



An
Bord
Pleanála

Inspector's Report

ABP-317651-23

Development	Internal alterations to an existing hotel resulting in the creation of 16 no. additional bedrooms and all associated works.
Location	Morrisons Hotel, No 14-19 Ormond Quay Lower, Dublin 1, D01K5X5
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3213/23
Applicant(s)	Centauro Investments XI S.A.R.L.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	First Party v Conditions
Appellant(s)	Centauro Investments XI S.A.R.L.
Observer(s)	None
Date of Site Inspection	31 st of August 2023
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The site is an existing hotel, The Morrison Hotel, located along Ormond Quay Lower, Dublin 1. The hotel includes No 12 to No 15 Ormond Quay Lower all listed on the Record of Protected Structures (RPS) in the development plan. The hotel is accessed from both the south, Ormond Quay, and the east, along Swifts Row.
- 1.2. The hotel is c. 4 stories with the main facilities at ground floor and ancillary facilities such as gym, storage, and meeting rooms at the basement level. The bedrooms are located on the upper floors.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the internal reconfiguration of an existing hotel to increase the bedrooms by 16 no. as detailed below:
 - Basement level: 4 no bedrooms in lieu of the gym area and storage and the provision of a smaller gym and storage.
 - Ground Level: 8 no. en-suite bedrooms at ground floor in lieu of an existing 3 no adjacent meeting rooms and extending into the external courtyard.
 - Fourth floor: 4 no. en-suite bedrooms on the existing external terrace either side of the existing lift core on Strand Street Great elevation.
 - Roof level: new plant enclosure to facilitate a generator relocated from the fourth floor.
 - The proposal will increase the floorspace of the hotel from 9,580m² to 9,670m² and increase the total bedrooms from 145 no to 161 no.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 11 no. conditions of which the following are of note:

C4: The basement and ground floor bedrooms shall be omitted from the development. Prior to commencement the applicant/developer shall submit revised plans clearly illustrating the omission of all bedrooms at both basement and ground floor level.

Reason: The development is located in Floor Zone B whereby bedroom accommodate at basement or ground level is not permitted as set out in the Strategic Flood Risk Assessment of the Dublin City Development Plan 2022-2028.

C5: Compliance with the requirements of the Conservation Section.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission with Condition No. 4 (removing bedrooms at the basement and ground floor) following a request for further information detailed below:

Further Information

1. Due to the lack of adequate information, it is not possible to state that satisfactory proposals for the management of surface water can be provided for this development.

As the proposal includes new rooms at basement level, the applicant shall submit a Site-Specific Flood Risk Assessment which addresses the risk of flooding to the development from all sources including coastal, fluvial, pluvial, and ground water. Reference should be made to the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management published in November 2009 and the Dublin City Development Plan 2022-2028 Strategic Flood Risk Assessment. It should be noted that bedroom accommodation is not permitted at basement level within Flood Zone A and B.

Applicants Response

The applicant submitted a Site-Specific Flood Risk Assessment. The assessment states that the site is not included in Flood Zone A or B as per Map E of the development plan. This aside, the works include minor development which is

permitted in flood risk area and considering the overall scale and current location of the building there is no risk to residents from flood.

3.2.2. Other Technical Reports

Conservation Officer: No objection to the proposal.

Transport Department: No objection subject to conditions.

Drainage Division: Recommended a refusal following the submission of further information.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII): No objection subject to the inclusion of a Section 49 Contribution Scheme Levy (unless exempt).

3.4. Third Party Observations

None received.

4.0 Planning History

4.1.1. Reg Ref No. 3646/14

Permission granted for internal alterations on the second and third floors of No 16 Ormond Quay Lower for the creation of 4 no additional bedrooms.

5.0 Policy Context

5.1. The Planning System and Flood Risk Management, Guidelines for Planning Authorities.

- Section 5.28: Assessment of minor proposals in areas of flood risk.

5.2. Dublin City Development Plan 2022-2028

Zoning

The site is located on lands zoned as Z5, City Centre, where it is an objective “to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity”.

Flooding

Policy SI16: Site-Specific Flood Risk Assessment

Proposals which may be classed as ‘minor development’, for example smallscale infill, extensions to houses and small-scale extensions to existing commercial and industrial enterprises in Flood Zone A or B, should be assessed in accordance with the Guidelines for Planning Authorities on the Planning System and Flood Risk Management and Technical Appendices (2009), as revised by Circular PL 2/2014 and any future amendments, with specific reference to Section 5.28 and in relation to the specific requirements of the Strategic Flood Risk Assessment. This will include an assessment of the impact of climate change and appropriate mitigation. The policy shall be not to increase the risk of flooding to the development or to third party lands, and to ensure risk to the development is managed.

Policy SI20: Basement Flood Risk Management

That there is a general presumption against the development of basements for residential use below the estimated flood levels for Flood Zones A or B (see Section 15.18.4 and Appendix 9 for further guidance).

5.3. Natural Heritage Designations

None of relevance.

5.4. EIA Screening

Having regard to the nature and scale of the proposed development 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.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from the applicant in relation to the inclusion of Condition No 4 which relates to the omission of bedrooms from the basement and the ground floor. The grounds of appeal are summarised as follows:

6.2. DCC Planning Assessment

- The initial planner's report noted the principle of development acceptable although the drainage division required additional information.
- A site-specific flood risk assessment was submitted as part of the further information request although it was still recommended for refusal.
- The concerns were only raised by the Drainage Planning Policy and Development Control Section (DPPDCP).
- There was no further update on the file from the DPPDCP following the submission for the FI or any further engagement in the planner's report with the FI submission.
- There is no explanation from the drainage section for the basis that the site is in Flood Zone B.

6.3. Drainage Division Flood Concerns

- A comprehensive Site-specific flood risk assessment has been completed by experts.
- The proposal is consistent with the policies of the Dublin City Development Plan 2022-2028 and the Flood Risk Guidance.
- Map E of the development plan shows the site in Flood Zone C.
- The SFRA refers to bedrooms in basements and this reference is not absolute and does not have regard to the fact that the current proposal related to an existing basement.
- The ministerial guidance allows for minor works in areas of flood risk.

- A small section of the flood maps indicate that the rear of the hotel is defended. The engineers undertaking the site-specific flood risk assume this defended area relates to non-return valves installed on the road gullies at junction of Swift Row/ Strand Street Great as the formal defence. In the absence of this defence tidal flooding may occur at this junction in the event the flap valves on the SW outfall to the river Liffey become stuck open in the event of a very high tide.

6.4. Residential Rooms versus Commercial hotel bedrooms

- The SSFRA states that bedroom accommodation is not permitted at basement level within Flood Zone A or B. There is no reference to ground floor accommodation.
- The flood risk is less for bedrooms in a commercial hotel as opposed to an apartment development.
- Commercial venture is subject to ongoing insurance cover, emergency procedures etc.
- Even if risk is attributed to the basement level there is zero risk to the ground floor and this space is currently underutilised.

6.4.1. SSFRA Conclusions & Recommendations.

- The subject site is located inside the 0.15% predicted tidal flood zone and outside the 0.5% AEP Pluvial Risk Zone.
- The hotel included 24 hr manned reception desk, sufficient to protect basement bedrooms at risk of flooding.
- The site is in Flood Zone C.

6.4.2. Flood Risk Management Guidelines

- Section 5.28 states that most changes to the use of existing buildings and or extensions and additional to existing commercial are unlikely to raise any significant flooding issue.
- Flood proposals should demonstrate no adverse impact.
- Small scale infill development such as rebuilding homes are permissible.

- The sequential/ justification test does not apply to minor proposals.
- Under the flood guidelines a hotel bedroom is not analogous with an apartment bedroom.

6.4.3. Policy SI15 and SI16

- Both policies relate to flood management for Flood Zone A and B.
- Policy SI15 refers to the national guidance and “Minor developments”.
- Reference in the policy to basements in SI 16 is for Flood Zone A or B.

6.4.4. Appendix A: Notification of decision by DCC.

6.4.5. Appendix B: Copy of DCC Planning and Development Department Report.

6.4.6. Appendix D; Copy of email correspondence between the applicant and the Drainage Department of DCC.

6.5. **Applicant Response**

The applicant is the appellant.

6.6. **Planning Authority Response**

No further response received from the PA.

6.7. **Observations**

None received.

7.0 **Assessment**

7.1. Section 139 of the Planning and Development Act (as amended) 2001, allows, where an appeal is brought against a decision of the planning authority to grant permission and only relates to a condition then, if the Board is satisfied having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted, in its absolute discretion, give the relevant authority such direction it considers appropriate relating to the attachment, amendment or removal

by that authority either of the condition or conditions to which the appeal relates or of other conditions.

7.2. The grounds of appeal have raised issues which relate only to Condition No. 4. The applicant's response deals only with those issues relating to the amendment of Condition No.4. The Board will note the site is a Protected Structure. No issues have been raised by the Conservation Department and I note the alterations do not affect the character or setting of the hotel. I am satisfied no further issues have been addressed which require assessment outside those relating to Condition No.4. Therefore, I am satisfied this appeal may be dealt with under Section 139 of the Act.

7.3. I consider the issues can be addressed under the following headings:

- Condition No. 4
- Appropriate Assessment

7.4. **Condition No. 4**

Introduction

7.4.1. The proposal includes for the reconfiguration of internal rooms to increase the number of bedrooms from 145 to 161. The increase in bedrooms will take the form of the following proposal:

- Alterations at the basement level to include 4 new bedrooms and en-suite within the existing gym and storage area and the relocation and reduction in size of the gym.
- Alterations at ground level to include bedroom and ensuites within the meeting rooms area and outside courtyard.
- Alterations at the fourth floor to include 4 new bedrooms within the external terrace area.

7.4.2. The Drainage Division raised concerns about the potential for flooding at the basement and ground floor levels during the application and requested a Site-Specific Flood Risk assessment to be submitted as further information (FI). The PA considered the site to be in Flood Zone B, therefore those polices of the

development plan relating to flood prevention (Policy SI 16 and SI 20) are applicable to the proposal.

- 7.4.3. The applicant submitted a Site-Specific Flood Risk Assessment (SSFRA), in response to the FI request, justifying the location of the bedrooms in the basement and ground floor. The SSFRA notes the location of the site within Flood Zone C, the nature and scale of the works and the information in the national flood guidance and consider there is no real treat to flooding in the basement or ground level and these minor works where acceptable.
- 7.4.4. The report of the Drainage Department notes the response by the DCC Flood Projects Office, which considers the site is in Flood Zone B, and recommended refusal of permission. The PA granted permission for the proposal with a condition to remove those bedrooms on the basement and ground level as detailed below.
- 7.4.5. Condition No. 4 of the permission states:

The basement and ground floor bedrooms shall be omitted from the development. Prior to the commencement of development, the Applicant/Developer shall submit revised plans clearly illustrating the omission of all bedrooms at both basement and ground floor level.

Reason: The development is located in Flood Zone B whereby bedrooms accommodation at basement or ground floor level is not permitted as set out in the Strategic Flood Risk Assessment of the Dublin City Development Plan 2022-2028.

- 7.4.6. The grounds of appeal have appealed Condition No.4 as the site is in Flood Zone C of the development plan flood maps and therefore should not be assessed under the development plan policies SI 16 and SI 20. This aside, they note the bedroom spaces are within a hotel and should not be assessed the same as residential bedrooms. It is considered the hotel, with 24 hr reception and emergency policies, can ensure no flood risk to these bedrooms. It is requested that condition No 4 is removed.

Location of the Site and Dublin City Council Development Plan 2022-2028

- 7.4.7. The site is located along the north of the river Liffey, on the opposite side of Ormond Quay Lower. Access into the hotel, via Ormond Quay Lower, is elevated from the

public footpath, with steps up into the entrance. Open grills into the basement are located behind barriers adjoining the public footpath. Access to the ground floor area, is to the rear of the public reception area and bar and access into the basement is via steps of this ground floor public area. The ground floor area of the hotel has a range of different finished floor levels (FFLs) with steps provided at the different levels. The ground floor area which is the subject to the application, is lower than below the street level of the public footpath beside the hotel, along Great Strand Street.

7.4.8. Dublin City Development Plan: Volume 7 of the Dublin City Development Plan 2022-2028 includes a Strategic Flood Risk Assessment. Map E indicates the location of the site, outside Flood Zone A and B. The street at the northern corner of the hotel site, at the junction of Swifts Street and Great Strand Street, has been illustrated as a “defended area”.

7.4.9. The PA report refers to Policy SI15 and SI 20 of the development plan.

- Policy SI 15 of the development plan requires all proposals to carry out a SSFRA to demonstrate compliance with the national flood guidance, demonstrate the sequential approach and ensure compliance with the justification test on lands with significant risk of flooding.
- Policy SI 20 precludes any use of basement of residential use for development below the estimated flood levels for Flood Zones A or B (see Section 15.18.14 and Appendix 9).

7.4.10. As the grounds of appeal consider the site is not within Flood Zone A or B, they are not precluded from using the basement or ground floor for bedrooms. In addition, they note compliance with the national guidance and therefore compliance with the Policy SI 15 (further discussed below).

7.4.11. Regarding the location of the site within flood maps, I note the site is outside any designated zoning for Flood Zone A or B. I note that Policy SI 20 precludes basement for residential use below the estimated flood levels for Flood Zones A and B and not just for sites within these zones (discussed further below in relation to FFL and tidal events).

Site Specific Flood Risk Assessment (SSFRA)

- 7.4.12. As stated above, the applicant submitted a SSFRA in response to the PA request for FI. I have summarised the issues raised in the SSFRA and assessed the flood risk for the proposed bedrooms in the basement and ground level.
- 7.4.13. Tidal Flood Event: Fig 4.5 of the SSFRA illustrates the site within the area at risk from 0.1% total flooding event (i.e., 1 in 1,000-year occurrence). The SSFRA states that the tidal event is mitigated by the quay wall along the Liffey, the site on the opposite side of Ormond Quay Road and the manning of the hotel reception on 24hr basis. The SSFRA refers to the FFL requirement for new buildings along the Quays at 4.0m AOD. It is stated that the pavement level on the Liffey side of Ormond Quay is 3.7m.
- 7.4.14. As stated above access into the main hotel area, at the ground level, is via steps from the public footpath. The basement, below the public footpath would include front lightwells under the 4.0m AOB. Bedrooms at the ground level would be to the rear of the reception area (FFL 4.2m AOB) although located below the street level at 2.3m FFL of Great Strand Street under the recommended 4.0m AOB.
- 7.4.15. Having regard to the information contained in the applicants SSFRA, I consider the basement bedrooms would be at risk of impact during a 0.1% tidal event (1 in 1,000-year occurrence). I note the located of the windows from the bedrooms along the north, under the front lightwells, also under the recommended FFL. The ground floor areas, also below the recommended FFL, is adjacent to a defended area (further detailed below).
- 7.4.16. Surface/ Foul Water: The further information request by DCC requested additional information on the " *satisfactory proposals for the management of surface water can be provided for this development.*". The SSFRA did not specifically address the management of surface water although detailed the drainage outfalls for the public sewer drainage network on Swifts Row and Great Strand Street which are fitted with Broad Traps. The proposal does not include any alteration to these Broad Traps although where feasible, the SSFRA proposed to fit in line "stop silent" none return valves to prevent potential sewer water surcharging through the existing drainage network and flooding the proposed site. The Drainage Section report or the PA report does not comment on the feasibility of these works.

- 7.4.17. The grounds of appeal further comments on the flood maps which indicate that the rear of the hotel is defended. It states that those engineers undertaking the site-specific flood risk assume this defended area relates to non-return valves installed on the road gullies at junction of Swift Row/ Great Strand Street as the formal defence. In the absence of this defence tidal flooding may occur at this junction in the event the flap valves on the surface water outfall to the river Liffey become stuck open in the event of a very high tide.
- 7.4.18. The information in the SSFRA and the grounds of appeal note a potential flood risk at the site through the failings of return valves along the public road and sewer water surcharging. Whilst I note the defended area at the rear of the site (Swifts Row/ Great Strand Street) I consider these works relate to the ground level rather than the basement area along the north of the site. Having regard to the precautionary approach, I am concerned there is insufficient information in the SSFRA to conclude that in the event of a tidal/ high tide event, combined with a failing of the flap valves, the basement area would not be at risk of flooding.
- 7.4.19. CFRAM: I note those CFRAM Flood Maps are publicly available on www.myplan.ie and were produced through the Catchment Flood Risk Assessment and Management (CFRAM) Programme and through other projects with the Local Authorities. They have been developed in accordance with the definition of the Flood Zones as set out in the Guidelines on the Planning System and Flood Risk Management (DHPLG/OPW, 2009). These guidelines are mainly for strategic purposes and have not included any defence measures already in place. The applicants SSFRA and Map E, Volume 7, of the development plan note the rear of the site as defended.
- 7.4.20. The Planning System and Flood Risk Guidance: The grounds of appeal refer to Section 5.28 of the national flooding guidance in relation to minor works in flood risk areas. I note this guidance indicates that minor works in flood areas are acceptable once an assessment of the proposal can demonstrate that *“they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities.”* I consider the proposed development may be defined as minor in nature and scale and I do not consider the proposal would have any adverse impacts or impede access to a watercourse, floodplain or flood protection.

7.4.21. Conclusion: Whilst I am satisfied the site is not located in Flood Zone A or B as per the maps in Volume 7 of the development plan, the information in the SSFRA and the OPW flood maps notes the location of the site in an area which may be prone to tidal flood events. Having regard to a precautionary approach, due to the location of the site set below the public road and the proposal for bedroom use, I am concerned there is a risk to future occupants. I am cognisant of the appellants submission and the assertion that there is a 24hr reception, and the works fall within the remit of “minor”, although having regard to the design and layout of the bedrooms at the basement level (windows along the north below the pavement) with access only via stairs in the central public area, leaves any potential resident at an extremely vulnerable position in the event of an unwarned tidal flood event.

Conclusion

7.4.22. Therefore, having regard to the location of the basement, below the recommended FFL for new buildings and the location of the site within the 0.1% predicted tidal flood zone (as stated in the SSFRA) I consider that any restriction on the use of the basement level for bedrooms is reasonable and should be retained. Although having regard to the location of the proposed area for the ground floor reconfiguration, to the rear of the main section of the public space and beside the reception area and adjoining a “defended area” I consider any significant impact for potential residents greatly reduced.

7.4.23. In this regard I consider the wording of Condition No.4 should be amended to remove the use of the basement level for bedrooms only and not the ground floor level.

7.5. Appropriate Assessment

7.5.1. Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that Condition No. 4 is amended having regard to those reasons and considerations below.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of Section 139 of the Planning and Development Act, 2000, as amended.
- 9.2. It is considered that the alteration to Condition No.4 is necessary to allow the appropriate expansion of an existing hotel while also ensures no flood risk to the vulnerable use.

To **AMEND** Condition No.4 as follows for the reasons and conditions set out hereunder:

4. The basement bedrooms shall be omitted from the development. Prior to commencement the applicant/developer shall submit revised plans clearly illustrating the omission of all bedrooms at both basement and ground floor level.

Reason: The development is located inside the 0.1% predicted tidal flood zone whereby the bedroom accommodation is located below the recommended Finish Floor Level and therefore at risk of flooding during a severe tidal event.

Karen Hamilton

Senior Planning Inspector

04th of September 2023