



An
Bord
Pleanála

Inspector's Report ABP-316306-23

Development	Demolition of structures, construction of aparthotel with all associated site works.
Location	92-93 Francis Street and 1-3 Mark's Alley West, Dublin 8.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3097/23
Applicant(s)	Peninsula Suite Property Holdings Ltd
Type of Application	Planning Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Decision
Appellant(s)	Peninsula Suite Property Holdings Ltd
Observer(s)	City of Dublin Education & Training Board
Date of Site Inspection	21 st November 2023
Inspector	D. Aspell

1.0 Site Location and Description

- 1.1. The site is at Nos. 92 to 93 Francis Street and Nos. 1 to 3 Mark's Alley West, Dublin 8. It comprises several buildings and plots generally at the corner of Francis Street and Mark's Alley West. The buildings on the eastern portion of the site (Nos. 92 to 93) have largely been demolished. The western portion of the site (Nos. 1 to 3) comprises two 3-storey buildings, currently vacant, with associated yards and single storey structures to the rear (Nos. 1/1A).
- 1.2. The surrounding area is comprised generally of a mix of 2-, 3-, and 4-storey buildings, the majority of which have commercial uses at ground floor and residential above. Adjacent Nos. 92 and 93 is a 3-storey building with commercial uses at ground floor and residential above. Adjacent Nos. 1-3 Mark's Alley is a large 3-storey building currently occupied by City of Dublin ETB (Liberties College). To the rear of the site is a large 4-storey apartment block. The immediate area along Francis Street and Mark's Alley West is characterised by buildings from a variety of periods and styles, including the 18th, 19th and 20th Centuries.
- 1.3. The site is in the Thomas Street and Environs Architectural Conservation Area (ACA). There are no protected structures on the site or adjacent.

2.0 Proposed Development

- 2.1. The proposed development can be summarised as:
 - Demolition of Nos. 2 and 3 St. Mark's Alley West and mews structures 1 / 1A Mark's Alley West;
 - Construction of a 5-storey over basement aparthotel.
- 2.2. The aparthotel would include a ground floor community space / café and 31 no. suites located at ground floor and above. Staff facilities and building services including surface water attenuation are proposed at basement.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority issued a notification of decision to refuse permission (22nd March 2023) for 4 no. reasons summarised as follows:

- The proposal would exacerbate the overconcentration of tourist / visitor accommodation in the area and would be detrimental to: (i) the wider objective of providing a rich and vibrant range of uses in the city centre; (ii) the need to prevent an unacceptable intensification of activity, and; (iii) the need to avoid an overconcentration of hotel and aparthotel development in certain areas of the city centre. The development would be contrary to Policy CEE28, Section 6.5.6 Hotels and Aparthotels, Section 15.14.1 of the development plan, and the Z4 zoning objective for the area.
- Demolition of Nos. 2-3 Mark's Alley West would be contrary to the interests and special character of the ACA, would adversely affect the ACA, and would be contrary to guidance in Section 13.17 'SDRA 15' of the development plan to retain and reuse historic buildings. The development would also contravene policies BHA6, BHA7, BHA8, CA6 and Section 15.7 of the development plan. The development would be contrary to the long-term sustainable regeneration of this historic party of the city and would set an undesirable precedent.
- The expansion of the basement would be contrary to Section 15.15 of the development plan under which there is a presumption against basements in the medieval core of the city, and the basement impact assessment report does not accurately consider the impact on neighbouring buildings, fails to identify them, and does not comply with the requirements of Appendix 9 of the development plan.
- Applicant fails to provide adequate information on surface water management and use of sustainable urban drainage features, or adequately address Policies SI22, SI23 or Section 15.6 of the development plan.

3.2. Planning Authority Reports

Planning report

3.2.1. The report recommended refusal and is summarised as follows:

- Does not consider previous Board decision on this site sets a precedent for aparthotel development;
- The Liberties has had extensive interest for hotel / aparthotel development in recent years, including student accommodation. Estimates 1,800 visitor / tourist accommodation rooms existing or permitted in the Liberties;
- Residential development and uses integral to the vibrancy of the city centre have not been provided at the same pace as tourist / visitor accommodation;
- The Z4 zoning objective, the character of the ACA, and the objectives of the SDRA would be best served by refusing permission;
- Considers Conservation Officer recommendations appropriate: the structures for demolition are not undistinguished and contribute positively to the ACA;
- There are good conservation / environmental reasons to retain 2-3 Mark's Alley West alongside improvements to facades, treatment and visual impact, however these do not outweigh that aparthotel expansion is unacceptable;
- The new structure is of lesser quality in terms of streetscape character;
- The inadequacy of submitted materials and the unjustified demolition of 2-3 Mark's Alley West can in the context of other issues be a reason for refusal;
- No Demolition Justification Report. Energy Impact Assessment does not assess demolition or retention. No climate justification of demolition;
- The Basement Impact Assessment is inaccurate; as such it is not possible to establish whether a basement at this location would be an issue;
- Site is in zone of archaeological interest (recorded monument DU018-020 Historic City). The lack of adequate site investigation and archaeological assessment is a reason for refusal;
- The submitted reports do not meet the requirements of the development plan including Appendix 9. This is a reason to refuse permission.

Other technical reports

Conservation officer

3.2.2. The report sets out details of the site and makes the following points:

- Recommends further information on: assessment of surviving historic structures, retention of historic structures, and revised elevations;
- Supports new development on the site, notwithstanding regrettable loss of historic structures previously at No. 92-93 Francis Street;
- Proposal does not have due regard to sensitive nature of surrounding urban morphology and fails to address importance of historic Liberties location;
- The structures for demolition are not undistinguished and contribute positively to the ACA. The proposal is of lesser quality in terms of streetscape character;
- Considers Nos. 2-3 of local significance and make a positive contribution to character and streetscapes of the ACA;
- The buildings have lost some historic fabric and are in a poor state of repair, but retain historic planform, chimneybreasts, flooring, envelope and roofs;
- Demolition contravenes the development plan and sets an undesirable precedent;
- Retention, rehabilitation and reuse of the structures would comply with the development plan.

City Archaeologist

3.2.3. The report sets out details of the area's history and makes the following points:

- Further information recommended: Archaeological assessment including testing / boreholes; archaeological mitigation strategy; building survey of Nos. 1 – 3 Mark's Alley West to identify any remaining early fabric and significance;
- No archaeological impact assessment provided. Site is likely to contain archaeological material that would be impacted by any groundwork;
- A basement may not be appropriate in this location. No consultation with City Archaeologist prior to lodgement;

Drainage Division

3.2.4. The report makes the following points:

- Recommends further information relating to basement. Impact of basement has not been sufficiently addressed;
- Basement impact assessment report does not adequately identify impacts and mitigation or demonstrate how conclusions have been reached.

3.2.5. Transportation Planning – No objection subject to conditions.

3.2.6. Environmental Health Officer - No objection subject to conditions.

3.3. **Prescribed Bodies**

The Heritage Council – No response.

Development Applications Unit, Dept. Arts, Heritage & Gaeltacht – No response.

An Taisce – No response.

Transport Infrastructure Ireland – Section 49 levy.

3.4. **Third Party Observations**

3.4.1. The planning authority received three 3rd party observations, summarised as follows:

Cllr Michael Pidgeon:

- Redevelopment of the site is positive and the designs appear sympathetic to the surrounds, making a positive impact;
- Provision of a cafe and community space is welcome. Conditions regarding use of same are required;
- The provision of more hotel space at the expense of housing is deeply disappointing. An application for housing as the primary use should be made;
- Applicant does not include required report of existing / proposed hotel / aparthotel development within 1km. Report from Crowe Ireland sets out strong demand for hotels in Dublin;
- Overall the development is welcome and the design looks positive.

Mr. Gogarty (on behalf of City of Dublin Education & Training Board):

- Concerns relate to potential impacts of proposal on adjacent Liberties College and absence of consultation by applicants;
- Concerns include but not limited to structural impact of construction and demolition, in particular the basement construction on Liberties College, and ability to maintain continuity of educational provision during construction.

Cllr. Darragh Moriarty:

- The proposal should be rejected as this part of the city has an overconcentration of permitted and under construction hotel developments;
- In the Liberties there has been an acceleration of tourist, hotel, aparthotel, student accommodation and lower standard build to rent accommodation at the expense of good quality residential accommodation;
- Almost 1,800 tourist accommodation rooms have been constructed, under construction or permitted in the Liberties in recent years;

4.0 Planning History

4.1.1. A number of relevant applications are recorded in the area as follows:

Subject site:

- Ref. WEB1526/23: Planning permission refused by the planning authority at 2-3 Mark's Alley West in August 2023 for removal of pitched roof from the existing buildings and construction of a 4th floor on both buildings. This decision is **currently on appeal** (ABP ref. ABP-317999-23).
- Ref. 2021/21 (ABP-309875-21): Planning permission granted by the Board at Nos. 92-93 Francis Street and No. 1 Mark's Alley West for demolition of existing structures and construction of a 4-storey plus set-back fifth storey aparthotel of ground floor community space / café with 19 no. suites above. The demolition of No. 1A Mark's Alley West was permitted as part of this case. Demolition of No. 1A and No. 1 is proposed as part of the subject application. The subject application is not an amendment of this permission.

In broad terms the proposed building design is as per that permitted under the above application, extended along the site with relatively minor variations. The proposal would have almost twice the number of suites and would be more than twice the site and floor area, however the building height, plot ratio and site coverage are broadly similar. As with the permitted aparthotel, all of the proposed suites would be single beds. The proposed community space / café would be c.50% larger than that permitted.

- Ref. 5998/04 (ABP Ref. PL29S.211387): Planning permission refused by the Board in 2004 for demolition of Nos. 90-93 Francis Street & Nos. 1-3 Mark's Alley West and construction of 23 no. apartments. Permission refused for one reason being demolition of Nos. 92-93 which were protected structures.

Nearby sites:

- 2792/17: Part 8 application approved by the City Council to undertake an environmental improvement scheme for Francis Street, Hanover Lane and Dean Street comprising improvements to the public realm to include kerb buildouts, footway repaving, raised junction plateaus, formalise parallel parking & loading bays, landscaping, bicycle stands, carriageway resurfacing, raised pedestrian crossings and ramps, and public lighting improvements.

5.0 Policy Context

5.1. Development Plan

Land use zoning

5.1.1. The site is zoned 'Z4 Key Urban Villages / Urban Villages' where the land-use zoning objective is *"To provide for and improve mixed-services facilities"*.

5.1.2. I note the following policies and objectives of the development plan:

Policy CA6 Retrofitting and Reuse of Existing Buildings

Policy SC11 Compact Growth

Section 6.5.6 Key Economic Sectors – Tourism, Hotels and Events, Policy CEE26 'Tourism in Dublin', Policy CEE28 Visitor Accommodation and Policy CEE01 Study on the Supply and Demand for Hotels, Aparthotels and Hostels:

- Policy CEE28 Visitor Accommodation: *“To consider applications for additional hotel, tourist hostel and aparthotel development having regard to:*
 - *the existing character of the area in which the development is proposed including local amenities and facilities;*
 - *the existing and proposed mix of uses (including existing levels of visitor accommodation i.e. existing and permitted hotel, aparthotel, Bed and Breakfast, short-term letting and student accommodation uses) in the vicinity of any proposed development;*
 - *the existing and proposed type of existing visitor accommodation i.e. Hotel Classification/Rating, Hostel Accommodation, Family Accommodation, Alternative Accommodation etc., in the vicinity of any proposed development;*
 - *the impact of additional visitor accommodation on the wider objective to provide a rich and vibrant range of uses in the city centre including residential, social, cultural and economic functions;*
 - *the need to prevent an unacceptable intensification of activity, particularly in predominantly residential areas;*
 - *the opportunity presented to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities – see also Chapter 12, Objective CUO38.”*

Policy SI22 Sustainable Drainage Systems, Policy SI23 Green Blue Roofs, Policy SI25 Surface Water Management, Appendix 11 Technical Summary of Green & Blue Roof Guide and Appendix 13 Surface Water Management Guidance

Sections 11.5.2 Architectural Conservation Areas and 11.5.5 Archaeological Heritage, Policies BHA6 Buildings on Historic Maps and BHA7 Architectural Conservation Areas

- Policy BHA6 Buildings on Historic Maps: *“That there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. A conservation report shall be submitted with the*

application and there will be a presumption against the demolition or substantial loss of the building or structure, unless demonstrated in the submitted conservation report that it has little or no special interest or merit having regard to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011)."

- **Policy BHA7: Architectural Conservation Areas:**
 - *"(a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA 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. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA. Please refer to Appendix 6 for a full list of ACAs in Dublin City.*
 - *(b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.*
 - *(c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged.*
 - *(d) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.*
 - *(e) Promote sensitive hard and soft landscaping works that contribute to the character and quality of the ACA.*

- *(f) Promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to buildings of historic significance within ACAs.*
- *All trees which contribute to the character and appearance of an Architectural Conservation Area, in the public realm, will be safeguarded, except where the tree is a threat to public safety, prevents universal access, or requires removal to protect other specimens from disease.”*

Policy BHA8 Demolition in an ACA, Policy BHA11 Rehabilitation and Reuse of Older Buildings and Policy BHA24 Reuse and Refurbishment of Historic Buildings

- Policy BHA8 Demolition in an ACA: *“There is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of the ACA except in exceptional circumstances where such loss would also contribute to a significant public benefit.”*
- Policy BHA11 Rehabilitation and Reuse of Existing Older Buildings
 - *“(a) To retain, where appropriate, and encourage the rehabilitation and suitable adaptive reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment.*
 - *(b) Encourage the retention and/or reinstatement of original fabric of our historic building stock such as windows, doors, roof coverings, shopfronts (including signage and associated features), pub fronts and other significant features.*
 - *(c) Ensure that appropriate materials are used to carry out any repairs to the historic fabric.”*

Policy BHA26 Archaeological Heritage and BHA019 Built Heritage and Archaeology. Appendix 6 Conservation of the Development Plan identifies The Thomas Street & Environs Architectural Conservation Area. The Thomas Street & Environs Architectural Conservation Area 2009 study document is a standalone document.

- Policy BHA26 Archaeological Heritage:
 - “1.
 - 2. *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 (except in exceptional circumstances) in the Monuments and Places listed on the statutory Record of Monuments and Places (RMP) as established under Section 12 of the National Monuments (Amendment) Act 1994.*
 - 3. *To seek the preservation in situ (or where this is not possible or appropriate, as a minimum, preservation by record) of all archaeological monuments included in the Record of Monuments and Places; all wrecks and associated objects over 100 years old and of previously unknown sites, features and objects of archaeological interest that become revealed through development activity. ...”*

Section 13.17 SDRA 15 Liberties and Newmarket Square and Objective SDRAO1

Section 15.6 Green Infrastructure and Landscaping

Section 15.7 Climate Action including Section 15.7.1 Re-use of Existing Buildings

Section 15.14.1 Hotels and Aparthotels and Section 15.14.1.2 Aparthotels

Section 15.15 Built Heritage and Archaeology incl. 15.15.1.4 Basements, 15.15.1.8 Archaeological Mitigation and 15.15.2.1 Architectural Conservation Areas

Section 15.18 Environmental Management, Section 15.18.4 Basements and Appendix 9 Basement Development Guidance

5.2. **Architectural Heritage Protection Guidelines for Planning Authorities 2011**

Including Section 3.7 Development Control in Architectural Conservation Areas and 3.10 Criteria for Assessing Proposals within an Architectural Conservation Area

5.3. **Liberties Local Area Plan 2009**

5.3.1. The Liberties Local Area Plan expired in 2020.

5.4. Natural Heritage Designations

5.4.1. None relevant.

5.5. Environmental Impact Assessment

5.5.1. Having regard to the nature of the proposed development comprising the demolition of existing buildings and the construction of an aparthotel in a serviced urban area I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required (See Form 1 & 2 Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal is compiled by the applicant's design team in response to the reasons for refusal. The substantive points are summarised as follows:

- In relation to refusal reason 1: An aparthotel scheme on this site (Ref. 2021/21) was previously refused by the planning authority on grounds of overconcentration and impact on the ACA. This was overturned on appeal;
- Since then the chronic undersupply of tourist and visitor accommodation in Ireland and Dublin has been exacerbated further by the war in Ukraine;
- Planning authority provides no criteria or calculations to define an acceptable concentration of visitor accommodation in an area. The conclusion that there is an overconcentration is subjective;
- In relation to refusal reason 2: ACA Impact Statement, Design Report, and Architectural Heritage Impact Assessment justify demolition as follows;
 - The front facades of 2-3 Mark's Alley are not original, save for the lower section of the ground floor;
 - The building has not been used for a considerable number of years and necessary repairs to the structure were not carried out;

- The buildings are in a poor state of repair, with severe water damage, the stairs removed, and parts of the floors rotten / dangerous;
- The buildings do not contribute to the character, appearance or special interest of the streetscape or ACA;
- The extant aparthotel permitted on the site would screen 2-3 Mark's Alley West from public view, with only the front non-original fabric visible;
- Policy BHA6 has been complied with as part of the Architectural Heritage Impact Assessment report;
- The proposed design makes a sensitive and positive contribution to the area;
- In relation to impact of the proposed demolition, a response from Building Services Consulting Engineers is provided proposing incorporating existing bricks where possible and demonstrates the energy savings achieved by this;
- In relation to refusal reason 3, the appellant submits a response prepared by CS Consulting Group as follows:
 - The existing buildings are severely dilapidated and are on made ground with no evidence of basements on site or adjacent;
 - Mitigation to reduce impacts on surrounding buildings and soil, particularly from the basement, are set out including regarding surface flow and flooding and construction related impacts;
- In relation to refusal reason 4, a response is submitted by CS Consulting Group addressing surface water drainage arrangements, ground conditions, flooding and SuDS proposals.

6.2. Planning Authority Response

- 6.2.1. None received.

6.3. Observations

- 6.3.1. One observation is recorded, summarised as follows (City of Dublin Education & Training Board):

- Notes the planning authority decision to refuse permission;
- Raises concerns relating to potential impacts on adjacent Liberties College and absence of consultation by the applicants;
- Concerns include but not limited to structural impact of the proposed building and demolition, in particular the impact of the proposed basement construction on adjacent Liberties College and ability to maintain continuity of education during construction.

7.0 **Assessment**

7.1. Having regard to the foregoing; having examined the application details; having inspected the external site and surrounding area; and having regard to relevant adopted policies, guidance and legislation, I consider that the main issues in this appeal are:

- First refusal reason: Land use, and concentration of visitor accommodation;
- Second refusal reason: Demolition, and impact on character of the area;
- Third & fourth refusal reasons: Proposed basement and related impacts;

First refusal reason

7.2. Aparthotels are permissible in principle in Z4 zoning objective areas. I note an aparthotel is already permitted on the site. I consider the proposal is acceptable in principle and would not be contrary to the land use zoning objective for the area.

7.3. In relation to the concentration of tourist and visitor accommodation in the area, I note the details provided by the planning authority, observers and appellant. The planning authority and one observer reference a figure of c.1,800 tourist / visitor rooms existing or permitted in the Liberties area. The appellant letter from Crowe Ireland references a figure of c.1,890 hotel rooms in Dublin 8 spread across 14 no. properties, and of these, 435 no. are aparthotel rooms, spread across 4 properties. The letter also refers to a further 'pipeline' of 1,240 no. short stay rooms across 8 no. projects proposed or under construction in Dublin 8.

7.4. I consider there is limited if any comprehensive information on the concentration of aparthotel, hotels or other tourist/visitor accommodation in the area or wider city.

Policy CEE01 of the development plan states the City Council is to undertake a study of the supply of tourism related accommodation, however no such study is referenced in the planning report or appears to be available from the City Council.

- 7.5. My review of existing aparthotels within a 1km radius indicates there are 6 no. My review of the public register indicates a further 6 no. aparthotels have been permitted within a 1km radius of the site in the last 5 years, totalling approximately 735 no. rooms. In terms of what I would consider is the vicinity of the site, I am aware of an aparthotel on Francis Street, approximately 260m to the north, and none on Mark's Alley West. The closest hotels are the Hyatt Centric on The Coombe, c. 110m to the south, and Viking Lodge on Francis Street, c.170m to the north. Comprehensive information on other tourist / visitor accommodation is not available.
- 7.6. In addition to the absence of comprehensive information on the concentration of hotels and aparthotels, the development plan provides limited guidance as to how overconcentration should to be determined.
- 7.7. Having regard to the foregoing, I do not consider there is evidence of an overconcentration of existing and permitted tourist and visitor accommodation in the vicinity of the site. I note the refusal reason refers to both the overconcentration of tourist / visitor accommodation in the area and the need to avoid an overconcentration of hotel and aparthotel development. I note too the 2022-2028 development plan does not state there is an overconcentration of hotels or aparthotels, but instead that there are areas in the city which have high levels of hotel and aparthotel development, however few details are provided.
- 7.8. In relation to the mix of uses in the area, the majority of buildings along Francis Street are commercial at ground level and predominantly residential above, whilst the buildings along Mark's Alley West are mainly residential with the exception of Liberties College adjacent the site. I consider there is a good variety of uses on these streets, including offices, bars, shops and cafes, noting a number of vacant ground floor units. Within the broader area, I consider there is also a good mix of uses at ground floor, including retail, offices and non-retail, with residential above, and pockets of solely residential development throughout.
- 7.9. I do not consider the proposed development of an active, commercial use at ground floor and residential above, albeit an aparthotel, would have a detrimental impact on

the objective to provide a rich and vibrant range of uses in the area. The proposed development would bring activity at street level and increased footfall which would support the regeneration of the area. Overall, I consider the proposal would enhance the reasonably rich and vibrant range of uses existing in the area.

- 7.10. In relation to intensification of activity stated in the first refusal reason, I do not consider the proposed café / community space and aparthotel represent an unacceptable intensification of activity. Noting the existing buildings' most recent use is residential; the nature of the proposed development; the increase in size and scale of aparthotel development relative to that already permitted on the site; and the uses in the immediate area which include large apartment blocks with commercial uses at ground floor, I consider that whilst the development would represent an intensification of activity, that intensification would not be unacceptable and would be consistent with Policy SC11 of the development plan.
- 7.11. Having regard to the foregoing, and to the requirements of Policy CEE28, and Sections 6.5.6 and 15.14.1 of the development plan, I do not consider the proposal would exacerbate an overconcentration of tourist / visitor accommodation in the area or would be detrimental to the mix of uses and activity in the area, and I do not consider the proposal warrants refusal for the reasons and considerations stated.
- 7.12. I have also considered the proposal against the other requirements for aparthotels set out in Policy CEE28 and Section 15.14.1.2 'Aparthotels' of the development plan. I am satisfied that the proposal in general meets the requirements in this regard, however I note the proposal includes aparthotel suites at ground floor which I consider would provide a poor level of amenity for occupants, and in addition, the proposal does not clearly indicate provision of dedicated reception, administration, concierge, or security space. I note the permitted scheme has fewer suites yet would provide dedicated concierge and administration. I consider that as per development plan requirements, these support facilities are necessary for the sustainable operation of the proposal and should be provided at ground floor instead of ground floor suites. A condition should be attached to any permission in this regard.

Second refusal reason

- 7.13. The applicant submits an ACA Impact Statement, and an Architectural Heritage Impact Assessment (AHIA) prepared by Bernadette Solon Conservation Architect. In

relation to the demolition of Nos. 2-3 Mark's Alley West, the AHIA states the buildings do not contribute to the character, appearance or special interest of the streetscape, or to the architectural merit of the ACA. Conversely, the Conservation Officer states the buildings are not undistinguished and do contribute positively to the character and streetscapes of the ACA.

- 7.14. The site is in the Thomas Street & Environs ACA. The buildings proposed for demolition are not protected structures and are not included in the National Inventory of Architectural Heritage. None of the adjoining buildings are protected structures. Nos. 92-93 Francis Street (formerly protected structures) have been demolished, and demolition of No. 1 Mark's Alley West was previously permitted by the Board.
- 7.15. The development plan states the protected status afforded by inclusion in an ACA applies to the exterior of structures and features of the streetscape. The existing street elevations appear largely to be a later replacement, with the exception of the roofs and the lower parts of the front elevation, however I note the street elevations do reflect the original design and retain some of their original character. Noting commentary from the conservation officer regarding the sufficiency of the submitted reports, the majority of the elevations that are original (side and rear elevations) would no longer be visible from the street after construction of the development already permitted on the site. I note too that the single storey structures at the rear of the site (Nos. 1/1A) appear to be original however were not visible from the street prior to the demolition of Nos. 92/93 Francis Street, and would not be visible from the street upon construction of the development already permitted on site.
- 7.16. Based on the foregoing I consider that the buildings proposed for demolition are of little quality, special interest or architectural conservation value, and do not make a significant positive contribution to the character, appearance and special interest of the streetscape, or to the architectural merit of the ACA.
- 7.17. In relation to site context, the Liberties College building is adjacent to the west along Mark's Alley West. It runs for the remainder of the alley (c.75m) and is a large modern building of limited if any architectural conservation value. Similarly, the block across the road along Mark's Alley West, which extends as far as Spitafields (c.50m), is also a modern addition of limited if any conservation value. I note there are some artisan cottages further west along the remainder of the alley on that side.

Adjacent to the east, Nos. 92-93 Francis Street have already been demolished, and No. 1A to the rear already has permission to be demolished. Along Francis Street, between Carman's Hall and The Coombe, I estimate approximately 80% of the length of the western side of the street comprises modern buildings of varying styles and quality, including period buildings and modern additions, as does c.55% of the eastern side. I further note that where original period buildings remain, many have been extensively altered including in terms of additional storeys, elevations, and roof treatments. I note similar patterns of development throughout the area.

- 7.18. Based on the foregoing, I consider the area is mixed in terms of design, character and architectural heritage value, particularly along Mark's Alley West in which the largest extent of the building would be located. Whilst I consider the immediate area along Francis Street has a richer character, demolition has already occurred on this part of the site, with replacement buildings permitted. Conversely, Mark's Alley West is characterised largely by modern replacement buildings of varying designs and styles which are of little if any architectural heritage value. This is reflected in the 2009 ACA study which states that a wave of new construction across the ACA and urban renewal development emerged along large swathes of Francis Street in the 1990's. It also states Mark's Alley West is defined mainly by modern apartment development to the north side and educational buildings to the south. I note too that the site is not in a prominent location within the ACA.
- 7.19. In relation to the existing building condition, the appeal and submitted Architectural Heritage Impact Assessment (AHIA) set out details in this regard. The AHIA report states the buildings have not been in use for a considerable number of years and that necessary repairs to the structure were not done resulting in damage to both the exterior and interior. The report sets out details of defects to the buildings, including severe water damage to the roofs; structural cracking to the façade of No. 3; no windows in the rear of the properties with brickwork around the openings failed; severe water damage to the interior structures; elements of the floor joists and stairs dangerous and rotten beyond repair; and all floors in both buildings in a state of structural decay. I note agreement in both the Conservation Officer report and the AHIA report that Nos. 2-3 Mark's Alley West are vacant and in a poor state of repair.
- 7.20. In relation to the proposed design and its relationship to the ACA, whilst contemporary, the proposed elevations are modulated to reflect the plot widths and

rhythm of the adjacent streetscapes. The design achieves a vertical emphasises which is reflective of the remaining period buildings in the area. The height and scale of the building, particularly for its longest elevation, along Mark's Alley West, is akin to others along that road (eg. Francis Court directly opposite). The proposed 5th storey is set back similar to other modern additions along Francis Street (eg. 99 Francis Street). The proposed materials mainly comprise brick types which are reflective of the area including in colour, tone and materiality. The fenestration proportions and alignment are also reflective of the remaining traditional buildings in the area.

- 7.21. I note the Conservation Officer commentary regarding the proposed recessed shopfront at the corner of Mark's Alley West and Francis Street. I acknowledge ground floor commercial units in the area are typically set to the back of the footpath, however I consider the proposed recessing is modest and will provide for outdoor seating and animation of the public realm. I consider this element is appropriate to a corner location in urban design terms and is acceptable in this regard.
- 7.22. Based on the foregoing, I consider the proposal achieves a good quality contemporary design which is complementary and sympathetic to, and reflects, the architecture, character, street pattern and heritage of the area. I consider the proposed building is appropriate in terms of scale, height, mass, building lines and materials, and that it protects and enhances the ACA. I am satisfied the proposed design would contribute positively to the character and distinctiveness of the ACA, and would protect and enhance the character and appearance of the area in line with Policy BHA7 Architectural Conservation Areas of the development plan.
- 7.23. Overall I am satisfied that on balance whilst Nos. 2-3 Mark's Alley do retain some of their original character, the existing buildings are not of sufficient special interest or merit, or make sufficient positive contribution to the character or architectural heritage of the ACA to warrant their retention, and that the proposed development, which I consider has been sensitively designed, is sympathetic to its context and would contribute positively to the character and distinctiveness of the ACA, as such it does not warrant refusal as set out in the second reason for refusal.
- 7.24. The applicant has submitted a Building Lifecycle Report, a Construction & Demolition Waste Management Plan, and an Energy Statement as part of the application, as

well as a response to the second refusal reason prepared by Building Services Consulting Engineers. This response proposes where possible to reuse brick from the buildings to be demolished. I consider the submitted information satisfies development plan requirements to reduce carbon dioxide emissions including with regard to embodied carbon, and is consistent with Section 15.7.1 of the development plan which requires existing building materials to be incorporated and utilised.

- 7.25. Overall, I do not consider the proposed development, including demolition of Nos. 2-3 Marks' Alley West, would be contrary to the interests or special character of the Thomas Street & Environs ACA. Furthermore, I do not consider it would be contrary to the development plan including Sections 13.17 and 15.7 and Policies BHA6, BHA7, BHA8 or CA6, would be contrary to the long-term sustainable regeneration of the area, or would set an undesirable precedent for the area.

Third refusal reason

- 7.26. In relation to the potential impact of the proposed basement on archaeological heritage, the site is within the zone of archaeological interest for recorded monument DU018-020 'Historic City' and is at the edge of the medieval core of the City as described in development plan Figure 11-2. The City Archaeologist states that a basement may not be appropriate in this location and the planning authority planner report considers this a reason for refusal. There has been no response from the Department of Arts, Heritage & Gaeltacht.
- 7.27. I note that whilst development plan Section 15.1.5.1.4 seeks to avoid basement construction in the medieval core and Policy BHA26 seeks the omission of basements except in exceptional circumstances, Section 15.15.1.8 and Policy BHA26 provide for archaeological excavation where preservation in situ is not feasible or appropriate.
- 7.28. Considering these provisions and given the extent of the above zone of archaeological interest across the city, I do not consider a starting point of omitting or avoiding basement construction is reasonable or strikes an appropriate balance regarding the enhancement and promotion of archaeological resources; the regeneration of the area; or the promotion of compact growth through consolidation and intensification of serviced land in a central location in the City. I acknowledge that limited archaeological assessment is submitted, and whilst the site may contain

archaeological material, having regard to the extent of previous construction in the area and the extent of basement already permitted on the site, I consider that archaeological testing and monitoring of construction by condition as per the existing permission on site is reasonable and aligns with Policy BHA26 of the development plan. Further in this regard, I consider that a condition should be attached requiring presentation and interpretation of any appropriate archaeological finds within the new development, in line with Objective BHAO19 of the development plan.

- 7.29. In relation to the proposed basement and the submitted basement impact assessment report prepared by Cronin & Sutton Consulting Engineers, I note commentary from the planning authority drainage division and planner report in this regard. The applicant report considers prevailing ground conditions, ground stability, ground movement, and risks to neighbouring properties. The report also considers groundwater conditions, monitoring of groundwater, flood risk, and dewatering if required. A site investigation report is included, as are records of site investigations and borehole testing near the site. Overall, I consider the submitted information satisfactorily addresses the requirements of the development plan (including Section 4 Appendix 9) and provides sufficient information for the assessment of the proposed basement for planning purposes.
- 7.30. In this regard, as referenced in the planning authority planner report, I note an incorrect reference to the adjacent building in the submitted basement impact assessment report, however I consider that otherwise the report accurately addresses the site and its context, including potential impacts arising from basement construction on neighbouring development. The report also provides a programme of enabling works and construction activities, a monitoring and construction management plan, and mitigation. Noise and vibration monitoring is also to be in place during demolition and piling, with consideration of impacts on adjoining structures set out.
- 7.31. I note the proximity of the proposed basement to the public road, and that the Transportation Planning Division has no objection subject to conditions.
- 7.32. I also note that in addition to the basement already permitted on the site, there is an existing basement car park across the road off Mark's Alley West.

- 7.33. In relation to concerns raised by the adjacent landowner, these relate to construction impacts with no objection in principle raised. I am satisfied these concerns can be addressed by conditions relating to detailed design and construction management.
- 7.34. The proposed basement is a single level basement, would be set back from the site boundaries including that of Liberties College, and would have a similar design and assessment approach as the basement already permitted on the site. The proposed basement would occupy approximately twice the area of the permitted basement and would not be of unusual size or depth. Given the information submitted I am satisfied the proposal is acceptable in this regard subject to appropriate conditions regarding construction management as per the existing permission on the site.
- 7.35. Overall, I am satisfied that sufficient information is submitted for the purposes of granting planning permission and I do not consider the proposed basement would be contrary to the development plan including Policy BHA26, Section 15.15 or Appendix 9 subject to conditions.

Fourth refusal reason

- 7.36. In relation to surface water attenuation, as part of the permitted development on site underground attenuation is provided within the rear amenity space. In the subject proposal an external rear courtyard is again proposed however the basement would extend under the yard and as such attenuation is now proposed at basement level.
- 7.37. I note the planning authority drainage report refers to a lack of engineering detail. Drainage engineering drawings and attenuation calculations are submitted. The engineering services report indicates storm water drainage will be limited to 2.0 l/s/Ha, with on-site attenuation sized to contain a 1-in-100-year storm event including provision for climate change. Details of on-site attenuation volumes are provided. I note almost the entire site both now and prior to the demolition of No. 92-93 Francis Street comprised buildings and hardstanding and that the site is in an urban area served by mains drainage.
- 7.38. In relation to sustainable drainage systems, a green roof forms part of the permitted aparthotel development on the site. A similar building design approach is proposed for the subject proposal, however the submitted engineering services report states that whilst the building was designed with a green roof, photovoltaic panels were instead proposed to meet Part L requirements.

7.39. I am satisfied that sufficient information is submitted in relation to surface water management for the purposes of granting planning permission. I consider that as per the existing permission on the site there is sufficient scope to agree by condition final sustainable urban drainage arrangements to include appropriate attenuation and treatment at source, be this at surface or roof level, alongside sustainable energy proposals if required, and meet the requirements of Policies SI22 and SI23 and Section 15.6.3 Green / Blue Roof of the development plan.

Conclusion

7.40. Having regard to the foregoing I do not consider the proposed development warrants refusal for the reasons and considerations set out by the planning authority, and I consider that the development is generally consistent with the relevant policy and guidance for the area and as such should be granted planning permission.

8.0 Appropriate Assessment

8.1. Having regard to the nature and scale of the development proposed and the receiving urban environment which is served by public mains drainage which could absorb surface water run-off from the site and is separated from European Sites, and in the absence of direct pathways thereto, I consider no Appropriate Assessment issues arise, and I do not consider the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

9.0 Recommendation

9.1. I recommend planning permission be **Granted**, subject to conditions, for the reasons and considerations below.

10.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development, and to the buildings on site which are located with the Thomas Street and Environs Architectural Conservation Area, it is considered that the proposed development is consistent with the policies and objectives of the Dublin City Council City

Development Plan 2022-2028, including having regard to the 'Z4' land use zoning objective for the area, and would contribute positively to the character and special interest of the Architectural Conservation Area, would not impact unduly on residential amenities, traffic or public health, and the proposed development would therefore be in accordance with the proper planning and sustainable development of the area, subject to the conditions set out below.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and the further particulars received by An Bord Pleanála on the 28th day of April, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>The developer shall submit for the written agreement of the planning authority revised layout plans for the basement and ground levels showing omission of the 2 no. aparthotel suites at ground floor level and the provision of dedicated reception, administration, concierge and security spaces at ground floor.</p> <p>Reason: In the interests of residential amenity and to ensure consistency with the provisions of the development plan.</p>
3.	<p>Notwithstanding the exempted development provisions of the Planning & Development Regulations 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to aparthotel (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission, and shall not be used for or occupied by permanent households or for the purposes of student accommodation.</p> <p>Reason: In the interest of residential amenity.</p>

4.	<p>The requirements of the planning authority Transportation Planning Division shall be complied with. A minimum of 20 no. cycle parking spaces and shower and changing facilities shall be provided. Details of materials proposed in public areas shall be agreed in writing with the planning authority. All related costs relating to work within the public road adjacent the site incurred by the City Council as a result of the development shall be at the expense of the developer.</p> <p>Reason: In the interests of traffic and pedestrian safety.</p>
5.	<p>The following shall be complied with:</p> <p>a) During the operational phase of the development, the noise level from the site when all proposed plant is operating shall not exceed 55 dB(A) as measured at the nearest dwelling. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>b) Prior to the operation of the development, a scheme shall be submitted for the written agreement of the planning authority for the effective control of fumes and odours from the premises (ie. café / community space) and the scheme shall be implemented before the permitted use commences and thereafter permanently maintained.</p> <p>Reason: In the interests of environmental health, and to protect the [residential] amenities of property in the vicinity of the site.</p>
6.	<p>The ground floor café / community space shall be open to occupants of the development and members of the public.</p> <p>Reason: In the interests of clarity.</p>
7.	<p>Water supply and drainage arrangements for the site, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. In this regard, the detailed design of surface water management arrangements including basement, ground and roof level layouts shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>

8.	<p>Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may existing within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological materials.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the development shall agreed in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>(c) Subject to the written agreement of the planning authority, the developer shall provide for the presentation and interpretation within the development of suitable archaeological material recovered from the site in line with Objective BHA019 of the Dublin City Development Plan 2022 - 2028.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanala for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>

10.	<p>The Developer shall comply with the following:</p> <p>(a) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste. This plan shall have specific regard to impacts on the operation of the adjacent Liberties College during the construction period.</p> <p>(b) Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, measures outlining how the adjacent Francis Street public realm improvement scheme works shall be protected during the demolition and construction phases. In this regard the developer shall identify sections where paving and/or street furniture will be numbered, lifted, placed in crates and stored safely during construction. The work including the reinstatement of the public realm shall be at the applicant / developer's expense.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
11.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines for the Preparation of Resource & Waste Management Plans for Construction and Demolition Projects", published by the Environmental Protection Agency in 2021. This plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
12.	<p>A plan containing details for the management of waste (and, in particular, recyclable and reusable materials) within the development, including the</p>

	<p>provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable and reusable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.</p>
13.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
14.	<p>The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme, in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the</p>

	<p>matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
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-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.-

Dan Aspell
Inspector

10th January 2024

APPENDIX 1

Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference		316306-23	
Proposed Development Summary		Demolition of structures, construction of aparthotel with all associated site works	
Development Address		92-93 Francis Street and 1-3 Mark's Alley West, Dublin 8.	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes X No No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes	X	Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class/Threshold.....	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: __4th January 2024__

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	316306-23		
Development Summary	Demolition of structures, construction of aparthotel with all associated site works.		
Examination	Yes / No / Uncertain		
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?	No		
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?	No		
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?	No		
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?	No		
Comment (if relevant)			
Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?			
There is no real likelihood of significant effects on the environment	ElAR not required	Yes	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	No	
	Sch 7A information submitted?	Yes	No
There is a real likelihood of significant effects on the environment	ElAR is required (Issue notification)	No	

Inspector _____ **Date:** __4th January 2024_____

DP/ADP _____ **Date:** _____

(only where ElAR/ Schedule 7A information is being sought)