, heritage, streetscape and landscape amenity (SPPR 3). All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3.
- 5.4.17. Section 3.2 Density** – it is stated that the highest densities should be located at the most accessible and sustainable locations. However, an urban design and quality led approach is required. The focus should not be just on maximising density to maximise yield, but on a range of qualitative criteria including consideration of architecture, urban design and quality placemaking. A Plot Ratio of 2.5-3.0 and Site Coverage of 60-90% are recommended standards for city centre sites (Table 2).
- 5.4.18.** It is stated (4.1) that in considering locations for greater height and density, all schemes must have regard to the local prevailing context within which they are situated. This is particularly important in the lower scaled areas of the city where broader consideration must be given to potential impacts such as overshadowing and overlooking, as well as the visual, functional, environmental and cumulative impacts of increased building height. The performance criteria in Table 3 include respecting and/or complementing existing and established surrounding urban structure, character and local context, scale and built and natural heritage.

## **5.5. Natural Heritage Designations**

South Dublin Bay & River Tolka Estuary SPA (004024) – approx. 3.5km to the east.

South Dublin Bay SAC (000210) - approx. 3.5km to the east.

North Bull Island SPA (004006) – approx. 7.5km to the north-east.

North Dublin Bay SAC (000206) – approx. 7.5km to the north-east.

North-west Irish Sea SPA (004236) – approx. 8.7km to the north-east

## **5.6. Environmental Impact Assessment Screening**

- 5.6.1.** Class 10(b)(iv) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required where an urban development which is located in a business district within a city or town would be constructed and where a 2-hectare would be developed. The proposal is for the development of a site with a stated area of 0.0343ha to provide a hotel in the form of an 8-storey building, (with the ground floor retail/restaurant unit being retained). The site is located in a business district and within Dublin City Centre, but the site area is well below the threshold for mandatory EIA. Accordingly, it does not attract the need for a mandatory EIA.
- 5.6.2.** (See completed Form 2 attached). The site is located within the built-up area of an existing city and is approx. 3.5km distant from any European sites or other sites of conservation interest. The site is within an existing terrace comprising established mixed-use commercial and residential developments. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination stage that there is no real likelihood of significant effects on the environment arising from the proposed development. Environmental Impact Assessment is, therefore, not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a first-party appeal against the decision to refuse planning permission. The main points raised may be summarised as follows:

- **Principle of development** – Scale of development and nature of use represents most efficient and appropriate use of site. The revised scheme submitted with appeal reduces the scale, density and height from 8 storeys (28m) and 81 bedspaces to 6 storeys (21.4m) and 61 bedspaces. This is the only means by which the maximum efficiency of the site can be maintained and is in compliance with the national policy to increase the density and

height of buildings of under-utilised sites in order to achieve more compact growth of our urban areas in the most central and accessible locations. Reference is made to NPO5, NPO6, NPO11 and NPO13 of the NPF and to the policies and objectives of the Strategy for the Eastern and Midland Region (RSES) in terms of the need for compact growth and increased employment opportunities in central areas. It is pointed out that the site is close to St. Stephens' Green and to high quality/high-capacity public transport and meets the criteria for increased density and height as set out in the Building Height Guidelines and Appendix 3 of the CDP.

- **No over-concentration of hotels** – the Dublin CDP outlines the need for a significant increase in facilities in relation to the tourism sector in order to promote the city as a world class tourist destination. It is acknowledged that the CDP seeks to avoid an over-concentration of hotels, but a survey and analysis submitted with the appeal shows that this is not the case. Fig 48.0 shows the location of existing hotels within a 500m radius with a concentration around Stephen's Green and on Harcourt Street. Savill's market analysis (Appendix C) indicates that there are 21 hotels with a total of 2,200 beds and a further 6 planning permissions in the pipeline providing a further 558 beds. It is stated that the average occupancy rate in 2019 was 82% (Irish Hotels Federation) and following the covid restrictions, needs to be boosted to cater for the anticipated influx of tourists.
- **Excessive Height** - The height is not excessive for an inner-city site, where the CDP allows for heights up to 28 metres for commercial development. There is a variety of heights within the streetscape and in the overall area. The proposed development complies with the criteria for increased building height and density as set out in Table 3 of Appendix 3 of the CDP and with the Development Management Criteria set out in the Government's Building Height Guidelines, which take precedence over the CDP. There is no prevailing height in the locality, and it complies with the locational criteria being a city centre site with easy access to both high quality public transport and to amenities and services. The development of the Kevin Street TUD site at a much increased density and height sets the precedent for increased scale and density on this site. The revised design submitted with the appeal

achieves the 6-storey “default objective height” as set out in the CDP for city centre sites.

- **Density Standards in CDP** – the proposed development, as submitted to the P.A., with a plot ratio of 6.9 and a site coverage of 100% exceeds the recommended standards for the area. However, given the site context and infill nature of the site, the development must be considered on its own merits. It is stated that there is no prevailing height or architectural form/design on Kevin Street. As such, the proposed development can set a precedent for the future development of the area and in the short-term, the proposed building can be seen as a ‘Landmark’ for legibility.
- **High Standard of contemporary architecture** – the proposed development improves the visual amenity of the area and is designed at a scale and height appropriate to the context. It represents high quality architectural design which makes a positive contribution to Kevin Street. The revised design submitted with the appeal addresses the issues of the blank façade to Liberty Lane and introduces new materials which provide for a greater relationship with Kevin St. and represents an improvement to the architectural design and form of the existing buildings on the street.
- **Residential amenity** – the separation distance from the properties on Liberty Lane is considered appropriate given the central location of the site. The P.A. concerns regarding overlooking have been addressed in the revised design due to the reduced height/number of rooms and hence the reduced fenestration on the western elevation. It is refuted that the building would appear to be overbearing or visually obtrusive as it is designed and scaled to provide a contemporary aesthetic and it incorporates a high standard of finishing materials. It is also intended to set a precedent for the future regeneration of the eastern end of Kevin Street and the revised design with a reduced scale would have no undue visual impact on the streetscape.
- **Overshadowing** – it is acknowledged that in terms of the original design (8-storey building), there will be overshadowing of the College Court development to the west. However, it is submitted that the Vertical Sky component for the vast majority of windows in the adjoining buildings either exceed the BRE recommended level of 20% or do not reduce below 0.8 times



the existing value, which is considered acceptable. It is further suggested that the revised scheme submitted with the appeal is likely to positively impact these results. Reference is made to several developments for which planning permission had been granted in the city centre where similar overshadowing impacts were identified.

- **Revised proposal** - A revised optional proposal has been submitted with the grounds of appeal, which proposes a building with a reduced height (two storeys removed), revised design and materials and a revised fenestration pattern. The number of bedroom suites has been reduced from 81 to 61 (122 bedspaces). The floor area has been reduced from 1,989m<sup>2</sup> to 1,663m<sup>2</sup>. However, the first party would prefer to retain the proposed design as originally submitted but would accept the revised proposal in preference to a refusal.
- **Justification for demolition** – the quality of the existing accommodation on the upper floors is very poor and the building is not noteworthy in terms of architectural quality.
- **Archaeology** – the existing building covers 100% of the site and there will be no basement excavations. No basement is proposed. A condition requiring an Archaeological Assessment prior to commencement of development is acceptable.
- **Construction impacts** – the issues relating to noise and dust during construction, raised by the P.A. Environmental Health Office, can be addressed by means of a condition requiring details of mitigation measures and a CEMP to be agreed prior to commencement of development.
- **Clarification of matters relating to operation and servicing of hotel** – it is submitted that:
  - **Management** - The hotel will be effectively managed with a staff of approx. 30 employees including management, cleaning, waiting staff and chefs.
  - **Pedestrian entrance** - The revised scheme shows a pedestrian entrance from Kevin Street for guests with the service entrance from Liberty Lane. The taxi set-down area has also been removed.

- **The use of the roof-deck at third floor level** – the purpose of the set-back is to reduce the impact of overbearing on the residents of College court and will be inaccessible to the hotel guests. The revised scheme submitted with the appeal shows the absence of access.
- **Servicing** - The servicing requirements will be very limited comprising mainly refuse collection and delivery of toiletries and linen by means of a small van. Bins can be moved to/from the collection point with use of traditional refuse lorries. No food and beverage deliveries will be required.
- **Retention of GF unit** - The existing café/take-away restaurant will remain in place and will continue to operate during the construction phase with existing delivery arrangements to this unit unaffected. No changes are proposed to the façade of this unit. A condition requiring further protective measures during construction would be acceptable.
- **Car parking and bicycle parking** – the car park to the rear is not under the ownership of the applicant. However, a letter of consent has been provided from the owner to utilise the airspace above the car park, but the parking area will continue to be used by the current owners. The cycle parkin area has been amended in the revised scheme to cater for both hotel guests/visitors and staff. There are several bicycle rental facilities in the overall area.

## 6.2. Planning Authority Response

**6.2.1.** The P.A. responded to the grounds of appeal on the 24<sup>th</sup> April 2023. It was requested that the planning authority's decision to refuse the proposed development be upheld. It was further requested that, in the event that planning permission is granted, the following conditions be attached to any such permission:

- A condition requiring payment of a S48 development contribution.
- A condition requiring payment of a S49 Luas X City development contribution.
- A condition requiring payment of a bond.

### 6.3. Observations on grounds of appeal

- 6.3.1. One observation has been submitted to the grounds of appeal, from Philip O'Reilly. The points raised can be summarised as follows:

**Overconcentration of hotels** – the proposed development would result in an overconcentration of hotels in the area which already has numerous hotels and hostels within 500m radius. What is needed is a dynamic mix of uses to sustain the vitality of the area.

**Overdevelopment of site** – the scale, bulk, massing and height of the proposal is wholly inappropriate for this area, immediately adjacent to the Wexford Street Conservation Area and given the restricted site area with limited access.

**Wexford Street Conservation Area** – important historically with its 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> century buildings. The proposal would overwhelm the setting and character of the area and would be seriously incongruous.

**Traffic impact** – the proposed development is located on one of the busiest junctions in the city. Access to the site is restricted to a one-way narrow laneway, which is a service laneway for many buildings on Wexford Street. It would give rise to planning and environmental chaos.

**Residential amenity** – the proposal would be overbearing and give rise to serious injury to residential amenity by way of overlooking and overshadowing of adjacent residential property.

**Concurs with reasons for refusal** – all three reasons given by the P.a. are valid and the decision to refuse should be upheld.

## 7.0 Assessment

- 7.1. It is considered that the main issues arising from the appeal are as follows: -

- Compliance with policy
- Appropriateness of hotel use
- Height scale, density and design of building
- Impact on residential amenity
- Construction impacts

- Environmental Impact Assessment
- Appropriate Assessment

## **7.2. Compliance with policy**

- 7.2.1.** The Core Strategy of the current Dublin City Development Plan 2022-2028 promotes 'compact growth' which 'involves the better use of available land within the built-up areas close to public transport and the city centre for development opportunities.' The policies and objectives in the CDP which seek to achieve compact and sustainable growth are consistent with the national and regional planning policy contained in the NPF and RSES and with other national policies such as the Building Height Guidelines and Apartment Guidelines. These guidelines are generally favourable towards development which achieves an increase in density and scale and of building height in central and accessible urban areas, particularly those served by and close to high quality and high-capacity public transport.
- 7.2.2.** The appellant has placed considerable reliance on these planning policies in justifying the significant increase in height, density and scale of the proposed development. However, the emphasis in more recent planning policy, at both the national and local levels, is for such compact growth and increased density to be managed such that sustainable communities are created where people wish to work, live and play, and that higher densities are not attained at the expense of the protection of amenities, environmental sensitivities and character of the local areas. There is also a strong emphasis on tailoring development to the local context by ensuring that the new development respects the prevailing scale and character in the vicinity of the site.
- 7.2.3.** The 2022 Dublin City Development Plan adopts such an approach throughout the Plan. Various policy objectives seek to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. A range of policy objectives in Chapters 4, 5 and 11 of the Plan support higher densities and increased height, as well as the development of mixed-uses, in inner city locations, particularly where they are well served by high quality public transport and easily accessible to facilities, services and amenities. These include SC3, SC10 and SC11. However, it is emphasised in the overall policy framework that, in tandem with these objectives to create a more compact city centre, it is essential to create sustainable

communities and to achieve a balance between higher densities and protection of amenities, environmental sensitivities and contribute positively to the established character of the area and to achieve high standards of urban design and architecture, (policies SC16, SC19, SC22 refer).

- 7.2.4.** The 2022 Plan has also introduced a new Building Height Strategy (Appendix 3) which specifies that where new development results in significant increases in the height and density of development beyond that prevailing in the locality, the proposal must satisfy the performance criteria set out in Table 3 of this appendix. The degree to which the development complies with these performance criteria will be addressed in later sections of this report. However, it is worth noting at this juncture that a significant increase in height, scale and density at this location, which is in the city centre and served by high quality public transport, would be acceptable in principle. However, there is an equal need to achieve the related objectives of ensuring that the architectural and historic character and residential amenities of the area are protected, that the development provides for very high-quality architecture and urban design which is capable of integrating successfully into the existing streetscape and that the overall vision of creating a vibrant and dynamic city centre can be achieved.

### **7.3. Appropriateness of hotel use**

- 7.3.1.** The Zoning objective for **Z5** seeks to “consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.” It is stated (14.7.5) that the primary purpose of this zone is to sustain life within the centre of the city through intensive mixed-use developments. The proposed use as a hotel is permissible in the Z5 zone. The central location, which is close to St. Stephen’s Green, and the high level of accessibility to good quality public transport would also be favourable to a hotel use at this location. However, the Development Plan also seeks to

*Avoid an overconcentration of hotel development in areas of the city which currently have high levels of hotel development or where there is a significant number of planning applications for such development, and having regard to the existing and proposed mix of uses in the vicinity in order to achieve wider city objectives such as to create a rich and vibrant range of uses in the city centre*  
(6.5.6)

- 7.3.2. CEE28 and Section 15.14.1** provide more detailed guidance on this issue. **CEE28** sets out the criteria in respect of applications for visitor accommodation. Matters which should be considered include the existing character and mix of uses in the vicinity including local amenities and facilities, existing levels and types of visitor accommodation and an assessment of the impact of additional visitor accommodation on the wider objective to provide a rich and vibrant range of uses. In addition, it is stated that there is a need to prevent an unacceptable intensification of activity and to support opportunities to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities
- 7.3.3. Obj. CEE01** states the intention to carry out an analysis of the supply and demand for tourism related accommodation, but I am not aware that any such study has been published. Notwithstanding this, **Section 15.14.1** provides further guidance on this issue. It is stated that there will be a presumption against an overconcentration of hotels and aparthotels and that pending the outcome of the analysis, applications for such development will be carried out on a case-by-case basis having regard to the location of the site and existing hotel provision in the area. It is specified that where the P.A. deems there to be an overconcentration of such facilities in an area, the applicant will be required to submit a report indicating all existing and proposed facilities within a 1km catchment.
- 7.3.4.** It is further stated that the applicant must justify that the proposed development will not undermine the principles of achieving a balanced pattern of development in the area and demonstrate that it fully complies with the criteria set out in Policy CEE28 and in Section 15.14.1.1 and 15.14.1.2. The criteria relating to hotels (15.14.1.1) includes more detailed guidance regarding matters such as the need for publicly accessible and active uses throughout the day and night to be provided vertically through the building and operational matters such as servicing and access.
- 7.3.5.** The grounds of appeal include a report from Savill's which shows the location of existing and permitted hotels within a 500m radius. This indicates that in March 2022, there were 21 hotels (2,200 beds) and that there were 6 planning permissions providing an additional 558 hotels/extensions to hotels in the vicinity. The justification provided may be summarised as follows:

- The concentration of hotels is centred around St. Stephen's Green and Harcourt Street and not on Kevin Street or to the west of the site.
- The site is centrally located with high levels of accessibility to public transport as well as corporate, leisure and tourist facilities, such as Guinness Storehouse (1.5km) and a new Distillery Quarter (400m west of Kevin St).
- The area is in transition with considerable redevelopment across the leisure, corporate and residential uses, particularly on the former Kevin St TUD site.

**7.3.6.** I would agree that the site of the proposed development is in a reasonably central and accessible location, as it is within easy walking distance of St. Stephen's Green and the Luas Green Line on Harcourt Street. However, the P.A. has deemed that there is currently an overconcentration of hotels in the area, which requires a market analysis of such facilities within a 1km wide radius. The P.A. considered that the information submitted by the developer (Savill's report based on a 500m radius) indicated that there is a significant number of hotel developments in the area, with up to c.2,758 beds existing/permitted within 500m of the site, which could fundamentally undermine the mixed-use vision for this part of the city centre and that residential over commercial would be a better use for this site. The first reason for refusal highlights that the proposed hotel use would be likely to prevent the delivery of more appropriate uses that would contribute to the provision of a dynamic mix of uses which would sustain the vitality of the area, as envisaged in the CDP vision for the city centre.

**7.3.7.** I note that the report produced by Savill's is dated March 2022 and it is likely that the number of hotel beds in the area has increased further in the meantime. During my site inspection of the area, I noted that there was a notable number of tourists walking through the area. I would accept, however, that the area is in transition, particularly with the large development of offices and apartments under construction at the former Kevin Street TUD site, but there is a strong established residential element with College Court, Liberty Lane and blocks of apartment units on Kevin Street/Cuffe Street.

**7.3.8.** It is considered, however, that the environment could not be described currently as a particularly vibrant one, at least during the day, with mainly lower order shops, cafes, a massage centre and shuttered shopfronts on the southern side of Kevin Street and a general absence of active ground floor uses on the northern side, apart from a

Starbuck's café. Liberty Lane has a row of shuttered shopfronts at the northern end which appeared to be vacant, with residential units overhead, and with graffiti covered walls interspersed by vacant/derelict sites along the remainder of the lane. There are a number of pubs and music or night-club venues along Wexford St., Camden Row and at the southern end of Liberty Lane. Wexford Street has a more vibrant atmosphere with a good mix of shops, cafes, restaurants and active uses along the ground floor frontages. The level of amenities in the area is quite limited also, although there is a medical centre/pharmacy on the corner of Wexford Street and Kevin Street with a Tesco Express adjacent.

- 7.3.9.** The existing character of the area, although in transition, is therefore one with a mix of residential and commercial uses but is lacking in lively, active ground floor uses which would bring a sense of dynamism and vibrancy to the area. The proposal, as originally submitted, replaced one of the retail/restaurant units with windows which did not include any pedestrian access from Kevin Street, but retained the remaining unit (currently in use as a hot food take-away). The revised scheme submitted with the appeal introduced a pedestrian opening on Kevin Street which would provide access for guests to the reception area. However, the proposed hotel does not appear to be designed to accommodate public access to hotel facilities (e.g. bars, cafes, restaurants), and as such, would not generate any significant level of activity.
- 7.3.10.** In conclusion, I would concur with the P.A.'s view that there is an over-concentration of hotels in the general vicinity of the site and that this is not conducive to creating the appropriate balance between visitor accommodation and other uses necessary to sustain the residential, social, cultural and economic life of the city. The proposed development would replace an active ground floor use with a less active frontage with hotel accommodation on the upper floors, which is likely to militate against the creation of a vibrant and intensive mix of land uses in the area, as required by the Z5 zoning objective for the area.
- 7.3.11.** In terms of the operation of the hotel use, no operational management plan has been provided and it is noted that the P.A. technical reports had highlighted concerns regarding servicing of the proposed development. The servicing of the hotel is via Liberty Lane, which is a very narrow, one-way lane linking Camden Row with Kevin Street and a right-turn restriction at the junction with Kevin Street. The northern section has multiple residential units directly overlooking the lane. This means that all loading, deliveries, waste collection and servicing will be via the lane. There is no



off-street loading area. No swept-path analysis has been provided. The appellant stated, in the grounds of appeal, that the hotel is likely to employ 30 people and that the deliveries would be very limited and likely to be provided by means of a small van a couple of times a week. It was further stated that the bins could be brought up to Kevin Street for collection. Although I would accept that appropriate conditions could be attached to any permission, the difficulties associated with servicing the hotel via the narrow lane add to the concerns generally regarding the appropriateness of the use.

- 7.3.12.** The proposal to partially demolish the building is considered to be acceptable as the building is not of any particular architectural merit. The retention of concrete floors and walls would also reduce the carbon emissions that would have arisen from total demolition. Furthermore, the retention of the retail/restaurant unit at ground floor level would mean that an active use is retained on the street frontage, which is in accordance with the policies for the area. However, I would accept that the occupier of the retained unit has reasonable grounds for concern in terms of operating a restaurant from this location during the construction period. Should the Board be minded to grant permission, it is considered that appropriately worded conditions could be attached requiring mitigation of noise and dust during construction.

#### **7.4. Height, scale, density, and design of building**

- 7.4.1.** The proposed development represents a significant intensification of development in terms of height and scale which would contribute to the goal of achieving more compact growth and urban intensification as advocated for in the **Urban Development and Building Height Guidelines for Planning Authorities (2018)**. These Section 28 Ministerial Guidelines acknowledge the role that building height plays in achieving densification of cities, particularly in areas where public transport, employment, services and retail development can achieve the necessary level of intensity to provide for sustainable development. They include several SPPRs which planning authorities and the Board are required to have regard to and set out an area-based and performance criteria driven approach.
- 7.4.2.** There is a general presumption in favour of increased building height in city centres/urban areas with good public transport accessibility, but this is subject to the general principle (3.1) that the proposal is generally in line with the requirements of

the development plan in force, provided that such a Plan has taken account of the Building Height Guidelines (Chapter 2). SPPR 3 relates to the **Development Management Criteria (3.2)** set out in the guidelines to be taken into account in the assessment a planning application. Thus, a proposed development must satisfy the criteria (i) at the scale of the relevant city/town, (ii) at the scale of the district/neighbourhood/street and (iii) at the scale of the site/building. SPPR 3 states that, where it is clearly demonstrated that the proposed development complies with these criteria, and where the P.A. concurs, taking account of the wider strategic and national policy parameters, permission may be granted even if it contravenes the Development Plan.

**7.4.3.** The current **Dublin City Development Plan (2022)** was adopted after the Building Height Guidelines (2018) came into effect, and guidance is provided in the new Plan, **(Height Strategy, Appendix 3)**, on how to achieve appropriate and sustainable compact growth and to ensure consistency with the Urban Development and Building Height Guidelines. Appendix 3 sets out a set of performance criteria (Table 3) which must be met in circumstances where significant increased height and density over the prevailing context is being proposed. The purpose of these criteria is to ensure that a form and intensity of urban development is achieved that contributes to the overarching objectives of the Plan to create sustainable communities and high-quality places for people to work and live and to protect existing amenities and the natural and historical assets of the city. Effectively, these criteria incorporate and expand on the Development Management Criteria in the Building Height Guidelines.

**7.4.4.** At a strategic level, Dublin City is described as being predominantly low-rise (3.1), with a need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic, civic or historical importance. Opportunities for height will be promoted on sites identified in section 4 (Appendix 3) and in accordance with the performance criteria. The key locations identified (4.1) include the City Centre and inner suburbs (within the Canal Ring), where it is stated that

“a default position of 6 storeys will be promoted subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining the inner-city residential communities. Where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities.”

**7.4.5.** Heights greater than 6 storeys will be considered on a case-by-case basis subject to the performance criteria set out in Table 3. It is considered that the proposed building at 8-storeys in the middle of a streetscape with a prevailing height of 4-5 storeys, and which would immediately abut two traditional 4-storey buildings, one of which is a Protected Structure and a prominent building in the streetscape, would fail to provide for an appropriate transition of scale. Furthermore, it would fail to respect the historic site-specific context and would have insufficient regard to the amenities of the established inner city residential community on the street.

**7.4.6.** As the proposed building is significantly higher than the prevailing height in the immediate vicinity of the site, the proposal must demonstrate full compliance with these criteria. **Table 3** sets out **10 performance criteria**, against which the proposed development is now assessed:

1. To promote development with a sense of place and character

Although the site is located in an area with good accessibility, it is not one with a high land use intensity and activity. The design, scale and height of the 8-storey building does not appear to respect or complement the established character and local context as it results in an abrupt transition in the middle of the low-medium rise streetscape. The narrow width of the lane, together with the moderate height and scale of the existing buildings, as well as the use of building materials, has a unifying effect on the streetscape between Wexford Street and Church Lane south. The introduction of a tall, narrow building in middle of this streetscape would be visually incongruous. Furthermore, it would not have a positive impact on the local community as it would fail to integrate into the streetscape due to the lack of an active street frontage and publicly accessible uses and would not contribute to 'healthy placemaking'. Although the revised scheme in the grounds of appeal reduces the height of the building by two floors and introduces a pedestrian entrance from Kevin Street, the proposed building would still be taller and of a different architectural form and materials, which would sit in the middle of the terrace and would not complement the established character of the street.

2. To provide appropriate legibility

As the proposed 8-storey building would result in an abrupt transition in height within the streetscape, it would not reflect or reinforce the role and function of

the street. As such, the legibility of the area would be diminished and confused, as the building would effectively act as a 'landmark building' in the middle of the lower density streetscape. The proposed building, (and the revised scheme), would detract from the prominence of the Landmark Pub, (a Protected Structure) and compete with it visually within the short terrace, which would create a cluttered and confusing streetscape.

3. To provide appropriate continuity and enclosure of streets and spaces

The proposal would fail to provide active uses to generate street-level activity or to enhance the urban design context for the public street. Although the revised scheme introduced a pedestrian entrance to the hotel, there are no publicly accessible spaces which would provide for a level of activity and integration with the neighbourhood.

4. To provide well connected, high quality and active public and communal spaces.

The proposal would fail to integrate into and enhance the public realm as discussed above. The proposed development is likely to result in negative microclimatic effects in terms of access to light and wind due to its height and scale relative to the narrow lane and adjoining residential properties in close proximity. These impacts would be reduced to a certain extent by the revised scheme.

5. To provide high quality, attractive and usable private spaces.

The proposed building would give rise to adverse impacts in terms of overlooking and overshadowing of neighbouring properties by reason of the height, scale and design of the building and its proximity to adjacent properties. These impacts would be reduced to a certain extent by the revised scheme due to the lowering of the height of the building but the relative height, scale and proximity of the taller building with opposing windows in close proximity to adjacent properties would remain.

6. To promote a mix of use and diversity of activities.

The proposed single-use hotel development would not provide for residential use or contribute to a sustainable neighbourhood, with no active ground floor uses or publicly accessible spaces.

7. To ensure high quality and environmentally sustainable buildings

The design, scale and height of the proposed building is likely to compromise the achievement of passive solar gain to neighbouring properties. The impact would be reduced to a certain extent by the revised scheme.

8. To secure sustainable density, intensity at locations of high accessibility.

The proposal would be located in an area served by high-capacity public transport but is likely to give rise to difficulties with servicing as discussed in 7.2 above.

9. To protect historic environments from insensitive development.

The proposed building, by reason of its height, scale and design, would have an adverse impact on the character and setting of a Protected Structure and the Conservation Area adjacent to the site. The setting of the Landmark Pub, which is a Protected Structure and forms a prominent and an integral part of the streetscapes along both Kevin Street Lower and Wexford Street (a Conservation Area), would be adversely affected by the proposed building due to its excessive height and scale and the overly dominant effect it would have on the historic buildings which form the remainder of the terrace.

10. To ensure appropriate management and maintenance.

Insufficient information has been provided to demonstrate appropriate management and servicing of the hotel use. Given the location of the site on a busy traffic thoroughfare with a very narrow one-way laneway with a strong residential component at the northern end providing the access to the servicing area, concerns have been raised in the P.A. technical reports.

**7.4.7.** It is clear, therefore, that the proposed development does not comply with these performance criteria, which are designed to ensure protection of heritage, streetscape and residential amenity and where the focus should not be just on maximising density to maximise yield, but on a range of qualitative criteria including consideration of architecture, urban design and quality placemaking. The P.A. planning report was of a similar view and considered that the performance criteria were not addressed adequately by the developer and was not satisfied that the justification for increased height and density had overly relied on the locational characteristics of the site being in the city centre and public transport accessibility,

together with the emerging scale and height in the broader area, with specific reference to the Kevin Street TUD redevelopment site further to the west. In response to the references made to various large-scale developments where significant increases in density and height had been achieved throughout the city centre, the P.A. planning report considered that these developments have an entirely different context and are not considered to be of relevance to the proposed development.

- 7.4.8.** Chapter 15, (15.4.2) requires that the architectural quality of development should positively contribute to the urban design and streetscape through the use of high-quality materials and appropriate building form and should respect and enhance its context. The key principles include respecting the relationship of the development to the established architectural form, scale and pattern of the surrounding townscape and taking account of the existing rhythms, degree of uniformity, elevational composition and palette of materials and finishes. Infill development (15.5.2) should complement the existing streetscape, respect/enhance the context and be well integrated with its surroundings to ensure a more coherent cityscape. Specifically, new development should respect and complement the prevailing scale, mass and architectural design in the surrounding townscape. Chapter 8 requires new development to be sensitive to and respectful of the historic character of the city.
- 7.4.9.** The proposed development seeks to replace an existing 3-storey end-of-terrace building of poor architectural quality with a new building of significantly greater height and scale which would introduce a new architectural style, palette of materials and fenestration pattern. The existing terrace of three properties is located in a prominent position in the streetscape particularly when viewed from Cuff Street and from Redmond Hill. The eastern end of the terrace is occupied by the Landmark Pub, a corner property, which is a Protected Structure. It is an imposing building, which befits its name, and has decorative facades of brick and stone to both Kevin Street and Wexford Street. This building and the adjoining one to the west are both 4-storey traditional buildings and are adjoined by the appeal property at the western end of the terrace.
- 7.4.10.** There are slight differences in height within the terrace, with the traditional buildings being taller than the 3-storey building, but with markedly different floor-to-ceiling heights and associated fenestration patterns. Immediately to the west of Liberty Lane is College Court, which presents to the street as a 5-storey apartment block of red

brick with ground floor retail units but has a sixth storey penthouse which is well recessed from both street frontages. Although the existing building is uninspiring in terms of architectural merit and deviates from the architectural form and façade treatment of the terrace, it nonetheless fits into the streetscape to some extent due to its modest scale and use of building materials.

**7.4.11.** Notwithstanding the poor quality and architectural form of the existing building on the site, the existing streetscape has a degree of uniformity provided by the relatively modest height and scale of the buildings and in the palette of materials and solid-to-void ratio of the buildings to the east and west. As a result, the elevational composition of the streetscape is not unduly disturbed by the gap created by the narrow laneway. The Landmark Pub also performs an important role in the streetscape as it is a prominent corner building, visible from many angles and provides continuity between the traditional terrace on Kevin Street and the terraces which make up the Conservation Area on Wexford Street.

**7.4.12.** The overall effect of the introduction of the new taller building into this streetscape is one of an inappropriate and excessively scaled building which is at odds with the prevailing height and scale of the adjoining buildings on either side. This would result in an overly dominant structure forming a bookend to a traditional 4-storey traditional terrace and would be substantially taller than the neighbouring College Court, which is separated from the site by a narrow laneway. It would therefore constitute an abrupt transition in height which neither respects nor complements the prevailing scale, mass or architectural design in the surrounding townscape.

**7.4.13.** The proposed development, by reason of its height, scale, mass and design, would have a very poor relationship with the architectural and historical character of the traditional terrace which incorporates an important Protected Structure forming a bookend at the eastern end of the terrace. It is considered, therefore, that it would harm the character and setting of the Landmark Pub Protected Structure. The design approach also fails to enhance or contribute positively to the character and distinctiveness of the Conservation Area (as required by CDP Policy BHA9) or to the legibility and sense of place. It would introduce a building with a significantly different architectural style, height and scale which would result in a poor relationship with the existing buildings and would be a visually incongruous feature in the streetscape.

- 7.4.14.** Furthermore, the density of the development on the site would be increased significantly in terms of site development standards in Appendix 3. A Plot Ratio of 2.5-3.0 and Site Coverage of 60-90% are recommended standards for city centre sites (Table 2). It is noted that the plot ratio of the proposed development at 6.9 would far exceed the recommended standard as would the site coverage at 100%. Thus, the density is considerably greater than the standards recommended in Appendix 3 for the city centre.
- 7.4.15.** It is noted that the grounds of appeal include an alternative proposal with a reduced height and scale, alternative palette of materials and a revised ground floor street elevation which incorporates an entrance to the reception area. The revisions essentially result in the removal of two floors, one of the terraces and the introduction of windows to previously proposed (partially) blank elevations at the side and rear. The materials and finish are also altered with a marked change in the colour scheme from red brick to a light grey/white coloured brick finish. However, the overall height is still considered to be excessive as it rises almost 3 floors above the parapet of No. 2 Kevin Street. The fenestration pattern would still deviate in size, shape and alignment with the windows/window cills of the adjoining properties. The proposed materials would differ even more markedly from the established pattern of the adjoining properties, which would make the building stand out as an overly prominent one in the middle of the streetscape.
- 7.4.16.** In conclusion, notwithstanding the revisions proposed in the grounds of appeal, the proposed development would be a visually obtrusive and overly dominant feature which would fail to respect or enhance the character, scale and architectural form of the existing lower density streetscape, with a strong traditional architectural element which forms the setting for an important Protected Structure of architectural and historic significance, and which is located within a Conservation Area. The proposed development would, therefore, result in overdevelopment of the site and would seriously injure the visual amenities of the area and contravene the policies of the CDP as expressed in BHA 9, 4.5.3, 4.5.4, 15.4.2 and 15.5.2 and in the performance criteria for such development as set out in Table 3 of Appendix 3.



## **7.5. Residential amenity**

- 7.5.1.** The planning authority raised concerns regarding the impact of the proposed development on the residential amenities of neighbouring properties, in particular No. 5 Kevin Street Lower (College Court apartments) and No. 22 Liberty Lane. These related to loss of daylight and sunlight and overlooking impacts due to the separation distance and design and height of the proposed building, as well as noise and disturbance from the proposed terraces. The third-party observations submitted to the P.A. and to the Board also raised issues relating to overshadowing, loss of light, overlooking and increased noise and disturbance from servicing and pick-up/drop-off activities on Liberty Lane. In addition, concerns were raised regarding the potential reduction in energy efficiency of the adjoining properties due to overshadowing.
- 7.5.2. Impact on daylight and sunlight to adjoining properties** – the application was accompanied by a Daylight and sunlight Assessment Report, which assessed the impact of the proposed development on a total of 132 windows in the vicinity of the property. The windows assessed included east-facing windows fronting directly onto Liberty Lane, but also included windows on the office block to the north on the opposite side of Kevin Street and on Redmond Hill, properties on the eastern and western sides of Wexford Street and windows overlooking the rear yards of No. 2 Kevin Street and Nos. 36-40 Wexford Street. Although the inclusion of such a wide range of windows provides for a very comprehensive analysis, I note that the conclusions rely to a great extent on the percentage of windows with only a ‘slight’ or ‘imperceptible’ impact. Furthermore, it is not known what proportion of these windows are associated with habitable rooms (4.2.1). As such, it is considered that the results should be viewed with a degree of caution.
- 7.5.3.** The daylight factor assessed was based on the Vertical Sky Component (VSC) and did not include ADF (Average Daylight Factor) measurements due to the nature of the use of the proposed development as a hotel. The sunlight impacts were assessed using the Annual Probable Sunlight Hours (APSH) and the Winter Probable Sunlight Hours (WPSH) for windows. No assessment of the Sun On the Ground (SOG) for neighbouring amenity areas that would be capable of receiving over 2 hours of direct sunlight on March 21<sup>st</sup> was carried out as it is only required for such spaces to the north, which were not present.

- 7.5.4.** The impact assessment results are set out in Section 5.0 of the document. As can be seen from 5.1.3 and 5.1.4, the properties with the most severe impacts are those residential units immediately to the west of the proposed building. The adjoining property to the west, College Court (No. 5 Kevin Street Lower) would be separated from the proposed 8-storey building by just over 5 metres, which is the estimated width of Liberty Lane (façade to façade). The proposed western façade would also face approx. half of the windows and balconies of No. 22 Liberty Lane, at a similar distance. It can be seen that the reductions in VSC on seven of the windows of College Court (5 Kevin St) and 6 of the windows of 22 Liberty Lane were assessed as 'Very significant' and a further 9 windows (College Court) and a further 4 windows (22 Liberty Lane) were assessed as having a 'Significant' or 'Moderate' impact. This represents between 55-66% of the windows assessed on these buildings experiencing a very significant to moderate impact.
- 7.5.5.** It is noted that the College Court windows assessed included 4 north-east facing ones and 4 south-facing ones, none of which were found to have any significant impact. In addition, the windows at the southern end of 22 Liberty Lane (which would be furthest away from the proposed building) were similarly found to have an 'not significant' or 'imperceptible' impact. Thus, the most severe impacts would be concentrated on the windows directly overlooking Liberty Lane in proximity to the proposed building, representing c.100% of these windows. A similar pattern of impacts in terms of the APSH and WPSH tables (5.2.3 and 5.2.4). The third-party objectors had also raised the impact on the existing roof terraces at College Court, but these areas were not included in the assessment.
- 7.5.6.** The analysis in the submitted report (6.1) concluded that 84% of the windows assessed would have been categorised as ranging from imperceptible to moderate, which it considered was consistent with the emerging trend of densification in the city centre and a level of effect to be expected in a heavily constrained urban site. It was acknowledged that the most severe impacts would be experienced at the windows on the eastern elevations of Kevin Street Lower and Liberty Lane, but it was noted that these properties were in very close proximity to the site with approx. 5m separation distance, which it was considered represented a considerable constraint on the development of the subject site.
- 7.5.7.** Having regard to impact in terms of the reduction in daylight and sunlight to the windows of the properties that are likely to be most affected by the proposed

development, combined with the existing relatively low values for the daylight/sunlight baseline for these windows, it is considered that the impact on the residential amenities of these units would be very significant. It is considered that the revised scheme submitted with the grounds of appeal would be likely to reduce the impacts somewhat as it would reduce the height by 2 floors. However, no revised sunlight and daylight analysis has been provided and it is considered that the reduction in scale is unlikely to be sufficient to have a meaningful impact on the amount of daylight and sunlight reaching the affected windows.

**7.5.8. Overlooking of adjoining properties** – The proposed development would also introduce 55 new windows and two communal terraces which would directly overlook the adjoining windows, balconies and communal external space of the properties on the other side of Liberty Lane, just 5 metres from the boundary of the site. It is acknowledged that the design approach incorporates a set back at third and sixth floor levels which would increase the separation distances at fourth, fifth, sixth levels by 2.0m for a distance of 10.47m from the frontage, and at sixth, seventh and eighth floor levels by a further 3.36m. although the separation distance between opposing windows may be increased for part of the western elevation of the hotel, the provision of terraces negates this to some extent.

**7.5.9.** Having regard to the close proximity of the buildings at c.5m, the sheer number of windows with two terraces facing these properties and the increased height of the proposed building to 29.7 metres, it is considered that the proposed development would result in an unacceptable level of overlooking and an over-bearing impact on the established residential properties. The penthouse amenity area would also be overlooked by the upper-level floors and terrace. It is considered, therefore, that the proposed development would result in a significant level of overlooking and loss of privacy to the existing residential units to the west. It is considered that the revised scheme submitted with the appeal would not sufficiently reduce these impacts.

**7.5.10. Noise and disturbance** – The layout of the proposed hotel is such that access is restricted to Liberty Lane, including all servicing and guest movements. As noted above, there are multiple residential units with windows and amenity areas overlooking Liberty Lane. The likelihood is that noise and disturbance from both operational activities and servicing requirements would give rise to an unacceptable level of nuisance, particularly at nighttime. The laneway is so narrow at c.5m and

would be flanked by tall buildings on either side, which is likely to create a canyon effect which would exacerbate the noise levels.

**7.5.11.** It is acknowledged that the revised scheme has removed the taxi drop off layby and has moved the guest entrance to the front elevation. However, the likelihood of taxis dropping/collecting guests on the lane remains high and servicing/refuse collection, particularly early in the morning could be problematic. Furthermore, there is potential for noise and disturbance from the external terraces proposed on the eastern side of the hotel, which could cause a nuisance for residents opposite.

**7.5.12. In conclusion,** it is considered that, having regard to the Daylight and sunlight Assessment submitted with the application, the proposed development would adversely affect the residential amenities of the adjoining property by reason of a significant reduction in daylight and sunlight due to the height, scale, bulk and massing of the building and its proximity to the properties on the western side of Liberty Lane. It would also be likely to result in a significant increase in overlooking of these properties and would have an overbearing impact. There is further potential for a loss of residential amenity arising from noise and disturbance associated with both operational and servicing activities which would be mainly concentrated in the narrow Liberty Lane. I would concur with the planning authority that the proposed development would, therefore, seriously injure the residential amenities of the properties at Liberty Lane and No. 5 Kevin Street Lower. It is considered that the revised scheme submitted with the appeal is unlikely to result in any significant improvements that would render the proposal acceptable in this regard.

## **7.6. Construction impacts**

**7.6.1.** The third-party observers raised concerns regarding the methodology of construction in terms of the likely impacts on the structural stability of the retained commercial unit at ground floor level as well as the likely implications for that property in terms of noise and dust nuisance. The unit is occupied by a restaurant/take-away the operation of which is dependent on clean air and an appropriate environment in terms of noise and dust. Other issues raised by third parties over the course of the application/appeal included the lack of information on the methodology for demolition, location of construction compound, parking and loading for deliveries/waste etc.

- 7.6.2.** Given the tight nature of the site with 100% site coverage, the small separation distance of c.5 metres from adjoining residential properties to the west and the presence of other residential uses to the east, and to the proposed construction access to the site by means of the extremely narrow one-way laneway with residential uses directly overlooking it, it is inevitable that the construction phase is likely to result in noise and dust nuisance and other construction related impacts. The design approach which proposes to retain and incorporate an existing ground floor unit into the reconstructed/new building, which operates as an established restaurant business adds to the complexity of the situation and will require careful planning of the construction works, including liaison and co-operation with the operator of that business.
- 7.6.3.** It is noted that there are currently construction works being undertaken involving a project of a significantly greater scale on the eastern side of College Court, which is likely to have a cumulative effect on the amenities of the area. However, such scenarios are not particularly unusual, and it is considered feasible that appropriate mitigation measures can be put in place in order to protect the amenities and environment of the area.
- 7.6.4.** It is considered reasonable, therefore, that a construction management plan should be formulated and that it be made available to the adjoining neighbours and business owners prior to agreement with the planning authority. Should the Board be minded to grant permission, it is considered that a suitably worded condition to this effect should be attached to any such permission.

## **8.0 Appropriate Assessment**

**8.1.1.** I have considered the proposed hotel development in light of the requirements of S177U of the Planning and Development Act 2000, as amended.

**8.1.2.** The European sites in the area are as follows:

South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210) are located approx. 3.5km to the east.

North Bull Island SPA (004006) and North Dublin Bay SAC (000206) are located approx. 7.5km to the north-east.

North-west Irish Sea SPA (004236) is located approx. 8.7km to the north-east.

- 8.1.3. The proposed development comprises the construction of an 8-storey building for use as a hotel (full description given at 2.0 above). No nature conservation concerns were raised in the planning application or appeal.
- 8.1.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The small scale and nature of the development.
  - The location of the site in an established urban area which is fully serviced.
  - The considerable distances from the nearest European sites and lack of any connections.
  - Taking into account the screening determination of the planning authority.
- 8.1.5. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European site, either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore, Appropriate Assessment (stage 2) is not required.

## 9.0 Recommendation

- 9.1. I recommend that planning permission should be **refused** for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

1. Having regard to the location of the site in an area of the City Centre which currently has a high level of hotel development, to the policies of the City Development Plan to avoid an over concentration of hotels in such areas, to the relatively poor range of existing and proposed mix of uses in the vicinity of the site and to the Z5 zoning of the site and wider objectives for the city to create a rich and vibrant range of uses in the city centre, it is considered that the proposed development would exacerbate the existing over-concentration of hotel developments and prevent the delivery of other uses in the southeast quadrant of the city such as residential, social, cultural and economic uses and would fundamentally undermine the vision of the City Development Plan

for the provision of a dynamic mix of devices within the city centre and fail to sustain the vitality of the inner city. The proposed development would therefore be contrary to Policies CEE28 and 15.14.1 of the Dublin City Development Plan 2022-2028 and to the proper planning and sustainable development of the area.

2. Notwithstanding the revisions proposed in the grounds of appeal, it is considered that the proposed development, by reason of its excessive height, scale, massing and architectural design, would be a visually obtrusive and overly dominant feature resulting in an abrupt transition within the historic terrace which would detract from the prevailing height, scale and architectural character of the traditional streetscape which incorporates an important Protected Structure and forms part of a conservation Area. The proposed development would, therefore, result in overdevelopment of the site, would negatively impact the setting of the Protected Structure and would seriously injure the amenities and setting of the Conservation Area. The proposal would, therefore, contravene policies BAH 9, Sections 15.4.2 Architectural Design Quality and 15.5.2 Infill Development and would fail to comply with the performance criteria set out in Table 3 of Appendix 3 of the current Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the design, scale, height and massing of the proposed building, to the proximity of the proposed hotel building and its terraces and large number of windows on the western elevation to the residential properties the western side of Liberty Lane, and to the results of the Daylight and Sunlight Assessment submitted with the application, the Board is not satisfied, notwithstanding the submission of a revised scheme of reduced scale with the grounds of appeal, that the proposed development would not seriously injure the residential amenities of the opposing properties on Liberty Lane by reason of overbearance, overlooking, potential noise and disturbance and access to daylight and sunlight. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

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Mary Kennelly  
Senior Planning Inspector

18<sup>th</sup> July 2024