



An
Bord
Pleanála

Inspector's Report ABP-319020-24

Development	Construction of a rear extension to the existing building providing 3 residential units and all associated site works.
Location	19-27 Exchequer Street, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3433/23
Applicant(s)	Tullington Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Tullington Limited
Observer(s)	Eircom Limited t.a. Eir
Date of Site Inspection	17 th January 2025
Inspector	Joe Bonner

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1.0 Site Location and Description

- 1.1. The application site consists of a single storey return at the rear/north of the five storeys over basement red brick Exchequer Chambers building at Nos 19-27 Exchequer Street, Dublin 2. The site has 7.28m of street frontage on its eastern side onto St Andrews Lane and a 2.9m high parapet wall sits on top of the single storey structure and hides rooftop plant from view. A restaurant occupies the adjacent ground floor unit of the main building with frontage onto both Exchequer Street and St Andrews Lane. Retail uses occupy the rest of ground floor with offices on the middle floors and residential use in the top floor. North facing windows at the northern end of the building are currently c7m from the northern boundary and look over the site towards the large adjacent carpark owned by Eir. The existing single storey building presents a blank wall to the Eir site. A vehicular access gate to the Eir site is located immediately to the north, while a c3m high wall runs along the boundary of the Eir site and St Andrews Lane. A five-storey building is located directly opposite the site on St Andrews Lane, while a recently constructed hotel of 7 and 8-storeys in height, is located opposite the Eir carpark to the northeast.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority consisted of permission for:
- a contemporary residential extension (296.5sqm) to the existing rear return providing 3 No. one bedroom apartments and a plant room.
 - increasing the height from single storey onto St. Andrew's Lane to 5 No. storeys.
 - modifications to the northern (rear) elevations of Nos. 25 and 27 Exchequer Street comprising removal of existing windows and provision of a link between the existing office floor area and the lobby of the proposed residential extension;
 - removal of plant on the flat roof at first floor level.
 - a new staircore to the rear/west from first floor level to third floor level;
 - the provision of residential balconies from first to third floor levels facing north and east;
 - the provision of a sedum roof.

2.2. The application was accompanied by the following documents:

- Planning Report – The previous application for an office development (ABP-301289-18) was accompanied by an AA Screening Report that concluded Stage 2 AA was not required. It is assumed the same conclusion applies to this application.
- The proposal largely replaces an already permitted office with residential use. There is a precedent for a similar 5 storey extension at the rear of Fallon and Byrne and a recently built 7-8 storey hotel building opposite. It outlined the previous design evolution and while the existing building has 36 windows overlooking the adjacent carpark to the north, the already permitted arrangement reduces the number of windows overlooking the adjacent site, as will this proposal.
- Extracts from the inspector's report in ABP-301289-18 are cited. They considered that windows on the northern elevation were acceptable, while development plan guidance on overlooking refers to existing and residential development only, not carparks. The inspector had noted that as no application was submitted for the redevelopment of the carpark, the appeal concerns were merely speculative and that the site to the north, at more than 4000sqm, could adopt a design approach that would address the overlooking windows. It concluded that ABP-301289-18 would not preclude future development of the carpark to the north.
- The design is modest, reflects existing extensions in the area and would not dominate the Exchequer Chambers building. Zinc cladding will clearly demarcate the new intervention from the historic building. The extension closely reflects the previously permitted office use and the key change is from office to residential. It will make appropriate use of scarce urban land and increase passive surveillance on St Andrews Lane. It also addresses the key site statistics, the absence of car and bicycle parking and compliance with the apartment guidelines.
- Architectural Design Report – The entire building is outside of the ACA. The façade is neglected, while St Andrews Lane is uninviting, dark and insecure. The main access would be via the restaurants fire escape, while a second via stairs will be available through the existing offices from Exchequer Street. The apartments would have the same layout at each level, with north and east facing balconies.
- The design is based on a previous grant of permission. The extension would have a cuboid form with a sloped roof and be clad in natural bright zinc on the upper

floors above the lower brick levels, which is the same finish as that previously permitted. The roof height would be slightly higher than the existing Exchequer Chambers building. A housing quality audit is incorporated.

- Engineering Planning Report – Addresses the civil engineering works and flood risk assessment. Part of the roof will be a sedum design and will reduce and slow down surface water runoff from the site. The sewage connection will be to an existing connection in the basement, while potable water will connect to the existing connection on site.

2.2.1. Further Information

- 2.2.2. The response addressed the four items of the request for further information and included revised drawings showing amendments to glazing and the addition of rooflights, as well as a Daylight and Sunlight Assessment Report.

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. On the 17th of January 2024, Dublin City Council (DCC) issued notification of a decision to refuse permission for a single reason, which stated:

- It is considered that the Applicant has not demonstrated that the proposed units will provide an adequate quality of residential amenity to future occupants given the orientation, internal layout of the building and the small size of the windows serving the apartments on this small restricted infill site. As a result the proposed development would contravene policy QHSN6 of the 2022-2028 Dublin City Development Plan due to the quality of the accommodation, would seriously injure the residential amenities of future occupants, would depreciate the value of property in the vicinity and would set an undesirable precedent for similar type development. The proposal would thereby be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

Planning Officer's First Report

- 3.2.1. The report describes the site, the planning history and relevant policy regarding inner city development, compact growth, density, height, design, housing typology and notes that the proposal complies with the minimum standards set out in the Apartment Guidelines. It also summarises the observations.
- 3.2.2. It notes that in granting permission for windows on the northern elevation under P. A. Ref. 3319/17, the board considered the site to the north would not be unduly compromised as the proposed layout is substantially the same as already permitted. The proposed development would be 1.5m higher than the permitted, meaning it would not be subservient to the building.
- 3.2.3. The design will differential the new from the old, will provide architectural interest on St Andrews Lane and provide passive surveillance. The absence of car and bicycle parking is considered acceptable at this site.
- 3.2.4. The concerns raised in the planning officer's assessment are reflected in the request for further information, which sought the following:
- 1) Engage with Irish Water regarding building over, altering or diverting their asset and submit the conclusion of this engagement to the planning authority.
 - 2) concerns regarding quality of light given orientation as well as impact on potential of the site to the north due to placement of windows and balconies. Reconsider the layout, including potential windows on the eastern elevation. Demonstrate compliance with Appendix 16 Daylight and Sunlight. Concerns regarding increased height over previously permitted development could be improved by reassessing stair and lift layout.
 - 3) details of bin storage to be provided.
 - 4) address drawing discrepancies.

Planning Officer's Report on Response to Further Information

- 3.2.5. The Report summarised the applicant's response to items 1-4 above as follows:
- Irish Water submission – applicant stated they engaged with Irish Water and that the building was refurbished under P.A. Reg. Ref. 3889/19 a piled foundation was needed to protect the existing culvert, without any effect thereon. No response received from Irish Water.

- Light to apartments – Revised drawings were submitted which introduce glazed screens to the east elevation, glazed walls to the lift and a glazed wall to the kitchen/ living/ dining room to enhance the light to the apartments. They did not rationalise access arrangement, so each unit would have two access doors.
- The Sunlight and Daylight assessment is not in accordance with the requirements of Appendix 16 of the development plan, as it does not assess APSH (Annual Probable Sunlight Hours), Winter Sunlight Hours (WPSH), Sunlight on Ground, ADF (Average Daylight Factor) or Target Illuminance in all habitable rooms.
- The proposed building height has not been reduced.
- While the site is small and restricted, given the layout and lift location at the front of the building, the building does not engage with the street and the lift would likely restrict natural light to the units. Failure to rationalise the layout means the internal apartment layouts are unsatisfactory.
- Bin Storage – provided at ground floor level
- Drawing discrepancies – addressed.

3.2.6. The planning authority refused permission in accordance with the planning officers recommendation

3.2.7. Other Technical Reports on initial application

- **Drainage Division** – 13th of April 2023 – No objection subject to the following conditions:
 - 1) Comply with Greater Dublin Regional Code of Practice for Drainage works.
 - 2) Separate foul and surface water systems with a combined discharge.
 - 3) Incorporate SUDS into surface water management.
 - 4) All drainage pipes to be located within the site.

3.3. **Prescribed Bodies**

- **Transport Infrastructure Ireland** – 13th of April 2023 – Recommends the attachment of a Section 49 Luas cross-city, development contribution condition.

- **Uisce Eireann** – 13th of April 2023 – A 1m diameter culvert crosses under the site, above which 4 additional floors may exert pressure. Recommends further information (as per item 1 in 3.2.4 above).
- Submissions invited, but not received from 1) Fáilte Eireann; 2) Department of Housing, Local Government and Heritage; 3) Minister for the Arts, Heritage and Gaeltacht; 4) An Chomhairle Ealaíon; 5) National Transport Authority; 6) An Taisce.

3.4. Third Party Observations

- 3.4.1. Two no. third-party observations were received by the planning authority. One from the adjacent landowner to the immediate north, Eircom Ltd (Eir), and Fallon and Byrne who operate a commercial premises to the west of the site.
- 3.4.2. The key issues raised by Eir who is also an observer on the appeal can be summarised as follows, and are included below as their observation to the appeal states that they are not restating what was said in the original (this) observation to the planning authority and both should be read together as their appeal:
- No objection to the principle of extending the building provided it is done in a sensitive manner, which respects the development potential of their lands and provides for appropriate visual and physical integration with their site.
 - The existing building has a blank brick wall abutting the Eir site. The proposal to build above, will significantly and adversely detract from the development potential of the Eir site, by introducing residential units with windows and balconies right on the common boundary.
 - The design is wholly unacceptable, affecting the value and amenity of Eir's site.
 - Eir appealed P.A. Reg. Ref. 3319/17 (ABP-301289-18) seeking windows be removed on the common boundary to protect their sites development potential. Addressing overbearing, the inspector deemed acceptable in the context that the use would be office. The inspector also deemed that Appendix 17 of the previous development plan referred to residential extensions and not to office extension. Appendix 17 has largely been retained in Appendix 18 to the 2022-2028 development plan.

- Section 15.15.3 of the development plan addresses extension to existing non-domestic buildings.
- Residential is a more sensitive use than office and a closer scrutiny of impact is warranted for this application than in the case of the office application.
- The infilling of the 6.6m space between the existing building and Eir site will lead to significant potential for overshadowing of the Eir site and would result in a significant sense of enclosure. It would appear visually overbearing and intrusive, from the south east of the Eir site.
- Appendix 18 requires a degree of setback from mutual boundaries, which should be shared equitably by landowners to prevent one site suffering. The size of a site as referenced in the previous inspector's report should be irrelevant, as is the presence or otherwise of planning applications, as the planning authority must act equitably, where meaningful urban consolidation can be carried out on the larger adjacent site.
- The site at 6.6m in width is not suitable for residential development, unless built with a blank gable wall along its northern boundary, which itself would cause overshadowing of the Eir site.
- The development is inconsistent with a number of provisions of Appendix 18 as it relates to windows and balconies located immediately upon and overlooking adjoining properties.
- The windows on the boundary would sterilize part of the Eircom site and make redevelopment unviable.

3.4.3. The second submission was from Fallon and Byrne that operates a retail and restaurant premises to the west of the application site. Their observation:

- Queries the suitability of predominantly north facing residential development on this site, with low quality resident amenity.
- States their service yard is live and active, containing refuse and glass storage immediately outside the proposed apartment windows.
- Is supportive of residential in the city, but site is too compromised to be suitable.

4.0 Planning History

Application Site

- **ABP-301289-18 (P.A. Reg. Ref. 3319/17)** – Permission granted by the board on the 25th of July 2018, for the construction of a contemporary 3 storey office extension (265sq m), on the same site above the ground floor structure.
- **P.A. Reg. Ref. 3319/17/X1** – Extension of duration of P.A. Reg. Ref. 3319/17, granted on the 3rd of November 2023, for a period of 5 years until the 21st of October 2028.
- **P.A. Reg. Ref. 3406/17** – Permission granted for a change of use of the basement from ancillary storage to restaurant use (81sqm), change of use of the ground floor from retail to restaurant (83sqm) and ancillary works of the unit immediately south of the site within the Exchequer Chambers building.

Site to immediate north-east

- **PL29S.248844 (P.A. Reg. Ref. 4342/16)** – Permission granted on the 28th of February 2018 for demolition of a two storey building and replacement with a 7 and 8 storey hotel development.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The Dublin City Development Plan 2022-2028 came into effect on the 14th of December 2022. The site is zoned 'City Centre - 'Z5'', the objective for which is 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. 'Residential' is a permissible use in Z5 zoned areas.
- 5.1.2. All surrounding lands are zoned Z5, while the 5 storey part of the building that is outlined in blue on the site location map, is located within the South City Retail Quarter Architectural Conservation Area (ACA). The site is just outside of the ACA.
- 5.1.3. I refer the board to the wider development plan policy context set out in the planning officer's report. For the purposes of this appeal, I consider that the relevant policies objectives and sections of the development plan to be include:

- Policy **QHSN6** (Urban Consolidation), which is reference in the refusal reason seeks ‘to promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation’.
- Policy **QHSN7** (Upper Floors) seeks ‘to resist and where the opportunity arises, to reverse the loss of residential use on upper floors and actively support proposals that retain or bring upper floors into residential use in order to revitalise the social and physical fabric of the city through measures such as the Living City Initiative. Dublin City Council will actively engage with property owners and other stakeholders at a national level to investigate other alternative measures in addition to the Living City Initiative to expedite bringing upper floors into residential use, and will be actioned by the City Recovery Task Force and its successor.
- Policy **QHSN9** (Active Land Management) seeks ‘to promote residential development addressing any shortfall in housing provision through active land management, which will include land acquisition to assist regeneration and meet public housing needs, and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and underutilised sites’.
- Policy **QHSN10** (Urban Density) seeks ‘to promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- Policy **QHSN36** (High Quality Apartment Development) seeks ‘to promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood’.
- Section 15.5.3 – Alterations, Extensions and Retrofitting of Existing Non – Domestic Buildings

- Section 15.9 – Development Standards for Apartments.

Appendix 16

- 5.1.4. Section 1.0 of **Appendix 16** – Sunlight And Daylight starts out by stating ‘there is lack of clarity regarding the appropriate standards, methods and metrics that need to be applied as well as how presented results should be interpreted and benchmarked. These issues have led to a variance in the methods used in daylight and sunlight assessments’. It continues by stating that the purpose of this Appendix 16 ‘is to offer clarity on the required technical approach, such that a standardised methodology and set of metrics are used by consultants for completing daylight and sunlight assessments’.
- 5.1.5. Section 3.2 states ‘BS 8206-2:2008 was superseded in 2018. It was replaced by BS EN 17037:2018 – Daylight in Buildings. Whilst it has been superseded, the associated and overlapping information within BR 209 has not yet been updated. As such, it retains relevance.
- 5.1.6. Section 3.2 ‘BS EN 17037:2018 – Daylight in Buildings’ states that it ‘attempts to align the guidance and expectations of the new European standard with the now superseded BS 8206-2’ but that ‘the minimum daylight provision targets given within the national annex have relevance’.
- 5.1.7. Section 3.4 states that ‘IS EN 17037:2018 – Daylight in Buildings’ ‘offers only a single target for new buildings’ and ‘these limitations make it unsuitable for use in planning policy or during planning applications. BR 209 must still be used for this purpose’.
- 5.1.8. Section 3.6 ‘Understanding and Expectations’ states that ‘If, over the coming years, a revised version of BR 209 is to be issued, the guidance within this new version will take precedence’.
- 5.1.9. Section 4.0 provides definitions of and lists the relevant metrics to be 1) Annual Probable Sunlight Hours (APSH); 2) Winter Probable Sunlight Hours (WPSH); 3) Sun on Ground (SOG); 4) Average Daylight Factor (ADF); 5) No Sky Line (NSL), 6) Target Illuminance, and 7) Vertical Sky Component.
- 5.1.10. Section 5.0 ‘Assessment Methodology’ states that ‘until such time when BR 209 is updated and all relevant and required information is included (i.e. removal of reference to BS 8206-2 and inclusion of metrics within BS EN 17037), the planning

authority will request metrics from both BS 8206-2 and BS EN 17037'. It goes on to list the 7 metrics set out above.

Appendix 18

- 5.1.11. Referred to in the grounds of appeal and observation, Appendix 18 refers to Ancillary Residential Accommodation.

5.2. BRE 209 (3rd Edition) June 2022

- 5.2.1. The introduction to BRE 209 (June 2022) states that 'The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'
- 5.2.2. Where relevant, extracts from this document are set out in the assessment section.

5.3. Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2023)

- 5.3.1. The 'Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2023)' note that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, which would include the application site, many of the normal standards may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.
- 5.3.2. Section 6.6 states that planning authorities should have regard to quantitative performance approaches to daylight provision outline sin guides like...BRE Guide 209 (June 2022).

5.4. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities

- 5.4.1. SPPR1 of the Compact Settlement Guidelines states that:
- When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units,

above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

5.5. Natural Heritage Designations

- 5.5.1. The nearest European Sites are South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and South Dublin Bay SAC (Site Code 000210) which are located c3.5km to the east of the site.

5.6. EIA Screening

- 5.6.1. See completed Forms 1 and 2.
- 5.6.2. Having regard to the limited nature and scale of the proposed extension above an existing ground floor building, in a serviced urban area and the absence of any connectivity to any sensitive location, I have concluded that there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended). 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

- 6.1.1. The grounds of appeal consist of a written document and an appended Daylight and Sunlight Assessment Report. The appeal is set out under a number of headings, as follows:

DCC initial assessment

- 6.1.2. The appeal summarised the first planning officer's report as follows:

- The principle of the development is welcome and accords with Z5 zoning.

- The contemporary design, unit size and mix and absence of bicycle and car parking are all acceptable, while EIA and AA issues do not arise.
- The site has an extant permission for a similar scale of development expiring in November 2028.

Request for Further Information

6.1.3. The key points that the appeal raise in respect of the response to the request for further information are:

- It was not possible to reposition the lift, as it is already in situ under P.A. Reg. Ref. 3319/17. Glazing was introduced in the lift shaft, landing, walls and rooflights at 4th floor level to address the planning authorities concerns.
- All 6 habitable rooms were assessed and were deemed 100% compliant for daylight access.
- The planning authority erred in its interpretation of the provisions of Appendix 16 of the development plan. The error appears to have predicated concerns regarding the quality of the units. The appeal will demonstrate differently.

Understanding Error in Assessment by Planning Authority

6.1.4. The appeal summarises and clarifies what they consider are the errors in the planning authorities interpretation of Sunlight and Daylight:

- Appendix 16 refers to requirements that must be met "until such time when BR 209 is updated". The document submitted as further information is compliant with the updated version of BRE 209 (June 2022).
- Section 3.1 of BRE 209 (2022) recommends Sunlight Exposure (SE) rather than APSH (Annual Probable Sunlight Hours) and it has also replaced WSPH (Winter Probable Sunlight Hours). This was clearly explained in section 4.5.2 of the Sunlight and Daylight Report.
- Sunlight on the ground was not assessed as no outdoor space is proposed.
- ADF (Average Daylight Factor) is no longer recommended in BRE209 (June 2022) and is replaced by one of two assessments, categorised as "Target Illuminance" (TI) and referred to as "Spatial Daylight Autonomy" (SDA). A SDA assessment was conducted and forms part of the response to further information .

- The planning authority erred by stating a 'Target Illuminance' assessment was not carried out.
- The planning officer's misunderstanding appears to have had a major impact on the decision and the Daylight and Sunlight report is compliant with the updated BRE209.

Grounds of Appeal by reference to refusal reason

- There is a well-documented lack of demand for office space in Dublin, with high vacancy rates.
- The applicant implemented part a grant of permission for office development, but due to a changed market, is now seeking residential use as the offices would likely lie empty, while the residential units would be immediately occupied.

Response to reason for Refusal

6.1.5. The single refusal reason refers to quality of residential amenity and is addressed under four headings 1) Orientation; 2) Internal Layout; 3) Window Size; and 4) Policy QHSN6.

6.1.6. Orientation

- The three units are identical, with triple aspect providing cross ventilation and an east and north facing balcony. The refusal regarding orientation is incorrect and having a long northern elevation is not a reason for refusal.

6.1.7. Internal Layout

- The 3 apartments comply with the full provisions of the Apartment Guidelines and at 56.1sqm (Apartment 1) and 55.5sqm (Apartments 2 and 3), they are 10-11sqm or more than 20% in excess of the minimum floor area requirement of 45sqm for 1 bed apartments. This is not a ground for refusal.
- At 6sqm, the balconies also exceed the 5sqm minimum requirement.

6.1.8. Window Size

- The windows are large and in proportion to the structure.
- The north facing windows are 2.2m in height and a refusal for window sizes is not justified.

6.1.9. Policy QHSN6

- The claim that the quality of accommodation would contravene QHSN6 is unsubstantiated, with floor areas 20% in excess of the requirement, and triple aspect and is not accepted.
- The proposal is fully aligned with this policy and provides good quality accommodation.
- Policy QHSN7 supports the use to upper floors for residential purposes.

6.1.10. Summary/Conclusion

- The single refusal reasons is multi part - orientation, internal layout, window size and Policy QHSN6. The applicant is satisfied that the development complies with each parameter and will bring upper floors into residential use and revitalise the social and physical fabric of the city.
- On balance, the planning authorities misunderstanding of Appendix 16 and BRE209 (2022) appear to have predicated the unjustified concerns regarding unit quality. The development will provide high quality living over the shop and much needed residential accommodation.

6.1.11. Sunlight and Daylight Report

- The experienced authors prepared a comprehensive Sunlight and Daylight Report, which was criticised by the planning authority.
- The Report follows the 3rd edition of BRE 209 and has been carried out as advised in Section 5 of Appendix 16 to the Development Plan.
- ASPH and WSPH were not omitted but have been replaced by Sunlight Exposure (SE). Sunlight on the ground is not addressed as no outdoor space is proposed. ADF is no longer recommended in BRE 209 2022 and is replaced by 'Targeted Illuminance' (TI) referred to as 'Spatial Daylight Autonomy' (SDA). The full set of results showed that all rooms are in full compliance.
- A refusal on the basis that the Sunlight and Daylight is insufficient or inadequate could potentially affect the authors ability to tender for future work, despite being carried out in accordance with the relevant guidelines and the development plan.

6.2. Planning Authority Response

6.2.1. Requested that the board uphold its decision to refuse permission, but if permission is granted, the following conditions should be attached:

- 1) Section 48 Development Contribution; 2) Section 49 Luas Cross City Development Contribution; 3) Bond; 4) Contribution in lieu of the open space requirement not being met 5) Naming and Numbering.

6.3. Observations

6.3.1. An observation was received on behalf of the adjacent landowner to the north, Eircom Ltd (Eir), who had also made an observation on the initial application.

- Eir fully support the reason for refusal that addresses the sub-standard level of accommodation proposed, but the planning authority fails to appropriately acknowledge the full impact of the proposal on the development potential of the Eir site.
- While an existing permission is a valid issue, DCC failed to adequately consider the impacts of the introduction of residential development with multiple windows in habitable rooms and balconies along the northern boundary.

Recommended Refusal Reason

6.3.2. The observer recommends that a second refusal reason be attached, as follows:

- The development by reason of the nature of the proposed residential use and the layout / configuration of the residential units that include the provision of multiple windows serving habitable rooms and openings serving recessed balconies within the northern elevation of the proposed building right onto the common boundary with the adjoining underutilised site to the north and will significantly and adversely detract from the development potential of that site and its ability to deliver residential development in accordance with Zoning Objective Z5 - the primary purpose of which is to sustain life within the centre of the city through intensive mixed-use development, including residential development. As such, the development contravenes Policies QHSN6 (Urban Consolidation), QHSN9 (Active Land Management), QHSN10 (Urban Density) and QHSN36 (High Quality Apartment Development), of the 2022-2028 Dublin City Development Plan. As a consequence,

the development would depreciate the value of the adjoining site to the north and would set an undesirable precedent for similar type development. The proposal would thereby be contrary to the proper planning and sustainable development of the area.

Assessment of proposed development and grounds of objection by DCC

- 6.3.3. While the planning officer refers to the impact on the development potential of the Eir site, their conclusion only refers to the possible impact on light in the proposed apartments. Item 2 of the request for further information did address the matter.
- 6.3.4. While the applicant comprehensively addressed daylight and sunlight, in respect to the development potential of the Eir site, the applicant responded that the proposal is of a similar scale to the already permitted office, that there is no evidence of an application on the site to the north and that at c4000sqm the neighbouring site can allow for a variety of design proposals.
- 6.3.5. Too much weight is given to the extant permission and not enough consideration to the office v residential uses.
- 6.3.6. The applicant fails to acknowledge the significant design changes to the permitted northern façade as well as the introduction of balconies.
- 6.3.7. The cursory assessment of the layout of the units fails to acknowledge the development potential of the far more substantial inner-city brownfield regeneration site to the north, that would help to densify and consolidate the city centre.

Purpose of this submission

- 6.3.8. Request that the board read this observation in conjunction with the original observation, as the changes made by way of further information have not addressed Eir's concerns in a meaningful way.
- 6.3.9. A second refusal reason should be added (as stated earlier).
- 6.3.10. Rationale for second refusal reason

The following rationale is offered for the inclusion of a second refusal reason, which Eir considers is justified, following the applicant's response to further information.

Office v Residential Use

- 6.3.11. Residential is a much more sensitive land use than office, with potential for 24 hour occupancy unlike limited occupation of offices.

6.3.12. In ABP-301289-18, the inspector placed emphasis on the proposed use being office in stating 'Appendix 17 of the development plan only provides guidance for overlooking on residential properties. I note the current windows to the rear of the existing building, the proposed use of the extension as an office and current use of the site along the north as a carpark and I do not consider the proposed extension will cause any significant overlooking on the surrounding properties'.

Need for Appropriate Separation distance and Compliance with Development Guidance in Dublin City Development Plan

6.3.13. Appendix 18 to the development plan places an equal burden on neighbours to provide a degree of separation from opposing windows.

6.3.14. Having regard to the commentary in the previous inspector's report and weight attached to it by the applicant, the development plan does not make any distinction between the size of sites or whether or not evidence of a planning permission must exist and such considerations are irrelevant.

6.3.15. There is an onus of the board to act in a fair and equitable manner especially in the context of Policy QHSN9 (Active Land Management), which requires the redevelopment potential of brownfield sites to be protected.

6.3.16. The short term delivery of 3 housing units would in the longer term compromise the delivery of significantly more development.

6.3.17. Permission should be refused for two reasons.

6.4. Further Responses

- None

7.0 Assessment

7.1. Introduction

7.1.1. Having examined the application details and all other documentation on file, including the response to further information and information received in relation to the appeal, having inspected the site, and having regard to relevant planning policies, I am satisfied that the main issues in this appeal arise from the planning

officers report, the decision to refuse permission, the grounds of appeal and the observation on the appeal and can be dealt with under the following headings:

- Principle of Development
- Compliance with Apartment Guidelines
- Sunlight and Daylight
- Development Potential of Adjacent lands
- Proposed residential use v permitted office use
- Appendix 18
- Second Proposed Refusal Reason
- Built Heritage
- Conditions
- Appropriate Assessment

7.1.2. In the interest of clarity for the Board, I confirm that this assessment is based on the amended design, and associated plans and particulars submitted to the planning authority in response to the request for further information, as the revised design is the subject of both the decision to refuse permission and the appeal.

7.2. Principle of Development

7.2.1. The proposed development is located in an area zoned 'Z5 – City Centre' in the Dublin City Development Plan 2022-2028, where 'residential' is a permissible use. I am satisfied that the principle of residential development is acceptable at this location, subject to the consideration of other matters, which are addressed below.

7.3. Compliance with Apartment Guidelines

7.3.1. While I have previously noted that the planning officer was satisfied that the proposed development complies with the minimum floor area requirements of the apartment guidelines, as the reason for refusal focusses on the quality of accommodation that is proposed to be provided, I consider that a number of matters need to be examined, with respect to the quality of accommodation being proposed.

Minimum Floor Areas

- 7.3.2. Section 3.1 of the Apartment Guidelines indicates that minimum floor areas for apartment were increased in 2007, particularly with a view to meeting the space and amenity needs of families living in apartments, while they also require that a majority of apartments in any particular development should exceed the minimum floor area by 10%, but may exceed that minimum figure.
- 7.3.3. The proposed development would consist of 3 no 1 bed apartments, which require a minimum floor area of 45sqm. The proposed apartments would have floor areas of 56.1sqm, 55.5sqm and 55.5sqm, which meant that they would have floor areas of 24.66% and 23.33% above the minimum requirement, and I am satisfied that this parameter on its own would indicate that the apartments would be capable of providing a high level of internal amenity for future occupants.

Minimum Bedroom and combined Living/Dining/Kitchen Areas

- 7.3.4. One-bedroom apartments are required to have minimum bedroom areas of 11.4sqm. The bedrooms would be 11.68sqm and 11.81sqm, while they also exceed the minimum width requirement, which I consider to be acceptable. The combined Living/Dining/Kitchen areas are required to be 23sqm, whereas either 31.22sqm or 31.68sqm would be provided, c36% higher than is required. I am satisfied that this additional Living/Dining/Kitchen floorspace would provide for a high level of amenity for future occupants.

7.3.5. Dual Aspect / Floor to Ceiling Height / Windows

- 7.3.6. The factors listed above play an important role in determining the quality of accommodation and internal residential amenity and will be examine together.
- 7.3.7. All three apartments would be triple aspect, with standard windows to the north and west, while the revised proposal, submitted at further information stage proposes to install glazed walls along the eastern side of the apartments as well as additional glazing on the lift, lift shaft and eastern elevation. Photographs of the proposed glazed wall are shown in the revised drawings. The proposed layout would also facilitate cross ventilation, which is recommended in the apartment guidelines.
- 7.3.8. Section 3.20 of the apartment guidelines states that floor-to ceiling heights affect the internal amenities of apartments, in terms of sunlight, daylight, storage space and ventilation. The minimum recommended floor to ceiling height is 2.4m, with 2.7m suggested as an improvement. The proposed apartments would have floor to ceiling

heights of 3.46m (Apt. 1), 3.226m (Apt. 2) and 2.77m (Apt. 3), which respectively would be 44.6%, 34.41% and 15.41% above the minimum height requirement. I am satisfied that these increased heights would provide for a greater level of residential amenity than would be experienced in apartments with standard 2.4m high ceilings.

- 7.3.9. The refusal reason refers specifically to the proposed windows being small, however, the applicant disagreed with this contention by referencing their height at 2.2m. While the windows may appear small relative to the elevations, when the floor to ceiling heights are factored in, I am satisfied that the windows are not small and would disagree with that aspect of the refusal reason. I will examine the quality of light in section 7.3 below, by reference to daylight and sunlight.

Access / Storage and Amenity Space

- 7.3.10. I am satisfied that each of the apartments would be provided with an adequate means of access and an adequate quantum of internal storage, while the private amenity spaces in the form of dual aspect balconies at 6sqm each, would also exceed the minimum requirement of 5sqm.

Car and bicycle parking

- 7.3.11. I am satisfied that it would be appropriate not to require the provision of either car or bicycle parking at this site, with a Dublin Bikes station on Exchequer Street and a number of multi storey car parks located in proximity, including at Drury Street and c30m north of the site on St Andrews Lane.

Conclusion on Apartment Guidelines

- 7.3.12. While I am satisfied that the proposed apartments would meet and exceed all of the minimum floor space requirements, I also consider that the additional floor space in each apartment, which would be well in excess of the minimum requirement, coupled with the significantly excessive floor to ceiling heights, particularly at first and second floor levels, indicate that the three apartments are capable of providing for a high level of residential amenity for future occupants, subject to the assessment of sunlight and daylight, which I address in Section 7.3.

7.4. Sunlight and Daylight

- 7.4.1. In paragraph 3.2.5 above I noted that planning officer's report on the response to further information stated that the applicant's Sunlight and Daylight assessment is not in accordance with the requirements of Appendix 16 of the development plan, as

it does not assess APSH (Annual Probable Sunlight Hours), Winter Sunlight Hours (WPSH), Sunlight on Ground, ADF (Average Daylight Factor) or Target Illuminance in all habitable rooms. I consider that this conclusion was a key issue in the decision of the planning authority to refuse permission.

- 7.4.2. In the ground of appeal, the applicant responded to the planning officer's assessment under the heading of 'Understanding Error in Assessment by Planning Authority', and I refer the board to section 6.1.4 above in this regard. It included that the Daylight and Sunlight assessment report submitted as further information was in accordance with the updated version of BRE 209 from June 2022.
- 7.4.3. In paragraphs 5.1.4 to 5.1.10 above I referred to Appendix 16 of the Dublin City Development Plan 2022-2028, which clearly set out the criteria by which daylight and sunlight assessments should be carried out. The development plan clearly indicates that once updated the methodology set out in BRE 209 will take precedence. BRE 209 came into effect in June 2022, while the development plan was not adopted until December 2022, 6 months later. This means that by the time that the development plan came into effect, the criteria of Appendix 16 that the planning officer had stated had not been addressed in the Daylight and Sunlight assessment, was already superceded and the relevant tests to be carried out are those set out in BRE 209 (2022). In that context, I agree with the applicant when they state that they have produced a Daylight and Sunlight assessment compliant with BRE 209 (2022).
- 7.4.4. Having established that the Sunlight and Daylight assessment has provided information as required by BRE 209, I will now proceed to examine whether the quality of light is in accordance with the relevant standards of BRE

BRE 209 (June 2022)

- 7.4.5. The introduction to BRE 209 (2022) states that the 2011 version has now been withdrawn, that the advice given is not mandatory, that it is not an instrument of planning policy and should be interpreted flexibly, while calculation methods are considered flexible.

Vertical Sky Component

- 7.4.6. Section 2 of BRE 209 (2022) addresses light from the sky and refers separately to new development and existing buildings. It refers to residential development but its principles can also be applied to non-domestic buildings where daylight is required.

For new development this can be calculated using Vertical Sky Component (VSC), or angle of obstruction. VSC can be calculated in a number of ways, which are set out in the appendices to the guidelines.

- 7.4.7. It does refer to the fact that if a neighbouring site is likely to be development in the future that additional calculations can be carried out with notional development in place, while it recognises that dual aspect rooms would fare better than single aspect rooms. It also notes referring to extensions to buildings that adjoining buildings where occupants have a reasonable expectation of daylight and can include hotels and some offices and refers to buildings being good neighbors in themselves by standing a reasonable distance from boundaries and taking no more than their fair share of light. Further guidance on this is set out in appendix F.
- 7.4.8. The guidelines focus on existing buildings but section 2.3 states that it is possible to reduce the quality of adjoining development land by building too close to the boundary and goes on to state that a well-designed building will stand a reasonable distance back from the boundaries so as to enable future nearby developments to enjoy a similar access to daylight. This applies to future non-domestic development as well as housing.
- 7.4.9. Section 4.3 indicates that a VSC assessment will be carried out. It also refers to APSH and WPSH regarding loss of sunlight to existing buildings and states that only windows with orientation within 90 degrees of due south require assessment. as the building is on the northern side of an existing building, no such windows exist in respect of this proposed development and I consider it reasonable that such an assessment was not carried out.
- 7.4.10. Section 4.3 of the applicants 'Daylight and Sunlight Assessment Report' addressed Vertical Sky Component (VSC) in respect of 39 windows, 32 of which would experience negligible impact, while the windows that would experience an impact are located directly opposite and in close proximity on St Andrews Lane. The rooms on this elevation are in commercial use so I am satisfied that they would not be significantly affected by the proposed development.

Sunlight on Ground

- 7.4.11. Despite what the planning officer stated, the Daylight and Sunlight Assessment Report does contain a Sunlight on Ground assessment of the only possible space that could be assessed, being the carpark to the immediate north, that is owned by

Eir, the observer on the appeal. The assessment considers the entire surface area and confirms that the area would receive more than the required 2 hours of sunshine on 21st of March meaning that the carpark would retain an adequate level of sunlight on the ground that would make it BRE compliant, with the proposed development in place. While there would be an impact immediately to the north of the site, I do not consider that the impact of the development would be unacceptable given the urban context of the site.

Average Daylight Factor (Target Illuminance)

- 7.4.12. In their appeal, the applicant sets out the reason why they have not carried out an assessment of Average Daylight Factor, being that BRE 209 (2022) no longer recommends ADF and I note that Appendix C: Interior daylighting recommendations of BRE 209 (2022) states that 'BS EN 17037 supersedes BS 8206 Part 2 "Code of practice for daylighting"[C2], which contained a method of assessment based on Average Daylight Factor. For daylight provision in buildings, BS EN 17037 provides two methodologies. One is based on target illuminances'. I note that Section 4.6 of the Development Plan also addresses target illuminances. The applicant has explained that their assessment of target illuminance' is called 'Spatial Daylight Autonomy' and the results set out in the report are consistent with the Lux parameters set out Appendix C of BRE 209 (2022), which refers to Lux targets for Kitchen/Dining/Living Rooms and Bedrooms.

No skyline

- 7.4.13. The Daylight and Sunlight Assessment Report confirms that all six habitable rooms would comply with the BRE 209 (2022) requirement for No Sky Line.

APSH/WPSH (Sunlight Exposure)

- 7.4.14. The planning officer considered that the applicant had failed to address Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH), while the applicant responded by stating that those tests have been replaced by Sunlight Exposure which is explained in Section 3.1 of the BRE 209 (2022) and was stated in Section 4.5.2 of the Daylight and Sunlight Assessment Report.
- 7.4.15. Section 3.1.10 of BRE 209 (2022) states that for interiors, access to sunlight can be quantified and that the BS EN 17037 criterion applies to rooms of all orientations, although if a room faces significantly north of due east or west it is unlikely to be met.

The results presented in the Daylight and Sunlight Assessment Report (DSAR) confirms that all 3 units would fail to achieve the required level of sunlight, which means that no habitable room in the development could receive a total of at least 1.5 hours of sunlight on 21 March.

7.4.16. The DSAR did not provide an assessment of APSH or WPSH for adjacent buildings which I consider to be reasonable given that the proposed extension is located on the northern end of a taller existing building and that there are no residential uses adjacent thereto.

7.4.17. This is the only one of the criteria where the proposed development fails to achieve the BRE standard.

Conclusion of Daylight and Sunlight Assessment

7.4.18. Having reviewed the applicant's response to the request for further information, and give that the Dublin City Development plan explicitly states that BRE 209 (as updated) would take precedence, and that the development plan was adopted after BRE 209 (2022) came into effect, I am satisfied that the metrics in the development plan upon which the planning authority relied, are out of date. I am further satisfied that the applicant has submitted a Daylight and Sunlight Assessment Report that provides all relevant and necessary information to enable the board to make a decision on this application.

7.4.19. With respect to the results of the assessment carried out, the proposed development would be compliant with the following BRE metrics 1) Vertical Sky Component; 2) Target Illuminance (replaced previous test of Average Daylight Factor); 3) No Sky Line; 4) Sun on Ground.

7.4.20. With respect to internal sunlight, the applicant also carried out an assessment of Sunlight Exposure, which replaces the previous ASPH and WSPH assessment. In the case of each of the three apartments it was deemed that the proposed development failed to achieve the 1.5 hours required standard, which can be explained by the dominance of north facing windows in the apartments, which would experience little or no direct sunlight. I do note that the top floor apartment would be fitted with 4 no skylights, which would improve the quantum of sunlight reaching both the bedroom and living/dining/kitchen area.

- 7.4.21. In my conclusion on section 7.2 above, regarding compliance with apartment guidelines I noted that that each of the apartments would have floor areas well in excess of the minimum requirement, would have tall windows and would have floor to ceiling heights significantly in excess of the minimum height requirement
- 7.4.22. I am satisfied that the BRE guidelines allow for flexibility in terms of their application and note the Board has discretion in applying the guidelines taking into account site constraints and the need to secure wider planning objectives, such as higher density and compact development, including in the city centre. I am satisfied that the proposed apartments would not significantly affect availability of sunlight and daylight to neighbouring properties, which are in commercial use.
- 7.4.23. Notwithstanding that the three units are predominantly north facing, which is not the most favourable of design solutions, they would receive light from three sides, and while there is potential for a development to be built on the site to the immediate north in the future, the northern aspect does not receive a significant quantum of light. When you consider the generous apartment sizes, which would be well in excess of the minimum floor area requirements, the increased floor to ceiling heights and triple aspect, I am satisfied that the proposed development would be acceptable from the perspective of daylight and sunlight.

7.5. Development Potential of Adjacent Lands

- 7.5.1. The observer to the appeal has stated that the future development potential of their carpark/site would be significantly affected by the presence of windows and balconies on the shared boundary. Each unit would have one bedroom window, two living room windows and the open sided balcony immediately upon the shared boundary. In particular, they state that the scope to deliver residential development on their site would be significantly hampered by these opes, while they also criticises the inspectors assessment in ABP-301289-18, which referred to the lack of evidence that the observer planned develop the site as no planning applications had been made at that time (July 2018). In respect to the previous assessment, the observer asked that the board act in a fair and equitable manner in assessing this application and I note that a eight and a half years have passed since the observer made a similar observation in July 2017 in respect of the previous application (P.A. Reg. Ref. 3319/17) that was appealed to the Board (ABP-301289-18). Similar to the previous appeal, there is no evidence that any action has been taken to submit an application

for any form of redevelopment of the car park in the interim, which may or may not include residential development.

- 7.5.2. I previously noted in section 5.1.2 above that all properties surrounding the application site, including the car park to the immediate north, that is owned by the observer, are zoned Z5. I further note that Z5 zoning contains 55 separate potential 'permissible' land uses, which includes 'residential', while a further 13 uses are 'open for consideration'. While the observer has stated that the board should act in a fair and equitable manner when considering this application, as the site already has permission for a building containing offices, with windows directly overlooking the car-park, I consider that it would be not be fair or reasonable to the applicant to deem that the construction of a structure of a similar scale to the already permitted office extension, on the same site, is not permissible.
- 7.5.3. In respect of Z5 zoning, the development plan states that where significant city centre sites are being redeveloped, which would include the observers car park site, an element of residential and other uses as appropriate should be provided to complement the predominant office use in the interests of encouraging sustainable, mixed-use development. This indicates that while residential may form part of the future redevelopment of the carpark, it would not be expected that the entire development would be residential.
- 7.5.4. I also note that while the observer has referred to the carpark as a residential zoned brownfield site with significant development potential, it is not recorded on Dublin City Council's register of sites for the purposes of the RZLT, while other Z5 zoned lands in the city centre area are considered to be 'Vacant / Idle, Mixed Use Zoned Land' as per the most recent map produced by Dublin City Council in February 2024. This suggests that the planning authority has not considered the site to be vacant/idle or suitable for residential development. Being fair and equitable as the observer has suggested, I am satisfied that it would be unbalanced to refuse permission for this development based on a hypothetical future plan for residential development on the car park site where significant scope exists to design a building that would not conflict with the current proposal, without affecting the development potential of the car park.
- 7.5.5. In their observation on the initial application the observer included an image showing that the presence of windows on the site boundary would mean that 22m of their site

would effectively be sterilised from development. Since that time the Compact Settlement Guidelines have come into effect, and I have previously referred to SPPR 1 of the Guidelines, which states that a separation distance of at least 16m shall be maintained between opposing windows serving habitable rooms.

- 7.5.6. What the observer did not note is that there is an existing residence in the roof space of the existing Exchequer Chambers building only c6.6m from the shared boundary meaning that if the observers was to designed their future building strictly to the separation standards as they have suggested would be necessary (previously 22m and now 16m for opposing windows), the development potential of their site would already be compromised and they would have to set the building back from the shared boundary, regardless of this proposed development. To account for scenarios such as this, SPPR 1 of the Compact Settlement Guidelines also states that separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- 7.5.7. The northern/side elevation of the proposed extension which runs along the common boundary with the carpark to the north is 17.288m in two separate sections of 13.933m and 3.355m. The observers boundary is c51m along the southern side of the carpark. The proposed apartments would each have three widows with a combined length of c2.5m, which is c4.9% of the shared boundary, while the balconies would extend along c4.5% of the shared boundary. Overall less than 10% of the carpark and any future potential building on the site would be directly overlooked from the proposed apartments on the boundary, while the carpark is already surrounded by building on every side, without the proposed development in place.
- 7.5.8. I am satisfied that there is sufficient scope to design a building on the carpark site, that may or may not include residential development, that would not result in any directly overlooking windows facing the proposed windows in this application as per SPPR 1 of the Compact Settlement Guidelines. In that context I am also satisfied that the proposed development would not significantly affect the development potential of or depreciate the value of the observer's car park.

7.6. Proposed Residential Use v Permitted Office Use

- 7.6.1. Following from my conclusion in respect of the development potential of the site to the north, I acknowledge that office and residential uses would not be the same and would have different patterns of occupation, but I am satisfied that the proposed apartments are of a size that would provide for a good standard of accommodation for future residents. While there is scope for the neighbouring landowner to build a building on the immediately adjacent lands to the north, I am also satisfied that the neighbouring site would be capable of being developed without impacting on the residential amenities of the future residents of the proposed apartments or without compromising the development potential of the neighbouring site, either by design or use. I am further satisfied that the proposed development would not depreciate the value of the neighbouring car park property by reason of the proposed residential use.

7.7. Appendix 18

- 7.7.1. The observer on the appeal has stated that the proposed development does not comply with Appendix 18 of the Development Plan in relation to separation distance from shared boundaries.
- 7.7.2. Subsection 6.0 of Appendix 18 referring to 'Subdivision of Dwellings' states that Dublin City Council will consider the subdivision of larger homes in the city subject to compliance with the relevant standards for apartment units (see guidance on apartment developments – Chapter 15, Section 15.9). Therefore, I am satisfied that matters relating to proximity of buildings to shared boundaries, as set out in Appendix 18, do not apply to this application, as it refers to residential extension in the context of exempted development and not to apartments.

7.8. Second Proposed Refusal Reason

- 7.8.1. The observer on the appeal has stated that in refusing permission the planning authority did not go far enough, and the sought that a second reason to refusal be attached. I refer the board to paragraph 6.3.2 above, where the suggested refusal reason is set out in full. It can be summarised as a residential use with multiple windows serving habitable rooms on the common boundary, will significantly and adversely detract from the development potential of that site and its ability to deliver residential development. It would contravene Policies QHSN6 (Urban Consolidation), QHSN9 (Active Land Management), QHSN10 (Urban Density) and QHSN36 (High Quality Apartment Development), of the Development Plan and would depreciate the

value of the adjoining site. I will now examine the nature of those policies, which are set out in full in section 5.1.3 above.

Policies QHSN6 (Urban Consolidation)

- 7.8.2. I have previously concluded that the development would provide good quality accommodation and as an infill development I am satisfied that the proposed development would not contravene this policy.

QHSN9 (Active Land Management)

- 7.8.3. This refers to a function of the planning authority. I previously concluded that there is no evidence of this site being subject to any planning application for redevelopment by the landowner or being designated as 'Vacant / Idle, Mixed Use Zoned Land', which would incur a tax under the Residential Zoned Land Tax regime introduced under the Finance Act of 2021, I am satisfied that the proposed development would not contravene this policy.

QHSN10 (Urban Density)

- 7.8.4. The proposed development would introduce housing to the site and help to increase residential density on an infill site in the south city centre, in accordance with QHSN10. The proposed external finishes are the same as those already permitted by the board under ABP-310289-18 and I am satisfied that the design of the proposed development would not contravene this policy.

QHSN36 (High Quality Apartment Development)

- 7.8.5. This policy refers to high quality apartments by reference to suitable levels of amenity in individual apartments, and I have previously concluded that the apartment floor areas are well in excess of the minimum requirement and would provide a suitable level of amenity. With regard to social infrastructure, I am satisfied that there is an acceptable level of social infrastructure available in proximity to this city centre site and I am satisfied that the design of the proposed development would not contravene this policy.

7.9. Built Heritage

- 7.9.1. The site consists of a single storey return at the back of a building that is located in the South City Retail Quarter Architectural Conservation Area (ACA), but the site itself is outside of the ACA. Neither the planning officer nor the third party

observations raised any concerns regarding the design in terms of potential impact on the character of the ACA. The external finishes of brick and zinc cladding are similar as is the building design, to the building, which was previously permitted by the board (ABP-301289-18), with the exception of the placement of windows, a slightly increased roof height and the addition of balconies on three floors. I consider the design of the building to be acceptable and it would not be visible from the ACA from Exchequer Street or materially affect the character of the ACA. The proposed development will also bring new animation and passive surveillance to the St Andrews Lane façade.

- 7.9.2. The site is located within both the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City) and a Zone of Archaeological Interest in the Dublin City Development Plan. However, as the works are all to be carried out above ground level, I am satisfied that the proposed development would not have a negative impact on either the zones of Archaeological Constraint or Interest.

7.10. Conditions

- 7.10.1. The drainage division of Dublin City Council recommended that conditions be attached, should a grant of permission be issued. I consider that the proposed conditions, which I previously set out in section 3.2.7 to be reasonable and if the board is minded to grant permission, I would recommend that that a condition or conditions of that nature should be attached.
- 7.10.2. I would also recommend that a Luas Cross City Section 49 development contribution condition be attached, as per the recommendation of Transport Infrastructure Ireland, while I would also recommend that a condition be attached requiring consultation be had with Irish Water before development commences regarding the culvert running beneath the site.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended).
- 8.2. The subject site is not located within or adjacent to any European Site. The closest European Sites are South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC, which are located c3.5km to the east.

- 8.3. The proposed development will consist of an extension over 3 floors above an existing ground floor structure to facilitate the construction of three apartments in the built up retail area of Dublin city centre.
- 8.4. Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.
- 8.5. The reason for this conclusion is as follows:
- The small scale and nature of the proposed extension over 3 floors above an existing structure
 - The location of the development in a serviced urban area, the distance from European Sites and the urban nature of intervening habitats, as well as the absence of ecological pathways to any European Site.
- 8.6. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

- 9.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature and scale of the proposed development, which is of a similar scale and would have the same external finished as a permitted office extension on the same site, for which there is an extant grant of permission, to the pattern of development in the area, to the Z5 City Centre zoning objective for the site and the provisions of the Dublin City Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development, would provide for a satisfactory level of internal amenity for future occupants, would not adversely affect the future development potential of the carpark to the north, would not adversely impact on the character of the adjacent ACA, and would increase the provision of residential accommodation in this inner-city location. The proposed

development would not injure the visual or residential amenities of the area by way of significant overshadowing, overlooking or overbearance, would not be prejudicial to public health, would contribute to passive surveillance of St Andrews Lane and 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 and amended by the revised plans and particulars received by the planning authority by way of further information on the 15th of December 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.

Reason: In the interest of clarity.

- 2 The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

Reason: In the interests of public safety and residential amenity.

- 3 Water supply and drainage arrangements, including the attenuation and disposal of surface water which shall also provide for appropriate Sustainable Urban Drainage Systems (SuDS), shall comply with the requirements of the planning authority for such works and details in respect thereof shall be submitted to and agreed in writing with the planning authority prior to the commencement of development

Reason: To ensure adequate servicing of the development, and to prevent pollution.

- 4 Prior to the commencement of development the developer shall:
- a) enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.
 - b) submit details of the agreement to the planning authority to include plans and sections showing the routes of all pipe networks and connection points to public services.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

- 5 All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

- 6 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 7 Proposal for the naming and numbering of the proposed apartments shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development. Thereafter, the naming and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

- 8 Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of all services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development:

- 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 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 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 Developer shall pay to the planning authority a financial contribution and 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, 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 provision of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the applicant planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

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

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Joe Bonner
Senior Planning Inspector

29th January 2025

Form 1 EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319020-24		
Proposed Development Summary	Construction of a rear extension to the existing building providing 3 residential units and all associated site works.		
Development Address	19-27 Exchequer Street, Dublin 2		
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	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)			
Yes	✓	<u>Class 10(b)(i) of Part 2: Threshold</u> 500 dwelling units. <u>Class 10(b)(iv) of Part 2: Threshold</u> Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)	Proceed to Q3
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	✓		Proceed to Q.4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	<u>Class 10(b)(i) of Part 2: Threshold</u> 500 dwelling units v proposal for 3 residential units in an extension above an existing structure.	Proceed to Q.4

		Class 10(b)(iv) of Part 2: <u>Threshold Urban</u> development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. The site is 0.0110ha (110sqm) and is located in a business district.	
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5. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2 EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319020-24
Proposed Development Summary	Construction of a rear extension to the existing building providing 3 residential units and all associated site works.
Development Address	19-27 Exchequer Street, Dublin 2
<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The development will consist of the construction of a three storey extension above an existing ground floor structure on a site of 110sqm in a built up urban site. The extension would accommodate three No. 1 bedroom 2 person apartments.</p> <p>The proposed development is modest relative to the scale of the city centre and while it would generate waste as a result of construction and during the operation phase, I do not consider that the level of waste that would be generated would be significant in the local, regional or national context and would not require the use of substantial resources. I am satisfied that the development, does not pose a risk of major accident and/or disaster, and due to its location would not be vulnerable to climate change. It would not present a risk to human health.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural	<p>The site is not designated for the protection of the environment, the landscape or natural heritage and although located adjacent thereto, is not within an Architectural Conservation Area. The development would not have the potential to significantly impact on any ecologically sensitive site or locations, with the nearest European sites being located c3.5km to the east. I do not consider that the proposed development would have significant cumulative</p>

environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	effects on the environment together with any other projects in the vicinity.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature and scale of the proposed development, the size of the site and its location removed from sensitive habitats/features, the likely limited magnitude and spatial extent of effects, and the absence of significant cumulative effects, I am satisfied that there is no potential for significant effects on the environmental factors set out in Section 171A of the Planning and Development Act 2000 (as amended) having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended).	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date:

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)