



An
Bord
Pleanála

Inspector's Report

ABP-317264-23

Development

Modifications to planning permission granted for a hotel comprising 142 bedrooms under reg. ref. 3609/20 (ABP-309215-23) for reconfiguration to 105 suite aparthotel. To include internal reconfigurations to (i) basement level to provide plant areas and spa/wellness area; (ii) first to eighth floor to facilitate 105 aparthotel suites and ancillary service areas. To include all associated and ancillary works necessary to complete the development.

Location

162-164A Capel Street and 33-36 Strand Street Little, Dublin 7

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

5526/22

Applicant(s)

City ID Dublin Capel Limited

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal	First Party
Appellant(s)	City ID Dublin Capel Limited
Observer(s)	None
Date of Site Inspection	03 rd April 2024
Inspector	Bernadette Quinn

1.0 Site Location and Description

- 1.1. The site is located at the junction of Capel Street and Strand Street Little and approximately 50 metres north of Ormond Quay. The site is vacant with the exception of the northeast corner of the site which contains 162 Capel Street, a 4-storey red-brick end-of terrace building which is currently braced and propped by steel support structures to its southern gable side and covered in hoarding. The site has a stated area of 0.079 ha.
- 1.2. The eastern portion of the site is located within the Capel Street and Environs ACA and there are a number of Protected Structures along Capel Street to the south of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises modifications to previously approved planning application 3609/20 / ABP-309215-21 to include:
 - Internal reconfiguration on all floors to facilitate 105 no. aparthotel suites and ancillary services areas;
 - Internal reconfigurations at permitted basement and ground floor;
 - Build out of setback at fifth to eight floors levels on western elevation (rear of Capel Street) and northern elevation (rear of Strand Street Little);
 - Part build out of set back at fifth and sixth floor levels on eastern elevation;
 - Inclusion of private glazed balconies on the southern side at seventh floor level;
 - Amendments to facade at street level, including the provision of retractable awnings on both the Capel Street and Strand Street Little frontages;
 - Amendments to fenestration at all levels including replacement of previously permitted brick finish on corner elevation at first to fourth floor with metal cladding;

- 2.2. Following a request for further information a revised proposal was submitted which revised floor plans for levels 1 to 6 to increase the proportion of rooms with the ability to be interlinked with no change in the overall number of aparthotel units proposed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 10th May 2023 DCC refused permission for the following one reason:

Having regard to the requirements of the Dublin City Development Plan 2022-2028, it is considered that the proposed development would exacerbate the existing overconcentration of guest accommodation (aparthotel and hotel developments) in this area of the city and prevent the delivery of mixed use development 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.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The local authority planning officer's report can be summarised as follows:

- Section 15.14.1 of the Dublin City Development Plan seeks to ensure that 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 and there will be a general presumption against an overconcentration of hotels and aparthotels.
- There are a number of hotel and aparthotel developments in this area of the city and a further aparthotel development would lead to an imbalance in the mix of uses in this area of the city.

- The subject site could be used for residential development and given that the hotel which was approved is not proposed to be developed, the applicant should provide a reasoning as to why residential development has not been considered on this site.

The planning authority issued a request for further information in relation to the following:

1. Provide a reasoning as to why residential development has not been considered on the site.
2. Provide for compliance with the requirements in Section 15.14.1.2 of the Dublin City Development Plan 2022-2028 with regard to the unit mix and the ability for units to be amalgamated.
3. Address concerns in relation to the build out of upper floor setbacks and the alteration of the design of the top two storeys and the impact on the adjacent protected structures, the Capel Street Architectural Conservation Area and the Liffey Quays Conservation Area and submit proposals to address these concerns.
4. Address concerns relating to the finish of the building on the corner of Capel Street and Little Strand Street which does not have due regard to the location of the site within the Capel Street Architectural Conservation Area and the adjacent protected structures and submit proposals to address these concerns.
5. Provide updated CGI views of the proposed development.
6. Provide a construction management plan.
7. Address concerns of the Transportation Department relating to projecting awnings and bicycle parking

Having considered the response to the AI request the planning officer's report dated 10/05/23 can be summarised as follows:

- There is an over-concentration of guest accommodation developments in this part of the city which could fundamentally undermine the mixed-services and

vision for this portion of the city centre, as set out in section 15.14.1 of the Dublin City Development Plan and refusal is recommended.

- Revised unit mix is considered acceptable.
- The build out of the upper floors leads to a bulkier more imposing building especially to Capel Street and would not successfully harmonise with the area. The set back of the upper floors should remain as permitted. The metal cladding on the upper floors is considered reasonable subject to a condition which requires the colour of the finish to be toned down to a lighter colour such as the finish of the Capel building roof.
- The design of the corner element of the building would not harmonise with the character of the area. The finish of the corner element of the building (especially the upper floors) would dominate the aesthetic of the area. The corner element of the building at upper floors should be clad in red brick as permitted in the previous application to ensure that the development would much more suitably harmonise with the character of the area and this can be dealt with by condition.
- The construction management plan and transportation matters are satisfactory and outstanding matters can be addressed by condition.

3.2.2. Other Technical Reports

Transportation Planning – No objection subject to conditions

Drainage Division – No objection subject to conditions

Environmental Health – Further information

3.3. Prescribed Bodies

Transport Information Ireland – Proposed development falls within an area set out in a Section 49 scheme for light rail and if not exempt a condition should be attached.

3.4. Third Party Observations

One third party observation from Cllr Declan Meenagh on file which states that there are too many hotels and not enough housing in the city and the site should be used for housing.

4.0 Planning History

Appeal Site:

5061/23: Permission granted on 22/05/2024 for modifications to planning permission granted under Ref. 3609/20 (ABP-309215-21) to facilitate reconfiguration as a 105-suite aparthotel at 162-164a (inclusive) Capel Street and 33-36 (inclusive) Strand Street Little, Dublin 7. The permission is subject to 19 conditions, including the following conditions of note:

Condition 5: The development shall be amended as follows:

a) The metal cladding of the upper four set-back floors shall be omitted from the development and replaced with a brick finish for the lower two set back floors and a glass curtain wall finish for the upper two set-back floors, similar to that permitted by An Bord Pleanala under ABP-309215-21.

b) The windows on the north facing elevation at set-back levels shall be set at an angle to mitigate any potential overlooking as permitted by An Bord Pleanala under ABP-309215-21. Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.

Reason: In the interests of orderly development and visual amenity and to protect the character of the Capel Street and Environs ACA

Condition 9: The aparthotel units shall only be occupied for short-term letting periods of no more than two months and shall operate within the definition of an aparthotel as set out in Appendix 15 of the Dublin City Development Plan, 2022-2028. In addition, the aparthotel shall be managed by a reception facility on the ground floor with twenty-four hour reception and security facilities. The

apart-hotel units shall not be used as independent and separate self-contained permanent residential units.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan, 2022-2028, and the proper planning and sustainable development of the area.

Condition 13. requires the developer to comply with the requirements of the Transportation Planning Division of Dublin City Council, including the following:

b) All proposed awnings within this application shall be omitted. No awnings, canopies or projecting signs or other signs shall be erected on the premises where it overhangs the Public Road area (i.e.: back of footpath to back of footpath).

c) No part of the proposed development from basement to roof level (e.g. underpinning, secant pile walls, basement area, balconies, etc.) shall overhang either below or above the public road area along Capel Street to the east and Strand Street Little to the south (i.e.: back of footpath to back of footpath).

Reason: In the interests of the proper planning and development of the area and to ensure that adequate bicycle parking provision is available to serve the proposed development and in the interests of sustainable transportation.

3609/20 /ABP-309215-21: Planning permission refused by the planning authority and granted on appeal by An Bord Pleanála for the demolition of 33-36 Strand Street Little (Working Men's Club) and buildings to the rear of the shop at 162 Capel Street and construction of a 5 to 9-storey over basement mixed-use development for hotel with ancillary bar/café lobby fronting Capel Street/ Strand Street Little junction and shop at 162 Capel Street.

2258/17: Application for the construction of a five storey over basement mixed use development of 1,112.4sqm at the corner of, and fronting onto Capel Street and Strand Street Little and consisting of 7 no. two bed apartments at 1st to 4th floor above 299.4sqm of commercial space at ground floor and basement level.

Permission granted, subject to conditions. This permission was not implemented and has expired.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Under the Dublin City Development Plan 2022-2028, the application site is designated Zoning Objective Z5: 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. 'Hotel' is a permissible use on Z5 zoned lands.
- 5.1.2. Section 6.5.6 relating to Tourism Hotel and Events notes it will be important to avoid the overconcentration of hotel development in areas of the city which currently have high levels of existing hotel, aparthotel and student accommodation development or in areas where a significant number of planning applications have been made for new or expanded hotel and aparthotel development.
- 5.1.3. In Chapter 11, Policy BHA7 the following is of relevance in relation to 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.

5.1.4. Policy CEE28 outlines considerations for applications for additional hotel, tourist hostel and aparthotel development which includes criteria relating 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 in the vicinity; the existing and proposed type of visitor accommodation in the vicinity; 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 opportunity presented to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities.

5.1.5. Section 15.14.1 states that there will be a general presumption against an overconcentration of hotels and aparthotels. Section 15.14.1.2 outlines considerations for Aparthotels including:

- that the proposed development will include, as a minimum, a fully serviced reception desk and administration facilities, concierge, security and housekeeping facilities and may contain entertainment and uses considered to be associated with the management of the aparthotel;
- provision of food and refreshment facilities is desirable;
- active ground floor uses will be encouraged;
- design and layout of the aparthotel units should be such to enable the amalgamation of individual units to cater for the needs of visitors, especially families;
- A range of different unit styles and sizes will be required in order to cater for the needs of visitors and the planning authority will resist the over-provision of single bed aparthotel units and shall require a mix of unit sizes and styles;
- Permissions for aparthotels will have a condition attached requiring planning permission from change of use from commercial short-term accommodation

to residential and that a maximum occupancy period for the proposed development shall be two months.

- 5.1.6. Chapter 13 relates to Strategic Development and Regeneration Areas (SDRA) and the appeal site is included in SDRA13 (Markets Area and Environs). This SDRA provides a framework of structured guidance to act as a catalyst to drive sustainable regeneration and help to realise the potential of the area, including guidance for specific opportunity sites. SDRA 13 Map in the Development Plan does not identify the appeal site as an opportunity site and identifies Capel Street as a Core Pedestrian Spine. SDRAO1 outlines overarching principles relating to development within SDRA.
- 5.1.7. Appendix 15, Section 1.0 provides 'Land-Use Definitions' with the definition of Hotel provided as follows: "A building, or part thereof, where sleeping accommodation, meals and other refreshments and entertainment, conference facilities, etc., are available to residents and non-residents, and where there is a minimum of twenty rooms en-suite. Function rooms may also be incorporated as part of the use. A hotel includes an aparthotel. An aparthotel is a building, or part thereof, containing a minimum of eight self-serviced short-term accommodation units that share a reception area. The building is professionally managed in the same manner as a hotel, where accommodation is provided in the form of apartments or suites within a fully serviced building, offering the comfort and security of a hotel with the amenity of a fully furnished apartment".
- 5.1.8. The eastern part of the site is located within the Capel Street Architectural Conservation Area and the street is a Category 2 retail street located in the City Centre Retail Core of the city.
- 5.1.9. The Capel Street and Environs Architectural Conservation Area (ACA) outlines in Section 7.0 interventions which would detract from the character, including raising of existing parapet lines and inappropriate new builds which do not respect the existing massing and scale of the street. Section 8.2.8 'New Build' states that new developments should have regard to the grain and character of the adjacent buildings, which shall include height, massing, proportions and plot width and that excellence in contemporary architecture including excellence and innovation in

shopfront design shall be encouraged. High quality durable materials should be used. They should include stone, brick, render, steel, glass and timber.

5.2. Section 28 Ministerial Guidelines

- 5.2.1. Architectural Heritage Protection Guidelines for Planning Authorities Department of Arts, Heritage, Gaeltacht 2011 provide guidance in relation to development and built heritage, in particular works affecting historical buildings or structures and development within Architectural Conservation Areas. Section 3.10 outlines criteria for assessing proposals for development within an Architectural Conservation Area, stating that the design of new development is of paramount importance. It is recommended that where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. Section 13.8 relates to applications for works outside the curtilage and attendant grounds of a protected structure which have the potential to impact upon its character stating that proposals should not have an adverse effect on the special interest of the protected structure.

5.3. Natural Heritage Designations

None.

5.4. EIA Screening

- 5.4.1. See Appendix 1 - Form 1 EIA Pre-Screening and Form 2 EIA Preliminary Examination attached to this report. Having regard to the nature and scale of the proposed development, to the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, to the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been submitted by the applicant against the decision to refuse permission. The grounds of appeal can be summarised as follows:

Principle of Development

- The principle of the land use on this site as a hotel/aparthotel has already been established by the extent parent permission. This parent permission is extant until late 2026 under planning reference 3609/20; ABP reference 309215. The applicant has not given any indication that they do not intend to build the extant permission with modifications. Compliances and a commencement notice have been submitted and works commenced in early 2023.
- In dealing with modification permissions matters of land use principle under an extent permission cannot and should not be revisited. Unmodified aspects of the development have the benefit of a valid planning permission and the assessment should be restricted to assessing the proposed modifications.
- The established use was not proposed to be modified or abandoned as suggested in the planner's report and the use has a valid extant planning and as per legal judgement in South-West Regional, it was inappropriate for this use to be reassessed or for the proposed modifications to be refused on this basis.
- The application seeks to replace one hotel design with another and as such it is not possible for the modification application to exacerbate the existing over concentration of guest accommodation as stated in the refusal reason. The total number of bedrooms is proposed to reduce from 142 to 105 and so it is not possible for the modified application to "exacerbate the existing overconcentration of guest accommodation.
- Appendix 15 of the Development Plan states that a hotel includes an aparthotel. Hotel is permitted in principle in the Z5 zoning objective that applies to the site. The only distinction between hotels and aparthotels in the

Development Plan is in respect of design and layout considerations and not land use.

- Proposed modifications to the permitted development substantially deal with internal reconfiguration within the height, scale and massing of the permitted development and provide a high-quality finish taking account of the sites street frontage and location in an ACA.
- The further information request relating to design and engineering matters were satisfactorily dealt with. DCC planner's report confirms all matters relating to the modifications are acceptable or could be addressed by condition.
- The planning officer's report incorrectly refers to the modification application as "a further aparthotel development" and the refusal was based on a misunderstanding.
- There is no evidence of hotel/aparthotel concentration in the vicinity of the appeal site and even if there was the proposal would not exacerbate same. The An Bord Pleanála inspectors report for the previous application on this site found no significant concentration of hotels in the area and the previous refusal on these grounds did not appear to be supported by any policy or standards in this regard. There are inconsistencies in decisions relating to concentration of hotels in the area.
- Precedents exist in the City for modifications to permissions for tourist accommodation where, in assessing the applications, the principle of use was accepted as established. The Board are requested to consider only the modifications subject of the application without revisiting the underlying permitted use.

Design

- The setback amendment to upper level towards Capel Street is minimal and marginal and does not have any potential effects of concern. The colour of the upper level cladding can ameliorate concerns relating to visibility from Capel Street ACA and this can be agreed by condition.

- The altered visual impact arising from the proposed amendments is imperceptible in context.
- Existing finishes to buildings on Capel Street are not homogeneous. The Capel Buildings at the north end of the block on which the appeal site is located has significant scale at 5 storeys on the street front and uses glass and steel in the elevations. The proposed building can bookend the block on the south end similar in scale and architectural intervention whilst protecting the view of City Hall as per the provisions of the Capel Street ACA. This is demonstrated in the CGI's submitted at RFI stage.
- Modifications proposed are high quality and well designed and the design would not dominate the aesthetic on Capel Street. The Board should consider whether or not modern materials on part of the elevation should prevail over a red brick elevation on the junction to harmonize better with the character of the area. If the Board considers red-brick is required on all elevations this can be required by condition.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None received.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Design & Visual Impact
- Other Matters

7.2. Principle of Development

- 7.2.1. I consider that the permitted hotel and aparthotel uses have the same considerations and fall under the same use category as provided for in Appendix 15 of the Development Plan. As such I do not consider the application proposes any change in the permitted use relating to tourist accommodation and I do not consider it necessary to consider the principle of a hotel use on this site as this has been assessed in the parent permission and was deemed acceptable.
- 7.2.2. A total of 105 aparthotel units are proposed which includes 90 studios and 15 one bed units, 23 of which have the potential to be interlinked to form 2 bed and 3 bed units on demand. The parent permission provided for a total of 142 bedrooms, as such the intensity of visitor accommodation proposed has not increased.
- 7.2.3. In relation to the mix of uses, the parent permission included a retail unit, café/bar and dining facility at ground floor. The proposed modifications include a retail unit, restaurant/bar, co-working space, and events space at ground floor. I am satisfied that the mix of uses is not less than that already permitted and I am satisfied that the mix of uses is sufficient to provide for vibrancy at street level and to comply with the Z5 zoning objective.
- 7.2.4. Section 15.14.1.2 of the Development Plan sets out a number of criteria to be considered when assessing an application for an Aparthotel, including requirements relating to reception, administration, concierge, security and housekeeping facilities. This section also supports inclusion of entertainment, food and refreshment facilities, active ground floor uses and a range of room sizes and styles. The planning authority did not raise any concerns in this regard and having reviewed the documents submitted with the appeal I am satisfied that the development complies with these provisions. Should the Board decide to grant planning permission, I recommend that a condition be attached that the spa/ wellness centre, gym, meeting rooms and co-working space, restaurant / bar and event space should be open to the public during normal working hours.
- 7.2.5. Having regard to the above, I do not agree with the planning authority's reason for refusal that the proposed development would prevent the delivery of a mix of uses or would be contrary to Section 15.14.1 of the Development Plan relating to a presumption against an overconcentration of hotels and aparthotels. I am satisfied

that the proposed modification to provide for an aparthotel is acceptable in principle and I have no objection to the proposed development subject to complying with other planning requirements as addressed below.

7.3. Visual Impact

- 7.3.1. The modifications proposed do not seek to increase the overall height of the building with the parapet height and lift overruns remaining the same as that permitted. As such I do not consider it necessary to apply the performance criteria relating to building height set out in Table 3 of Appendix 3 of the Development Plan and I am satisfied that the modifications are acceptable in relation to overall building height.
- 7.3.2. The external finishes of the permitted hotel provided for glazed curtain walling and aluminium cladding at ground level, red brick at first to fourth floor, light grey brick with clear glass curtain walling at fifth and sixth floor, and curtain wall glazing at seventh and eighth floor.
- 7.3.3. Modifications to material finishes at ground floor include use of metal cladding and glazing. First to fourth floor are proposed to be finished in buff brick with the incorporation of metal cladding at the corner of Capel Street and Strand Street Little. At fifth and sixth floor it is proposed to replace the previously permitted brick finish with metal cladding and continue this metal cladding finish on the seventh and eighth floors to replace the previously permitted curtain wall glazing.
- 7.3.4. The planning authority raised concerns in relation to the proposal to replace the corner treatment on floors one to four with metal cladding, noting that the block on which the subject site is located generally consists of redbrick above ground floor. The planning authority considered that the materials of the upper floors of the corner element of the development should revert to red brick as previously permitted to ensure that the development would more suitably harmonise with the character of the area.
- 7.3.5. The first party in their appeal argue that the buildings on Capel Street are not homogeneous, referring to precedent where materials other than brick are used and outline that the modifications are well designed, of high quality and would not dominate the aesthetic on Capel Street. I agree with the first party that there are a variety of finishes to buildings on Capel Street and I have no objection in principle to the use of modern materials and note that these are incorporated elsewhere on the

elevations. However, noting the site's location within the Capel Street Architectural Conservation Area and the presence of a number of protected structures in close proximity, I consider that the design of the corner element of the building would not successfully integrate with the character of the area. If the Board decides to grant permission I consider a condition can be attached requiring the corner element of the building at first to fourth floor should be clad in brick as permitted in the parent permission.

7.3.6. The application seeks to build out the previously permitted set back at fifth to eighth floor on the western and northern elevation, and part build out the setback at fifth and sixth floor on the eastern elevation from a setback of 9.5m to a setback of 8m and increase the setback above seventh floor from 3.87m to 5m. The external finishes on floors five to six are to be finished in selected metal cladding rather than the previously permitted light brick and floors seven and eight are also to be finished in metal cladding. The planning authority raised concerns that the removal of the setbacks increases the overall mass of the building leading to a bulkier more imposing building especially to Capel Street and considered the set back of the upper floors should remain as permitted. With regard to the cladding of the upper floors, the planning authority considered this design acceptable, subject to a condition which requires the colour of the finish to be toned down to a lighter colour such as the finish of the Capel building roof.

7.3.7. The Architectural Heritage Protection Guidelines state that within Architectural Conservation Areas the design of new development is of paramount importance and recommends that where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. Whilst I note the first party's argument that the nine storey element is set back from Capel Street and is outside the ACA boundary, I have concerns that the reduction of the setback at the fifth floor on the eastern elevation is likely to exacerbate the massing and scale of the floors above and the building is likely to appear overly dominant and excessive in scale when viewed from Capel Street and Strand Street Little. I consider the proposed modifications have the potential to detract from the character and heritage of the Capel Street ACA and protected structures in the vicinity of the site on this section of Capel Street. I do not consider it appropriate to reduce the set back at fifth floor on the east elevation beyond that previously

permitted noting the increased height of the permitted development when compared to immediately surrounding buildings and the need to respect surrounding building heights and mitigate the massing and respond more positively to the sites context. I consider the proposed reduction in the setback would be inconsistent with development plan policy BHA7 in relation to new development within or immediately adjacent to ACA's and would set an undesirable precedent for similar developments. I therefore consider it appropriate to retain the permitted setback on the eastern elevation. I consider this matter can be addressed by condition if the Board decides to grant permission and that any amendments required to the internal layout to facilitate the omission of the set back can be agreed with the planning authority. In relation to the build out of setbacks on the northern and western elevation I am satisfied that this modification is unlikely to increase the visual impact when viewed from Capel Street ACA and from longer range views beyond that already permitted, noting the position of these elevations to the rear of the site and the setback from the Capel Street elevation.

- 7.3.8. In relation to the visual impact of the proposed modifications on longer range views from the Quays and the Liffey Conservation Area, the proposed overall height is in line with that already permitted. Modifications are proposed to external finishes with metal cladding proposed in place of curtail wall glazing. I have concerns that these proposed amendments to material finishes would result in an increased visual impact beyond that permitted and would fail to integrate with the Capel Street ACA and the wider area, including the Liffey Conservation Area. I consider the incorporation of the previously permitted finishes at upper floors would be more appropriate to ensure the satisfactory integration of the modified development. In the event of a grant of permission I consider this matter can be addressed by condition.

7.4. Other Matters

- 7.4.1. Noting that this application relates to modifications to a previously permitted development, in the event of a grant of permission I consider it appropriate to attach a condition requiring the compliance with conditions attached to the parent permission, including that the modified permission shall expire with the expiration of the parent permission.

- 7.4.2. The local authority transportation report following receipt of further information requested the inclusion of a number of conditions to any grant of permission. I note that conditions related to costs are attached to the parent permission and I consider it appropriate to attach conditions relating to the awning and cycle parking in the event that the Board decides to grant permission.
- 7.4.3. The grant of permission reference 5061/23 included a number of conditions which are included on the parent permission, as such I do not consider it necessary to attach such conditions if the Board decides to grant permission. I consider it appropriate to attach conditions relating to financial contributions noting the revised floor areas proposed. I also consider it appropriate to attach conditions that no part of the development shall overhang either below or above the public road.

8.0 Appropriate Assessment

- 8.1. Having regard to the nature of the application to modify a permitted development for which no appropriate assessment issues arose, to the nature and scale of the development, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

10.0 Reasons and Considerations

Having regard to the policies and objectives of the Dublin City Development Plan 2022-2028, in particular the Z5 zoning objective, the site's planning history, and to the nature and scale of the proposed modifications, it is considered that, subject to compliance with the conditions as set out below, the proposed development would be consistent with Development Plan policies relating to hotel/aparthotel provision, would not seriously injure the visual amenities of the area, would respect the

character and pattern development of the area and would not seriously injure the character of the adjoining Protected Structures or the Capel Street Architectural Conservation Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The terms and conditions of the parent permission granted for the development under planning register reference number ABP-309215-21 shall be complied with, unless they are modified by the terms and conditions of this permission.

Reason: In the interest of clarity.

3. This grant of permission shall expire with that of the permission granted under permission reference number ABP-309215-21

Reason: In the interest of clarity.

4. The proposed development shall be amended as follows:

- a) The modifications to the setbacks on the eastern elevation at fifth and sixth floors shall be omitted and the setback shall match that permitted in planning permission ABP-309215-21.

- b) The metal cladding at the corner of Capel Street and Strand Street Little on the first to fourth floors shall be omitted and replaced with a brick finish.
- c) Material finishes to the fifth to eight floor shall comprise light coloured brick and curtain wall glazing matching the finishes permitted in planning permission ABP-309215-21.

Revised floor plans and drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to clarify the permission and in the interest of visual and residential amenity.

- 5. 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) and shall not be used for or occupied by permanent households or for the purposes of student accommodation, unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of residential amenity.

- 6. The aparthotel units shall only be occupied for short-term letting periods of no more than two months and shall operate within the definition of an aparthotel as set out in Appendix 15 of the Dublin City Development Plan, 2022-2028. In addition, the aparthotel shall be managed by a reception facility on the ground floor with twenty-four hour reception and security facilities.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan, 2022-2028, and the proper planning and sustainable development of the area.

7. The restaurant/bar, events space, lobby lounge/co-working space at ground floor and spa/wellness facility and gym at basement level shall be open to the public during normal working hours.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan, 2022-2028, and the proper planning and sustainable development of the area.

8. The following requirements of the planning authority Transportation Planning Division shall be complied with:

- a) Details of the awnings/canopies, including their hours of operation shall be agreed in writing with the Planning Authority.
- b) No part of the proposed development from basement to roof level (e.g. underpinning, secant pile walls, basement area, balconies, etc.) shall overhang either below or above the public road area along Capel Street to the east and Strand Street Little to the south (i.e. back of footpath to back of footpath).
- c) Cycle parking shall be secure and well lit with key/fob access.
- d) Cycle parking shall be in situ prior to the occupation of the development.

Reason: In the interests of traffic and pedestrian.

9. 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 the An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

10. 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 matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

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.

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.

Bernadette Quinn
Planning Inspector

30TH May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317264-23		
Proposed Development Summary	Modifications to planning permission granted for hotel for reconfiguration to aparthotel.		
Development Address	162-164A Capel Street and 33-36 Strand Street Little, Dublin 7.		
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		Class.....	EIA Mandatory EIAR required
No	X		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		Class 10(b) (iv) - Infrastructure Projects. Urban development which would involve an area greater than 2 hectares in the case of a	Proceed to Q.4

		business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.		
--	--	---	--	--

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317264-23	
Proposed Development Summary	Modifications to planning permission granted for hotel for reconfiguration to aparthotel.	
Development Address	162-164A Capel Street and 33-36 Strand Street Little, Dublin 7.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for modifications to permitted development on land zoned Z5 located in an urban area is not considered exceptional in the context of the existing urban environment.</p> <p>No, the proposal will be connected to the existing water supply and waste water drainage infrastructure. Construction waste can be managed through standard waste management conditions.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The proposed development seeks permission for modifications to a permitted development on a site measuring 0.079 ha which is not considered exceptional in the context of the existing urban environment.</p> <p>No</p>	<p>No</p> <p>No</p>

<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA located c. 3 km north east of the appeal site and the South Dublin Bay SAC c. 4km to the south east. The Royal Canal Proposed Natural Heritage Area is located c. 1.7km to the north and the Grand Canal Proposed Natural Heritage Area is c. 1.8km to the south.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____
 (only where Schedule 7A information or EIAR required)