



An
Bord
Pleanála

Inspector's Report

ABP-319168-24

Development

Protected structure: Demolition of buildings; Construction of hotel with all associated site works; Change of use of 37 and 41 Mount Street Upper to 12 residential apartments; Conversion of mews to residential; Construction of 2 buildings with 5 dwellings along with all associated site works.

Location

Site located in Dublin 2, bound by Mount Street Upper to the northeast, James's Place East to the southwest and Herbert Street to the southeast.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

4899/23

Applicant(s)

Esprit Investments Ltd.

Type of Application

Permission

Planning Authority Decision

Split Decision (Refusal and Permission)

Type of Appeal

First and Third Party Appeal

Appellant(s)	Esprit Investments Ltd (First Party Appellant)
	Stadia Capital Limited (Third Party Appellant)
Observer(s)	Philip O'Reilly
	David White
	Katy McGuinness & Felim Dunne
	Donough Cahill
Date of Site Inspection	8 th November 2024
Inspector	Frank O'Donnell

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	6
3.0 Planning Authority Decision	8
3.1. Decision	8
3.2. Planning Authority Reports	16
3.3. Prescribed Bodies	20
3.4. Third Party Observations	20
4.0 Planning History	20
5.0 Policy Context	22
5.1. National Planning Policy	22
5.2. Regional Strategic Economic Strategy – Eastern & Midland	24
5.3. Development Plan	25
5.4. Guidelines	38
5.5. Natural Heritage Designations	39
5.6. EIA Screening	39
6.0 The Appeal	41
6.1. Grounds of Appeal (Third Party)	41
6.2. Grounds of Appeal (First Party)	42
6.3. Planning Authority Response	46
6.4. Observations	46
6.5. Further Responses	46
7.0 Assessment	47
8.0 Appropriate Assessment (AA)	69

9.0 Water Framework Directive	70
10.0 Recommendation	71
11.0 Reasons and Considerations.....	72
12.0 Conditions	73

1.0 Site Location and Description

- 1.1. The subject appeal site is located with frontages on the southern side of Mount Street Upper and the northern side of James's Place East, Dublin 2. The site has a stated site area of 0.49 hectares and is within c. 1.45 km to the southeast of the centre of Dublin City. The site is bounded to the northeast by Mount Street Upper, to the southwest by James's Place East and to the southeast by Herbert Place. The site contains properties which include no's. 38 to 43, James's Place East, No. 50 James's Place East, No's 37, 38, 39, 40 and 41 Mount Street Upper and lands to the rear of Nos. 33-34, 37, 42, 43, 47 and 50 Mount Street Upper. The lands to the rear include surface car parking, a number of outbuildings and a two-storey office building which lies to the immediate north of James's Place East.
- 1.2. The appeal site comprises a total of 7 no. Plots (Plots A to G) which either include or are part of the following Protected Structures: RPS Ref: 5658 (No. 33-34 Mount Street Upper), 5661 (No. 37 Mount Street Upper), 5662 (No. 38 Mount Street Upper), 5663 (No. 39 Mount Street Upper), 5664 (No. 40 Mount Street Upper), 5665 (No. 41 Mount Street Upper), 5666 (No. 42 Mount Street Upper), 5667 (No. 43 Mount Street Upper), 5671 (No. 47 Mount Street Upper) and 5674 (No. 50 Mount Street Upper). Each of the above Protected Structures are also listed on the National Inventory of Architectural Heritage (NIAH). Plots A, B, E and F are proposed for Residential use, Plots C and D for Hotel Use and Plot G is proposed as a Park.
- 1.3. Miesian Plaza (Bank of Ireland Headquarters), which is located to the southwest of the subject appeal site, is listed as a Protected Structure (RPS Ref. No. 370) and is also listed on the NIAH (Ref. no. 50100635). Other notable buildings in the general area include ESB Head Offices located further to the west on the western side of James's Street East and No. 30 Herbert Street to the west and 2 no. Primary Schools located to the immediate south. The site is also partly located within a Conservation Area (including a Georgian Conservation Area under the Z8 zoning designation).
- 1.4. The planning application was accompanied by the following supporting reports and documents:
 - Appropriate Assessment Screening Report, Architects Design Statement, Architectural Heritage Impact Assessment Report, Basement Impact

Assessment Report, Building Life Cycle Report, Climate Action and Energy Statement, Daylight and Sunlight Assessment/s, Environmental Impact Assessment Screening Report, Flood Risk Assessment Report, Landscape Design Report, Microclimate Study, Mobility Management Plan, Operational Management Plan, Operational Waste Management Plan, Planning Report, Preliminary Construction and Demolition Waste Management Plan, Preliminary Construction and Environmental Management Plan, Preliminary Ecological Appraisal Memorandum, Rationale for Demolition and Redevelopment, Report on Servicing and Delivery Strategy, Storm Water Management Plan Report for the Hotel Development, Storm Water Management Plan Report for the Residential Development at No. 47 James's Place East, Storm Water Management Plan Report for the Residential Development at No. 50 James's Place East, Structural Methodology Report, Telecommunications Impact Assessment Report, Townscape and Visual Impact Assessment, Verified Photomontages & Computer-Generated Imagery (CGIs), Water Supply and Wastewater Management Report for no. 47 James's Place East, Water Supply and Wastewater Management Report for no. 50 James's Place East, Water Supply and Wastewater Management Report for the Hotel Development.

2.0 Proposed Development

2.1. The proposed development comprises the following main elements:

- Demolition of buildings:
 - The Demolition of Existing Buildings at nos. 38 to 43 James's Place East. The existing buildings proposed for Demolition are as follows:
 - 1 no. 2 Storey Office Building (Mathews Building) and 1 no. Single Storey Outbuilding to rear. Both Buildings proposed for Demolition have a stated combined floor area of 1,533 sqm.
- Construction of Hotel, as follows:
 - The construction of a part 4, part 5, part 6 and part 7 storey hotel building over basement level on the site to rear of No's. 37 to 43 Mount

Street Upper fronting onto James's Place East to the south. The proposed Hotel Development/ building has a stated floor area of 11,550 sqm and comprises a total of 300 no. guest rooms. (Plot C). The proposed hotel development also includes a total of 1,540 sqm within protected structures (no's 38, 39 and 40 Mount Street Upper). (Plot D).

- The proposed hotel (New Build) measures 15.5 metres in height to parapet level along James's Place East (maximum height of 25.9 metres to the top of plant room).
- Construction of 2 no. 3-storey residential buildings, as follows:
 - A 3-storey residential building located to the rear of no. 47 Mount Street Upper fronting onto James's Place East to provide for a total of 2 no. 2 bedroom (4 person) Apartment units. (Each measuring 87.7 sqm GFA). (Plot B).
 - A 3-storey residential building located between the rear of no. 50 Mount Street Upper and the rear of No. 50 James's Place East to provide 1 no. studio unit (41.7 sqm GFA), 2 no. 2 bedroom (4 person) Apartment units (104.6 sqm and 90.2 sqm GFA respectively) and conversion of an existing Mews Building to 1 no. 2 bedroom (4 person) dwelling (90.2 sqm GFA). (Plot A).
- Change of use of
 - No. 37 Mount Street Upper from Office to Residential Use to provide 4 no. 1 bedroom (2 person) Apartment units (ranging in size from 45 sqm to 84.4 sqm GFA), 1 no. 4 bedroom (8 person) (Triplex) Apartment unit (231.3 sqm GFA) (5 no. Apartments in total). (Plot F).
 - No. 41 Mount Street Upper from Office to Residential Use to provide 4 no. 1 bedroom (2 person) Apartment units (including 1 no. 1 bedroom (2 Person) (Duplex) (ranging in size from 44.5 sqm to 68 sqm), 1 no. 3 bedroom (6 person) (Duplex) Apartment unit (231.3 sqm) (5 no. Apartments in total). (Plot E).

- No. 38, 39 and 40 Mount Street Upper (Protected Structures) from Office to Hotel Use and associated changes to layout to accommodate the change of use. (1,540 sqm GFA). (Plot D).
- Associated works
 - The provision of a new glazed link and bridge from the rear of No's 38, 39 and 40 Mount Street Upper to the proposed hotel building at ground floor level. (Plot D).
 - Provision of 2 no. platform lifts to the front of no. 38 and 39 Mount Street Upper. (Plot D).
 - Provision of a multi-school space (c. 180 sqm at ground floor level within the hotel building fronting James's Place East). (Plot C).
 - Provision of an Arts/ Cultural Space (c. 130 sqm at lower ground floor level within No. 38 Mount Street Upper). (Plot D).
 - Provision of a park (c. 327 sqm in area) within the grounds of No's 33 and 34 Mount Street Upper. (Plot G).
 - Provision of 32 no. staff cycle spaces are proposed in the form of 16 no. Sheffield stands, accommodated in an undercroft area at ground floor level. (Plot C).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Local Authority issued a **SPLIT DECISION** to **GRANT** permission for the following subject to 15 no. conditions:

- Change of use of Nos. 37 and 41 Mount Street Upper from office to residential to provide 8 no. 1 bed apartment units and 1 no. 3 bed apartment unit and 1 no. 4 bed apartment unit;
- Conversion of the existing mews building at No. 50 James's Place East (to the rear of No. 50 Mount Street Upper) to a residential dwelling (2 no. bedrooms);

- Construction of a 3-storey residential building to the rear of No. 47 Mount Street Upper fronting onto James's Place East to provide for a total of 2 no. 2 bedroom apartment units;
- Construction of a 3-storey residential building located between the rear of No. 50 Mount Street Upper and the rear of No. 50 James's Place East to provide for a total of 1 no. studio unit and 2 no. 2 bedroom apartment units;
- Provision of a park within the grounds of Nos. 33-34 Mount Street Upper;
- Provision of bicycle spaces to serve the proposed development and;
- All ancillary landscaping, boundary treatments, associated infrastructure, and site development works to support the development.

Condition no's 4, 5, 6, 7 of the 15 no. conditions issued, read as follows:

4. *This grant of permission does not include the proposed hotel development on plot C and D and to the rear of no. 41, 40, 39, 38 and 37 Mount Street Upper and at Nos. 38-43 James's Place East including:*
 - *The demolition of the existing buildings at Nos. 38-43 James's Place East.*
 - *The construction of a part 4, part 5 part 6 and part 7 storey Hotel building over basement level on the site to the rear of Nos. 37-43 Mount Street Upper fronting onto James's Place East;*
 - *Change of use of No. 38, 39 and 40 Mount Street Upper from office to hotel use and associated changes to layout to accommodate the change of use;*
 - *The hotel will provide for a total of 300 no. guest rooms and will have an overall floor area of c. 11, 550sq.m within the new build development, and 1, 540sq.m within Nos. 38, 39 and 40 Mount Street Upper;*
 - *Provision of a glazed link and bridge from the rear of Nos. 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level;*

- *Provision of 2 no. platform lifts to the front of No. 38 and 39 Mount Street Upper;*
- *Provision of a glazed link and bridge from the rear of No. 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level;*
- *Provision of a multi-use school space (c. 180sq.m at ground floor level within the hotel building fronting James's Place East;*
- *Provision of an arts/cultural space (c. 130sq.m at lower ground floor level within No. 38 Mount Street Upper*

Reason: In the interest of clarity

5. *Prior to commencement of development the Developer shall submit revised drawings for the written agreement of the Planning Authority with the following amendments:*
 - a) *Revised materials for the proposed apartment buildings on plot A (to the rear of no. 50 James's Place East) and on Plot B at 47 James's Place East replacing the fibrous cement cladding with a high-quality material/metal such as zinc or copper.*
 - b) *Apartment no. 3 shall be omitted from no. 41 Mount Street Upper and that the lower ground floor and ground floor layout of no. 41 Mount Street Upper shall be the same as that of no. 37 Mount Street Upper as indicated on drawing no. A2111-03-010 and A2111-03-011.*
 - c) *There is an error on the drawings, the apartment on the first floor is labelled as apartment no. 4, and it is considered that this should be labelled apartment no.3 on Plot F at 37 Mount Street Upper. The Developer shall submit revised drawings clarifying this error.*

Reason: In the interest of visual and residential amenities

6. *The Developer shall comply with the following Transportation Planning Division requirements of the Planning Authority and prior to*

commencement of development shall submit the following details for the written agreement of the Planning Authority as follows:

- a) The developer shall submit a revised site layout plan omitting the parking to the rear of no. 50 Mount Street Upper and provide a landscaping plan for the enhancement of the amenity space to the protected structure. The site layout plan and front elevations shall provide a revised access omitting the vehicular access to no. 50 Mount Street Upper. The revised site layout plan shall indicate separate bike and refuse storage for the mew and the apartments on plot A.*
- b) The developer shall submit a revised site layout plan for plot E and F reinstating the rear site boundaries to no. 37 and 41 Mount Street Upper and provide a landscape plan enhancing the setting of these protected structures. The landscape plan shall include cycle parking and bin storage for the residential units in no. 37 and 41 Mount Street Upper.*
- c) The applicant should propose a suitable location for the staging of bins for collection, for all the residential units, as this has not been clarified in the submitted Operational Waste Management Plan (OWMP). The applicant is advised that the placement of bins on the public footpath or carriageway is not acceptable.*
- d) Two of the car parking spaces to the rear of no. 47 Mount Street Upper shall be allocated to the proposed residential use at plot B to facilitate car storage and accessible parking.*
- e) Given the lack of car parking, all types of residential units should be provided with at a minimum 1 bike parking space per bedroom. Provision should also include non-standard cycle parking e.g. cargo spaces. Visitor cycle parking is also required. The applicant is requested to submit revised residential cycle parking proposals which can facilitate the proposed car free living. The applicant is requested to submit revised cycle parking designed in accordance with the guidance of the 'Cycle Design*

Manual, 2023'. Long term cycle parking should be provided in secure, sheltered and conveniently accessible facilities. Cycle stands should allow both wheel and frame to be locked. Ease of access and manoeuvrability as well as security (i.e. key/fob access) should be demonstrated.

- f) Existing disking of footpath and kerb to the front of the sites on James's Place East shall be removed and public footpath provision to the requirement of the Area Engineer, Roads Maintenance Department shall be provided. Line markings on James's Place East to the front of the site shall be agreed with the Traffic Advisory Group.*
- g) Prior to commencement of development, and on appointment of the main contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, construction phasing and programme, a detailed traffic management plan, hours of working, noise and dust management measures, and off-site disposal of construction/demolition waste.*
- h) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.*
- i) The developer shall be obliged to comply with the requirements set out in the Code of Practice.*

Reason: To ensure a satisfactory standard of development and in the interest of traffic and pedestrian safety.

- 7. The Developer shall comply with the following conservation requirements of the Planning Authority, Prior to commencement of development the developer shall submit the following details for the written agreement of the Planning Authority as follows:*

- a) *The Developer shall reinstate a meaningful garden/external amenity to serve no. 37 and 41 Mount Street Upper that reflects the historic plot where historic boundary walls have been previously removed and submit revised drawings to fully describe the proposed works demonstrating the conservation gain arising.*
- b) *Revised plans, sections and elevations shall be submitted providing full details in relation to service runs and the impact on historic fabric.*
- c) *A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained fabric and the curtilage of the Protected Structure.*
- d) *The proposed development shall be carried out in accordance with the following:*
 - i. *All works to the structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic reinstatement.*
 - ii. *All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.*
 - iii. *All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.*
 - iv. *The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.*

Reason: In order to protect the amenity, setting and curtilage of the Protected Structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

and

to **REFUSE** permission for the proposed hotel development on plots C and D and to the rear of no. 41, 40, 39, 38 and 37 Mount Street Upper and at Nos. 38-43 James's Place East for the following:

- The demolition of the existing buildings at Nos. 38-43 James's Place East.
- The construction of a part 4, part 5, part 6 and part 7 storey Hotel building over basement level on the site to the rear of Nos. 37-43 Mount Street Upper fronting onto James's Place East;
- Change of use of No. 38, 39 and 40 Mount Street Upper from office to hotel use and associated changes to layout to accommodate the change of use;
- The hotel will provide for a total of 300 no. guest rooms and will have an overall floor area of c. 11, 550sq.m within the new build development, and 1,540sq.m within Nos. 38, 39 and 40 Mount Street Upper;
- Provision of a glazed link and bridge from the rear of Nos. 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level;
- Provision of 2 no. platform lifts to the front of No. 38 and 39 Mount Street Upper;
- Provision of a glazed link and bridge from the rear of No. 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level;
- Provision of a multi-use school space (c. 180sq.m at ground floor level within the hotel building fronting James's Place East;
- Provision of an arts/cultural space (c. 130sq.m at lower ground floor level within No. 38 Mount Street Upper;

For the following 2 no. reasons:

1. *By way of its height, scale, massing, form and design, the proposed hotel development at Plot C, and D, combined with the excavation of a large*

basement area to the rear of no. 41, 40, 39, 38 and 37 Mount Street Upper would not contribute positively to the local area character and distinctiveness. The proposal would have a significantly adverse and injurious impact on the special architectural character and setting of the Protected Structures, the former mews lane at James's Lane East and the Conservation Area and on the amenity and outlook of Scoil Caithriona, opposite the subject site. The design of the proposed hotel does not reflect the historic plot boundaries, is not of a sufficient high quality to complement the nearby protected structures or the surrounding conservation area and would be visually obtrusive within the streetscape. The proposed hotel development would materially contravene Policies BHA2 (a), (b), (d), (e), (f), (g), (h), BHA9 and BHA14, and Sections 11.5.3, 15.13.5.1 and 15.13.5.2 of the Dublin City Council Development Plan 2022-2028, would set an undesirable precedent for similar type development, would depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development.

- 2. The height, scale, massing and proximity to site boundaries of the proposed hotel building on plot C and D and to the rear of no. 41, 40, 39, 38 and 37 Mount Street Upper and Nos. 38-43 James's Place East is likely to have noticeable and detrimental overbearing and overshadowing impacts on neighbouring property. The proposed hotel element will also create overlooking and privacy issues in regard to neighbouring property and the nearby school and associated grounds. The proposed development would therefore constitute an overdevelopment of the subject site, would seriously injure the amenities of neighbouring property, would devalue property in the vicinity, create a precedent for similar type undesirable development and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Local Authority Planner** considered that on balance there are positives and negatives with the proposal. The Georgian Core currently has low levels of residential and the proposed residential elements at plots A, B, E and F are positive in this regard and will serve to reinvigorate the area. The proposals to redevelop plots A, B, E and F and the backlands of these protected structures for residential purposes was considered to serve to positively enhance the area and in this regard was considered to comply with policies QHSN6, QHSN8 and QHSN10 of the Dublin City Development Plan, 2022 to 2028.
- The Local Authority Planner however raised serious concern in relation to the Hotel element of the proposed development. In particular, the submitted justification for the proposed demolition was not considered to be sufficiently detailed and did not address impacts related to embodied carbon. A concern is also raised in relation to the proposed height, scale, massing and proximity of the proposed hotel building to the site boundaries on plots C and D which, it was considered, would serve to result in a visually obtrusive design and would detract from the amenities of adjoining properties by reason of overlooking and overshadowing. The Local Authority Planner further considered that the extensive basement excavations proposed would result in a significant adverse and injurious impact on the special character and setting of the Protected Structures and the former mews lane at James's Lane East and surrounding Conservation Area. The proposed hotel elements were considered to materially contravene BHA2 (a), (b), (d), (e), (f), (g), (h), BHA9 and BHA14 of the Development Plan.

3.2.2. Other Technical Reports

- The **Transportation Department** recommended that a Request for Further Information be issued, as follows:

1. Public Road

- a) The applicant is requested to present access requirements from Mount Street Upper and to demonstrated how this can be*

accommodated within the local road network. The applicant is also requested to clarify the location for bus/taxi setdown for hotel guests. The obstructing of existing parking spaces on Mount Street Upper by buses/taxis would not be acceptable.

- b) For James's Place East, there are concerns regarding increased vehicular, pedestrian and cyclist conflict given the lack of footpath provision along the northern side of the road and the increase in footfall and traffic as a result of the development. The applicant is requested to submit details of a footpath along the northern side of James's Place East, the footpath should not be overhung by a building nor have a basement or piling below and should be suitable to be taken in charge.*
- c) Submitted auto tracking shows vehicles reversing within the public road and does not take account of existing public road constraints. There are concerns that the required vehicular manoeuvring on James's Place East and the private access road serving the hotel would present a traffic safety hazard and would obstruct access to the electricity sub-station. A turning area should be provided within the hotel site to allow vehicles to exit the site in forward motion. Additional autotrack analysis should be provided for refuse and emergency vehicles to demonstrate this, this should also take account of on-street parking and bollards.*

2. Other access:

- a) Noting the narrow width and lack of pedestrian relief along the retained vehicular access route to the car parking spaces to the rear of no. 50 Mount Street Upper, the applicant is requested to submit revised plans illustrating additional building setback areas, or considered removing all existing car parking and vehicular access to the rear of no. 50.*

- b) The applicant is requested to review proposed retention of commercial car parking, and if car parking is to be retained this should be allocated to residential use, not commercial uses.*
- c) The applicant is requested to submit additional drawings demonstrating that clear headroom to accommodate emergency access is maintained along the full length of the private access road serving the hotel. Regard shall be had to the requirements of Technical Guidance Document B of the Building Regulations.*
- d) The applicant shall clarify whether any right-of-way to no. 36 Mount Street Upper applies to the private access road serving the hotel and shall demonstrate that vehicular access requirements associated with any right-of-way (including emergency / service access) have been accommodated in the scheme design.*
- e) The applicant is requested to provide a set-down bay for delivery vehicles within the hotel site in order to mitigate obstruction of the private access road.*
- f) Additional details shall be provided identifying the proposed location for set down of refuse vehicles and staging of bins for collection, in respect of the proposed hotel. The placement of bins on the public footpath or road would not be accepted.*

3. Cycle Parking

- a) Given the lack of car parking, all types of residential units should be provided with at a minimum 1 bike parking space per bedroom. Provision should also include non-standard cycle parking e.g. cargo spaces. Visitor cycle parking is also required. The applicant is requested to submit revised residential cycle parking proposals which can facilitate the proposed car free living.*
- b) The applicant is requested to submit revised cycle parking designed in accordance with the guidance of the 'Cycle Design*

Manual, 2023'. Long term cycle parking should be provided in secure, sheltered and conveniently accessible facilities. Cycle stands should allow both wheel and frame to be locked. Ease of access and manoeuvrability as well as security (i.e. key/fob access) should be demonstrated.

- c) An internal gate shall be provided within the undercroft cycle parking area at ground floor level of the hotel to ensure secure key/fob access to the cycle parking for hotel staff only.*
- d) Staff lockers should also be provided and identified within the proposed hotel. The number of lockers provided should relate to the number of staff cycle parking spaces.*
- e) Given uses and access proposals, visitor cycle parking should be provided on the James's Place East elevation.*

- The **Drainage Division** raise no objection to the proposed development subject to 8 no. conditions.
- The **Conservation Division** recommend that permission be REFUSED for the following reason:
 - *'By way of its height, scale, massing, form and design, the proposed development at Plot C, D, E, F combined with the excavation of a large basement area would not contribute positively to the local area character and distinctiveness and would have a significantly adverse and injurious impact on the special architectural character and setting of the Protected Structures and the former mews lane at James's Lane East and Conservation Area and on the amenity and outlook of Scoil Caithriona opposite the subject site, contravening Policies BHA2 (a), (b), (d), (e), (f), (g), (h), BHA9 and BHA14, and Sections 11.5.3, 15.13.5.1 and 15.13.5.2 of the Dublin City Council Development Plan 2022-2028 and would set an undesirable precedent.'*
- The **Environmental Health Officer/ Division** raise no objection to the proposed development subject to 2 no. main conditions relating to the Construction and Demolition Phase and the Operational Phase.

3.3. Prescribed Bodies

- **Transport Infrastructure Ireland (TII):** Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen's Green to Broombridge Line). If the application is successful and is not exempt, please include a condition to apply the Section 49 Luas Line Levy.

3.4. Third Party Observations

- 3.4.1. A total of 15 no. Third Party Observations/ Submissions were received, mostly from local residents, businesses and other interest parties in the wider community and predominantly in opposition to the proposed development. The issues raised are similar to those referred to in the Local Authority Assessment and Decision, in the Grounds of Appeal and in the Observation Submissions to the Appeal.
- 3.4.2. The said 15 no. Observations include the following:
- 1 no. Submission/ Observation from Cllr Claire Byrne.

4.0 Planning History

4.1. Planning History on the Subject Appeal site

- **4043/99 (39 & 40 Mount Street Upper):** Permission for an office building on site of existing car park at the rear (Listed Building). Permission was REFUSED on 17th February 2000 for 3 no. reasons as follows:
 1. *The site of the proposed development consists of the rear areas/garden space attached to two existing Georgian Houses which are List 1 structures and also protected structures, under the 1999 Planning Act. The primary zoning objective of the site is that which applies to the listed structures which has for its objective 'to protect the existing architectural and civic design character and to allow for only limited expansion consistent with the conservation objectives of the Development Plan of primarily residential and compatible office and institutional use. The proposed development by reason of its location, siting, scale and massing and proximity to the rear of the existing protected structures would fundamentally conflict with and would*

seriously detract from the primary zoning objective and from the setting of the listed and protective structures. The proposed development would therefore be contrary to the Development Plan zoning and conservation objectives for the area and thus be contrary to its proper planning and development.

2. *The proposed development by reason of its plot ratio and site coverage, scale and bulk would result in serious overdevelopment of the site and consequently be detrimental to amenities and depreciate the value of properties in the vicinity and thus be contrary to the proper planning and development of the area.*
3. *The proposed development, if permitted, would establish a precedent for similar developments on comparable sites in the south Georgian area of the city and would thus weaken and undermine the policies of the 1999 Development Plan pertaining to the Z8 zone. The proposed development would therefore be contrary to the proper planning and development of the area.*

- **3663/21 (No. 38, Mount Street Upper): PROTECTED STRUCTURE:**

Permission for the development will consist of the restoration of the property to its original standalone integrity and all ancillary works. Permission was GRANTED on 14th November 2022 subject to 8 no. conditions. Condition no. 7 relates to specific Conservation requirements.

4.2. Relevant Planning History on the adjacent site/s

45-46, James's Place East, Dublin 2

- **3414/24:** Retention of i) foundations and structural frame, ii) vehicular access from James's Place East and iii) access to the rear of 45 & 46 Mount Street Upper. Permission for i) an additional floor and resultant height increase from 2 to 3 storeys, ii) 3 No. parking spaces including 1 no. accessible space, iii) 23 no. bicycle parking spaces, with 17 no. long term spaces contained in a covered enclosure. Permission was GRANTED on 20th August 2024 subject to 9 no. conditions.

- **WEB2458/24:** Permission for partial change of use at rear ground floor from office use to use as a commercial kitchen (184 sqm) (light industrial use). Permission was GRANTED on 20th February 2025 subject to 8 no. conditions.

5.0 Policy Context

5.1. National Planning Policy

- ***Project Ireland 2040: National Planning Framework, (First Revision), April 2025***

5.1.1. The National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of the country out to the year 2040. The following National Policy Objectives are of relevance to the subject proposals:

- **National Policy Objective 3:** *Eastern and Midland Region: approximately 470,000 additional people between 2022 and 2040 (c. 690,000 additional people over 2016-2040) i.e. a population of almost 3 million...*
- **National Policy Objective 4:** *A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.*
- **National Policy Objective 7:** *Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.*
- **National Policy Objective 8:** *Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.*
- **National Policy Objective 12:** *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*

- **National Policy Objective 13:** *Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.*
- **National Policy Objective 14:** *Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets that can accommodate changing roles and functions, increased residential population and employment activity, enhanced levels of amenity and design and placemaking quality, in order to sustainably influence and support their surrounding area to ensure progress toward national achievement of the UN Sustainable Development Goals.*
- **National Policy Objective 16:** *To ensure that the targeted pattern of population growth of Ireland's cities to 2040 is in accordance with the targets set out in Table 4.1...*
- **National Policy Objective 20:** *In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*
- **National Policy Objective 22:** *In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.*
- **National Policy Objective 42:** *To target the delivery of housing to accommodate approximately 50,000 additional homes per annum to 2040.*
- **National Policy Objective 43:** *Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.*
- **National Policy Objective 44:** *Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time.*
- **National Policy Objective 45:** *Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of*

existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.

- **National Policy Objective 67:** *Support the circular and bio economy including in particular through greater efficiency in land and materials management, promoting the sustainable re-use and refurbishment of existing buildings and structures, while conserving cultural and natural heritage, the greater use of renewable resources and by reducing the rate of land use change from urban sprawl and new development.*
- **National Policy Objective 76:** *Sustainably manage waste generation including construction and demolition waste, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society.*
- **National Policy Objective 90:** *Enhance, integrate and protect the special physical, environmental, economic and cultural value of built heritage assets, including streetscapes, vernacular dwellings and other historic buildings and monuments, through appropriate and sensitive investment and conservation.*

5.1.2. The NDF includes a total of 10 no. National Strategic Outcomes centred around various themes which include National Strategic Outcome 1 (Compact Growth), National Strategic Outcome 5 (Sustainable Mobility), National Strategic Outcome 6 (Compact Growth) and National Strategic Outcome 7 (Enhanced Amenities and Heritage).

5.2. Regional Strategic Economic Strategy – Eastern & Midland

5.2.1. The Metropolitan Area Spatial Plan (MASP) for Dublin (as set out in Chapter 5 of the RSES) calls for increased employment densities within Dublin City and suburbs and at other sustainable locations near high quality public transport nodes, near third level institutes and existing employment hubs, and for the relocation of less intensive employment uses outside the M50 ring and existing built-up areas.

5.3. Development Plan

Dublin City Development Plan, 2022 to 2028

- 5.3.1. The Appeal site is **part zoned Z8 Georgian Conservation Areas and part zoned Z10 Inner Suburban and Inner City Sustainable Mixed-Use**. The relevant zoning objective for Z8 lands is: *‘to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective’*. The stated aim of Z8 zoned lands is *‘to protect the architectural character/design and overall setting of such areas while facilitating regeneration, cultural uses and encouraging appropriate residential development (such as well-designed mews) in the Georgian areas of the city.’* Insensitive or inappropriate backland development in Z8 areas will be strongly discouraged. It is stated that *‘where residential levels are low, it is the aim to encourage more residential use in the area, to include support for sub-division and universal access that do not impact negatively on the architectural character and setting of the area (for example in line with the South Georgian Townhouse Re-Use Guidance Document commissioned by Dublin City Council in March 2019).’* Permissible uses on Z8 (Georgian Conservation Areas) zoned lands include bed and breakfast, hostel (tourist), hotel, live-work units and residential.
- 5.3.2. The balance of the subject appeal site is zoned Z10 Inner Suburban and Inner City Sustainable Mixed-Use, the relevant zoning objective for which is *‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses’*. The stated purpose of this zoning is to *‘promote mixed-use in order to deliver sustainable patterns of development in line with the principles of the 15-minute city.’* The guidance provided in Section 14.7.10 of the Plan emphasises the concept of mixed use and states that *‘the development or redevelopment of these sites and mono uses, either all residential or all employment/office use, shall not generally be permitted.’* With this mixed use focus in mind, it is stated that *‘there will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment).’* Flexibility on a case by case basis as to the mix requirement is provided for very small sites of less than 0.5 ha, i.e. where it can be demonstrated that a proposal would not result in an undue

concentration of one particular land-use. The primary uses supported by this Z10 zoning are stated to include residential, office and retail, with ancillary uses also facilitated, where they deliver on the overall zoning objective. It is further stated that *‘there will be a requirement that for any significant scheme (on Z10 zoned lands greater than 0.5ha in size) seeking to increase densities and/or height, a masterplan is prepared (see also Appendix 3: Achieving Sustainable Compact Growth).’*

Permissible uses on Z10 (Inner Suburban and Inner City Sustainable Mixed-Use) zoned lands include bed and breakfast, guesthouse, hostel (tourist), hotel, live-work units and residential.

5.3.3. **Chapter 3** relates to **Climate Action**.

5.3.4. Policies and Objectives from this Chapter considered to be relevance to the proposed development include the following:

Policies

- **CA6: Retrofitting and Reuse of Existing Buildings:** *To promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible. See Section 15.7.1 Re-use of Existing Buildings in Chapter 15 Development Standards.*
- **CA8: Climate Mitigation Actions in the Built Environment, CA9: Climate Adaptation Actions in the Built Environment**
- **CA10: Climate Action Energy Statements:** *All new developments involving 30 residential units and/or more than 1,000sq.m. of commercial floor space, or as otherwise required by the Planning Authority, will be required to submit a Climate Action Energy Statement as part of the overall Design Statement to demonstrate how low carbon energy and heating solutions, have been considered as part of the overall design and planning of the proposed development.*
- **CA23: The Circular Economy, CA24: Waste Management Plans for Construction and Demolition Projects**

5.3.5. **Chapter 4** relates to the **Shape and Structure of the City** and seeks to achieve a high quality, sustainable environment, which is attractive to residents, workers and visitors. Relevant Policies from this chapter include:

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

- **SC1: Consolidation of the Inner City, SC2: City's Character:** *City's Character To develop the city's character by:*
- **SC3: Mixed Use Development:** *To promote a mixed-use land use policy in the city centre, including the provision of high quality, sustainable residential development, and facilitating the conversion of both old office buildings and over shop spaces to residential.*
- **SC5: Urban Design and Architectural Principles:** *To promote the urban design and architectural principles set out in Chapter 15, and in the Dublin City Public Realm Strategy 2012, in order to achieve a climate resilient, quality, compact, well-connected city and to ensure Dublin is a healthy and attractive city to live, work, visit and study in.*

5.3.7. **Section 4.5.3. Urban Density**

- **SC10: Urban Density, SC11: Compact Growth, SC12: Housing Mix.**

5.3.8. **Section 4.5.4. Increased Height as Part of the Urban Form and Spatial Structure of Dublin**

- **SCA14: Building Height Strategy, SC15: Building Height Uses, SC16: Building Height Locations, SC17: Building Height, SC18: Landmark/ Tall Buildings**

5.3.9. **Section 4.5.5. Urban Design and Architecture**

- **SC19: High Quality Architecture, SC20: Urban Design, SC21: Architectural Design**
- **SC22: Historical Architectural Character:** *To promote understanding of the city's historical architectural character to facilitate new development which is in harmony with the city's historical spaces and structures.*
- **SC23: Design Statements.**

5.3.10. **Chapter 5 relates to Quality Housing and Sustainable Neighbourhoods**

Policies:

- **QHSN6: Urban Consolidation, QHSN10: Urban Density, QHSN11: 15-Minute City, QHSN36: High Quality Apartment Development, QHSN37: Houses and Apartments:**

5.3.11. **Chapter 6** relates to **City Economy and Enterprise**.

5.3.12. **Section 6.5.3 Key Economic Sectors – Tourism, Hotels and Events** - Avoid overconcentration of hotel development in areas of the city which currently have high levels of existing hotel development or where there is a significant number of planning applications for such development, and have regard to the existing and proposed mix of uses in the vicinity, in order to achieve wider city objectives such as to create a rich and vibrant range of uses in the city centre.

Policies

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

evening and night-time activities – see also Chapter 12, Objective CUO38.

Objectives:

- **CEE01: Study on Supply and Demand for Hotels, Aparthotels and Hostels:**

- *To carry out an analysis of the supply and demand for tourism related accommodation including hotels, aparthotels, hostels, Bed and Breakfast Accommodation and other short-term letting in the Dublin City area.*

5.3.13. **Chapter 11** relates to **Built Heritage and Archaeology** and includes the following relevant Sections, Policies and Objectives.

- **BHA2: Development of Protected Structures:**

That development will conserve and enhance protected structures and their curtilage and will:

- (a) *Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.*
- (b) *Protect structures included on the RPS from any works that would negatively impact their special character and appearance.*
- (c) *Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.*
- (d) *Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.*
- (e) *Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does*

not adversely impact the curtilage or the special character of the protected structure.

- (f) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
 - (g) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.*
 - (h) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.*
 - (i) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.*
 - (j) Have regard to ecological considerations for example, protection of species such as bats.*
- **BHA3: Loss of Protected Structures:** *That the City Council will resist the total or substantial loss of protected structures in all but exceptional circumstances.*
 - **BHA4: Ministerial Recommendations:** *To have regard to the National Inventory of Architectural Heritage (NIAH) rating of a structure and any associated Ministerial Recommendation in the assessment of planning applications.*

5.3.14. Section 11.5.3 Built Heritage Assets of the City - Z2 and Z8 Zonings and Red-Hatched Conservation Areas

The Z8 Georgian Conservation Areas, Z2 Residential Conservation Areas and red-lined Conservation Areas are extensive throughout the city. Whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.

Designated Conservation Areas include extensive groupings of buildings, streetscapes and associated open spaces and include (parts of) the medieval/walled city, the Georgian Core, the 19th and 20th century city, and the city quays, rivers and canals. The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.

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

Policies

- **BHA9: Conservation Areas:** *To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*

Enhancement opportunities may include:

1. *Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
2. *Re-instatement of missing architectural detail or important features.*
3. *Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.*
4. *Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.*
5. *The repair and retention of shop and pub fronts of architectural interest.*

6. *Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.*

7. *The return of buildings to residential use.*

Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.

- **BHA10: Demolition in a Conservation Area:** *There is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such loss would also contribute to a significant public benefit.*
- **BHA14: Mews:** *To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas.*

Objectives

- **BHA05: Mews:** *To prepare a best practice design guide regarding appropriate mews development in the city, including for the north and south Georgian cores.*

5.3.15. **Chapter 14** of the Plan relates to **Land Use Zoning**.

5.3.16. **Section 14.6** relates to **Transitional Zone Areas** and states the following:

‘The land-use zoning objectives and control standards show the boundaries between zones. While zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting

residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties (see also Appendix 3: Achieving Sustainable Compact Growth Policy for Density and Building Height in the City, Chapter 4: Shape and Structure of the City, and Chapter 15: Development Standards for guiding principles regarding criteria such as height, density, urban design).'

5.3.17. Section 14.7.8 relates to Georgian Conservation Areas (Zone Z8) where the Land Use Zoning Objective (Z8) is stated to be 'to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.' Section 14.7.10 relates to Inner Suburban and Inner City Sustainable Mixed-Uses (Zone 10) where the Land Use Zoning Objective (Z10) is stated to be 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses.' Residential, Hotel and Open Space uses are identified as being 'Permitted in Principle' on lands zoned Z8 and Z10.

5.3.18. **Chapter 15** of the Plan relates to **Development Standards**.

5.3.19. **Section 15.4.2** relates to **Architectural Design Quality** and provides a number of Key Design Principles which include the following which are considered to be of relevance to the subject proposals:

- *The character of both the immediately adjacent buildings, and the wider scale of development and spaces surrounding the site.*
- *The existing context and the relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid to void relationships, degree of uniformity and the composition of elevations, roofs and building lines. The scale and pattern of existing streets, squares, lanes and spaces should be considered.*

....

- *The suitability of the proposed design to its intended landuse and the wider land-use character of the area, along with its relationship with and contribution to the public realm.*
- *The design of new development should respect and enhance the Dublin's natural assets such as river and canal frontages, the River Liffey and many quality open spaces that contribute positively to the cityscape and urban realm, the settings of protected structures, areas of special interest and important views and that the design incorporates high quality detail, materials and craftsmanship.*

....

- *The context and orientation in relation to daylight, sunlight and overshadowing and environmental performance including climate impacts such as downdraft or wind tunnelling.*
- *The main routes which should be distinguished by exploiting vistas, key buildings and landmarks with the activities and functions of the places made visible, thus bringing a sense of liveliness to spaces.*

....

5.3.20. **Section 15.4.3** relates to **Sustainability and Climate Action**. The importance of the early consideration of waste and emissions reduction which contribute to climate change as part of the design process is emphasised and a number of Key Sustainable Design Principles are provided.

5.3.21. **Section 15.4.3** related to **Sustainability and Climate Action**

5.3.22. **Section 15.5.2** relates to **Infill Development** -

- *Infill development refers to lands between or to the rear of existing buildings capable of being redeveloped i.e. gap sites within existing areas of established urban form. Infill sites are an integral part of the city's development due to the historic layout of streets and buildings.*
- *Infill development should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed*

infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

- *As such Dublin City Council will require infill development:*
 - *To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.*
 - *To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.*
 - *Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.*
 - *In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest.*
 - *Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts in the surrounding neighbourhood.*

5.3.23. **Section 15.5.4** relates to **Height** - Appendix 3 identifies the height strategy for the city and the criteria in which all higher buildings should be assessed. **Sections 15.5.4 (Height), 15.5.5 (Density), 15.5.6 (Plot Ratio and Site Coverage), 15.5.7 (Material and Finishes), 15.5.8 (Architectural Design Statements)** are of relevance.

5.3.24. **Section 15.7** relates to **Climate Action** and includes **Section 15.7.1 (Re-use of Existing Buildings)** *Where development proposal comprises of existing buildings on the site, applicants are encouraged to reuse and repurpose the buildings for integration within the scheme, where possible in accordance with Policy CA6 and CA7. Where demolition is proposed, the applicant must submit a demolition justification report to set out the rational for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than*

demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures.

Existing building materials should be incorporated and utilised in the new design proposals where feasible and a clear strategy for the reuse and disposal of the materials should be included where demolition is proposed.

5.3.25. **Section 15.4** relates to **Commercial Development/ Miscellaneous** and includes the following sections which are of relevance.

5.3.26. **Section 15.14.1 Hotels and Apartments:**

To ensure a balance is achieved between the requirement to provide for adequate levels of visitor accommodation and other uses in the city such as residential, social, cultural and economic uses, there will be a general presumption against an overconcentration of hotels and aparthotels.

Pending the outcome of an analysis of the supply and demand for tourism related accommodation in the Dublin City area (to be carried out by Dublin City Council), hotels and aparthotels will be considered on a case by case basis having regard to the location of the site and existing hotel provision in the area.

In all instances, where the planning authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment providing a justification that the development will not undermine the principles of achieving a balanced pattern of development in the area, and demonstrating that the proposed development fully complies with the criteria set out in Policy CEE28 and in Section 15.14.1.1 and 15.14.1.2 below.

5.3.27. **Section 15.14.1.1 Hotel Development**

- *Hotel developments are encouraged to provide for publically accessible facilities such as café, restaurant and bar uses to generate activity at street level throughout the day and night. Hotels are also encouraged to provide a mix of publically accessible uses vertically throughout the building such as roof terrace restaurant and bars to further generate activity.*

- *Applications for roof top uses will be assessed having regard to the impact on neighbouring properties in terms of noise levels and overlooking.*
- *Hotel development should also be accompanied by operational management plans that demonstrate how the hotel will be serviced and traffic / drop off managed. All loading, waste collection and servicing must be provided off road in a designated loading area where feasible. Pick up and drop off services can be accommodated on street subject to adequate space being provided.*
- *Hotel room size and layout should be designed and to ensure a high level of amenity is obtained to accommodate both short and long stay durations. Adequate provision should also be provided for the storage of laundry facilities and materials.*

5.3.28. **Appendix 3 - Achieving Sustainable Compact Growth Policy for Density and Building Height in the City**

5.3.29. **Section 3.1 Height, Section 3.2 Density**

5.3.30. **Section 6.0** relates to **Guidelines for Higher Buildings in Areas of Historic Sensitivity**. It is stated that the Urban Development and Building Heights Guidelines for Planning Authorities Guidelines state that appropriate identification and siting of areas suitable for increased densities and height will need to consider the environmental sensitivities of the receiving environment as appropriate throughout the planning hierarchy. It is further stated that developments of significant height and scale are generally not considered appropriate in historic settings including conservation areas, architectural conservation areas, the historic city centre, the River Liffey and quays, Trinity College, the Cathedrals, Dublin Castle and medieval quarter, the Georgian core and historic squares and the canals or where the setting of a protected structure would be seriously harmed by the inappropriate locating of such a proposal. In relation to Protected Structures it is stated that a balance must be struck between protection and enhancement of our protected structures/national monuments whilst ensuring appropriate and sustainable development. New development must respond to local character and protect and enhance the built heritage. New development should not have an adverse impact on a protected structure or its curtilage or on a national monument in terms of scale, height,

massing, alignment and materials. Impact on protected structures/national monuments are included in the performance based criteria set out in Tables 3 and 4.

5.3.31. Other Appendices which are considered to be of relevance to the subject proposals include the following:

- Appendix 4 - Development Plan Mandatory Requirements, Appendix 5: Transport and Mobility: Technical Requirements, Appendix 6 – Conservation, Appendix 7 -Guidelines for Waste Storage Facilities, Appendix 9 – Basement Development Guidance, Appendix 10 - Infrastructure Capacity Assessment, Appendix 11 – Technical Summary of Dublin City Council Green & Blue Roof Guide, Appendix 12 - Technical Summary of Dublin City Council Sustainable Drainage Design & Evaluation Guide (2021), Appendix 13 - Surface Water Management Guidance, Appendix 14 - Statement Demonstrating Compliance with Section 28 Guidelines, Appendix 16 - Sunlight and Daylight, Appendix 18 - Ancillary Residential Accommodation.

5.4. Guidelines

- Sustainable Compact Settlement Guidelines, 2024
- Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities, 2023
- Site Layout Planning for Daylight and Sunlight, A good Practice Guide, BR 209, 2022, 3rd Edition
- Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- Architectural Heritage Protection Guidelines, 2011
- The Planning System and Flood Risk Management: Guidelines for Planning Authorities, 2009
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- Urban Design Manual, 2009

5.5. Natural Heritage Designations

5.5.1. The site is an urban brownfield site and is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 sites are as follows:

- South Dublin Bay Special Area of Conservation (SAC) (Site Code: 000210) located c. 2.06 km to the east.
- South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024) located c. 2.11 km to the east.

5.6. EIA Screening

5.6.1. Please see the EIA Screening Form (Form 3) attached as an Appendix to this Report which provides the following Conclusion:

Having regard to: -

1. the criteria set out in Schedule 7, in particular
 - (a) the limited nature and scale of the proposed mixed use residential/commercial development, in an established urban area served by public infrastructure
 - (b) the absence of any significant environmental sensitivity in the vicinity, and the location of the proposed development outside of the designated archaeological protection zone
 - (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
2. the results of other relevant assessments of the effects on the environment submitted by the applicant including
 - the Appropriate Assessment Screening Report, the findings of the Local Authority that having regard to the nature and scale of the proposed works, the Planning Authority can conclude that no appropriate assessment issues arise, that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European Site within

the 15 km zone of influence and that in the opinion of the Local Authority, the application for planning permission for the proposed development does not require Appropriate Assessment;

- the Appropriate Assessment (Natura Impact Report) of the Dublin City Development Plan, 2022 to 2028;
 - the EIA Screening Report, the findings of the Local Authority that having regard to the nature of the development in an urban area, the EIA Screening Report which concludes that the proposed development will not have a significant effect on the environment arising from the proposed development and that the need for Environmental Impact Assessment can therefore be excluded;
 - the Strategic Environmental Assessment (SEA) of the Dublin City Development Plan, 2022 to 2028.
3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, including measures identified to be provided in the Preliminary Construction and Environmental Management Plan, the Preliminary Construction and Demolition Waste Management Plan, the Architectural Heritage Impact Assessment Report, the Storm Water Management Plans and the Water supply and Wastewater Management Reports.

The Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

6.0 The Appeal

6.1. Grounds of Appeal (Third Party)

6.1.1. The Grounds of the Third-Party Appeal can be summarised as follows:

- Original Submission: The objections raised in the original submission have not been given sufficient consideration.
- Relationship to Existing Protected Structures and Overbearing: The siting of a three-storey building in the centre of the rear garden removes any relationship between the main house and its mews. The proposal will have an overbearing impact on the existing Protected Structures along Mount Street Upper and St. James's Place East. There is no ridge level provided for no. 50 on the provided section drawings. The proposal is substantially taller than the main house. New interventions to Protected Structures should be subservient to the main structure which is not the case in this instance.
- The Appellant quotes from parts a) and b) of Development Plan Policy BHA2 (Development of Protected Structures) and considers the proposed development does not in any way accord with the said recommendations.
- Conservation Department Report: The Report of the Conservation Officer has not been afforded due consideration as part of the overall planning assessment. The approach of the Local Authority appears to be to promote dense residential development which will serve to set a precedent for similar proposals into the future thereby gradually eroding the Architectural Heritage of the area.
- The Appellant quotes directly from the Assessment Section of the Conservation Officers Report relating to the issue of Overdevelopment on this sensitive site and the unsatisfactory precedent the proposal would create. The Appellant entirely agrees with the Conservation Officers assessment.
- The Appellant requests the Board to Refuse Permission.

6.2. Grounds of Appeal (First Party)

6.2.1. The Grounds of the **First Party Appeal** can be summarised as follows:

- First Reason for Refusal:
- Saint Jame's Place East: As per Z10 zoning objective the streetscape at this location is in need of regeneration. The proposal provides a strong form of development and will serve to activate this section of the street.
- Historic Plots: The Historic Plots are no longer visible and their recreation in the design is not feasible. The front elevation and landscaping refer to the historic plots.
- Protected Structures: The Protected Structures form an integral part of the design, and their readaptation has been modelled on similar hotel proposals in the City Centre. The proposed modern design to the rear protects the character and appearance of the Georgian Townhouses from the street. The nearby ESB Building is a relevant precedent in the area.
- Z10 Zoning: The Z10 zoning is to promote mixed-use in central locations, in order to deliver sustainable patterns of development in line with the principles of the 15-minute city.
- Verified Photomontages and Townscape and Visual Impact Assessment: The proposed development would not be visible from a number of surrounding locations and, in particular, Mount Street Upper. Owing to the changing surrounding context the visual impact will be positive.
- Objective 13 of the National Planning Framework: Development complies with Objective 13 in providing a High-Quality development on an underutilised site.
- Condition Omitting 2 Storeys: The concerns can be addressed by way of condition, whereby if permission is granted, two storeys of the proposed Hotel can be omitted. In support of such a proposal, the Applicant has provided an addendum Report to the previous Daylight and Sunlight Assessment in order to support the revised indicative scheme.
- Second Reason for Refusal:

Overbearing and Overshadowing:

- A separation distance of 22 metres is achieved between the proposed Hotel and the rear elevation of the adjacent protected structures. Therefore, no proposal will therefore not result in any undue overbearing.
- The Daylight and Sunlight Assessment confirms a high level of compliance with 100% meeting the minimum level and 93.3% meeting the Target level. The classrooms will continue to be well lit throughout the year. It is considered that the proposed development is acceptable in terms of Daylight and Overshadowing.

Overlooking:

- Overlooking is common for city centre commercial properties. No surrounding properties are in residential use. Adequate separation distances are observed.
- Proposed privacy screens on mews elevation provide visual interest and will avoid any undue overlooking to the school.
- The proposed roof gardens are set back in order to ensure no direct overlooking of the school. No access for Hotel Patrons to said Roof Gardens. Applicant is willing to accept a condition to control access to same for maintenance purposes only.
- Other Matters:
- Hotel Demand Assessment/ Overconcentration of Hotel Development:
- No issue raised by the Local Authority Planner did not raise any concerns. Letter from Property Consultants outlines the existing and proposed aparthotels in the catchment area and the limited number of Hotels in the vicinity.
- Highly suitable located for Hotel Accommodation. Close to tourist attractions within the City Centre. The area comprises generally of offices and residential accommodation. The proposals will add to this mix and provide for an increased choice and variety of Hotel Development in this area.
- Delivery and Servicing:

- Mount Street Upper: Only pedestrian access will be available from Mount Street Upper. All deliveries and service access will be via St. James's Place East. A set down area to front of 38-40 Mount Street will be applied for.
- St. James's Place East: Site has 55 car parking spaces at present. The proposal includes the removal of these spaces and to eliminate all associated daily trips generated by these vehicles. There are no car parking spaces proposed. There will be servicing requirements which will generate traffic. There will be no increased conflict between pedestrian and cyclists.
- Construction Vehicles: In addition to CEMP, the Building Contractor will prepare a prior Construction Traffic Management Plan to include proposals to minimise and reduce conflicts and risks between construction vehicles, pedestrians and school children.
- Embodied Carbon:
- A post decision planning condition could have suitably addressed this issue in the form of a Life Cycle Carbon Assessment. The extent of carbon emissions could be subject to change during the detailed design stage.
- Construction Carbon will be minimised by focusing on the embodied carbon through detailed design development. Operational energy will be greatly reduced as the development will achieve an A Rated - Building Energy Rating (BER). Energy consumption will be greatly reduced through the use of low energy systems.
- Arts/ Cultural/ Community Uses:
- Owing to engagements with the local community it is considered there is no requirement to provide a Social and Community Infrastructure Report to support the proposed Arts/ Cultural/ Community uses.
- Response to Additional Concerns from Third Party Submissions
 - Height, Scale and Massing: Surrounding context is of relevance. Miesian Plaza and the ESB Offices are of larger scale and height. Proposed height

of the Hotel at 4 to 7 storeys is consistent with relevant national policy guidance which promotes increased urban densities proximate to high frequency public transport and the densification and appropriate reuse of underutilised urban brownfield sites.

- Impact on Protected Structures: Third Party considers that the Hotel should be subservient to the said Protected Structures. The Applicant provides precedent cases. The proposals represent the appropriate intensification of an underutilised city centre site.
- Intensification of Use:
 - The proposal is in accordance with National Planning Policy to increase densities support compact development proximate to High Capacity/ Frequency Public Transport. The proposal will create jobs, promote sustainable development, compact urban form and makes efficient use of the lands. Proposal complies with performance criteria set out in the Building Heights Guidelines, 2018 and will successfully integrate into its contexts without undue impacts on surrounding amenities, or character of the area.
- Impact on School – Overlooking: There is no undue overlooking of the school/ privacy screens reduces overlooking.
- Traffic Impacts (Construction):
 - Third Party concerns include traffic impacts during the construction phase and potential impacts on existing bus routes. Health and Safety concerns during this phase are also raised. The CEMP references the construction phase. Access is proposed via James's Place East which will be suitably managed to minimise impacts. A final CEMP will be provided by the Contractor which would include a Construction Traffic Management Plan to ensure no significant impacts on the existing traffic patterns in the area. No conflict with the main vehicle access to Catherin McAuly National School via Baggot Street Lower. The developer is obliged by law to ensure that there are no safety risks to the public during the construction phase.

6.3. Planning Authority Response

6.3.1. A Response from the Local Authority dated 8th March 2024 states the following:

- *The Planning Department would request that the Bord uphold our decision to issue a Split Permission. The Planning Department would request that if permission is granted that the following condition(s) be applied:*
 - *A condition requiring the payment of a Section 48 development contribution.*
 - *A condition requiring the payment of a Section 49 Luas X City development contribution.*

6.4. Observations

6.4.1. A total of 4 no. Appeal Observations were received from the following:

- Philip O'Reilly, David White, Katy McGuinness & Felim Dunne, Irish Georgian Society C/o Donough Cahill.

6.4.2. The main issues raised by the Observers are covered in the Grounds of Appeal and in the submissions to the Local Authority.

6.5. Further Responses

6.5.1. The Applicant (First Party) submitted a Response to the Third Party Appeal. The issues raised in the response are focused on those raised in the Third Party Appeal which predominantly relate to the proposed residential development at No. 50 James's Place East and the rear of no. 50 Mount Street Upper (Protected Structure, RPS No. 5674) (Plot A). The Applicant notes in particular, the Z10 zoning of the lands, the relevant zoning objective for same, the design and layout of the proposed 3 storey residential block, its relationship to the ridge height of no. 50 Mount Street Upper, the proposed redevelopment of the existing Mews building, the separation distances observed, the Architectural Guidelines and National Planning Policies which support such development on underutilised brownfield sites in central locations proximate to public transport and services.

6.5.2. Further responses were received from the following:

- Philip O'Reilly,
- Katy McGuinness and Felim Dunne

6.5.3. The main issues raised in the above 2 no. further responses are covered in the Grounds of Appeal, in the submissions to the Local Authority and in the previous Observation submissions. An additional item is raised in relation to the proposed pocket park (Plot G) and its anticipated impact upon the character and setting of the Protected Structure.

7.0 **Assessment**

7.1. Introduction

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

- Zoning
- Proposed Demolition
- Overconcentration of Hotels
- Hotel Development
- Material Contravention
- Residential Development
- Traffic and Access

7.3. Zoning

7.3.1. The subject appeal site is part zoned Z8 Georgian Conservation Areas and part zoned Z10 Inner Suburban and Inner City Sustainable Mixed Use in the Dublin City Development Plan, 2022 to 2028. The stated zoning objective for Z8 lands is *'to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective'*. Residential, Hotel and Open Space are identified as uses which are 'Permitted in Principle' on lands zoned Z8 Georgian Conservation Areas. The stated zoning objective for Z10 lands is *'to*

consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'. Residential and Hotel are identified as uses which are 'Permitted in Principle' on lands zoned Z10 Inner City Sustainable Mixed Use.

7.3.2. The Guidance provided in Section 14.7.10 of the Plan in relation to Z10 zoning refers, inter alia, to *'a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment).'* The Guidance also allows for flexibility on the mix requirement for very small sites (typically less than 0.5 ha) which may be considered on a case-by-case basis, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use on the Z10 landholding as a whole. The Applicant proposal to provide the residential component of the overall development across both the Z8 and Z10 zoned lands was accepted by the Local Authority at both pre-planning stage and as part of its assessment of the proposed development. I consider this to be a reasonable approach in the circumstances, and I therefore accept the principle of the proposed residential/ commercial mix as presented.

7.3.3. I am satisfied that the principle for proposed development on the subject appeal site (Plots A to G) is acceptable subject to compliance with normal planning and environmental considerations and adherence to/ compliance with the above referenced zoning objectives.

7.4. Proposed Demolition

7.4.1. It is proposed to demolish 2 no. existing buildings at nos. 38 to 43 James's Place East. These comprise 1 no. 2 Storey Office Building (Mathews Building) and 1 no. single storey ancillary outbuilding to rear. In addition, as shown on the as existing site plan drawing (showing demolition) it is proposed to remove/ demolish an existing temporary shed, portacabins and telecommunications. The remaining original walls to the rear of no's 38 to 42 Mount Street Upper and the remaining original wall between no's 42 & 43 Mount Street Upper are also proposed to be removed/ demolished. The floor area of the buildings proposed to be demolished is stated to measure 1,533 sqm.

7.4.2. I note Section 15.4.3 of the Development Plan, which relates to Sustainability and Climate Action, requires that *'to minimise the waste embodied energy in existing*

structures, the re-use of existing buildings should always be considered as a first option in preference to demolition and new build.’ I further note Section 15.7.1 of the Plan which relates to Re-Use of Existing Buildings requires that a demolition justification report which sets out the rationale for the demolition having regard to the ‘embodied carbon’ of the existing structures must be submitted. The Report is required to demonstrate that aside from demolition, all other options are not possible such as refurbishment, extension or retrofitting. The Report should also address and evaluate the reuse of existing structures against the additional use of resources and energy arising from new construction. The incorporation of existing building materials and the utilisation of same in new design proposals, where feasible as well as a clear strategy for the reuse and disposal of materials should be included where demolition is proposed.

- 7.4.3. I note the Applicant’s Rationale for Demolition and Redevelopment Report submitted as part of the planning application documentation. The Local Authority were not satisfied that this assessment was sufficiently detailed, that it had suitably addressed issues relating to embodied carbon, or that it demonstrated that the existing structure could not be retained and reused. As part of the split decision issued, the Local Authority did not consent to the demolition of these said buildings.
- 7.4.4. A number of other Reports were submitted as part of the planning application documentation which include a Building Life Cycle Report, a Climate Action and Energy Statement, a Preliminary Construction and Demolition Waste Management Plan and a Preliminary Construction and Environmental Management Plan. None of these said Reports address the issue of embodied carbon arising as a result of the proposed development.
- 7.4.5. The Applicant, as part of the Appeal submission, has submitted additional details under the heading of embodied carbon and includes input from the Project Sustainability Consultants. The Applicant considers that information regarding the impacts related to embodied carbon could have been provided post planning as part of a condition to a permission which would require a Life Cycle Carbon Assessment. The submission from the Project Sustainability Consultants is focused on 1. Carbon generation associated with the construction process and 2. The carbon associated with the building operation.

7.4.6. Having regard to the recommendations set out in Section 15.7.1 of the plan (Re-use of Existing Buildings), the case presented in the Applicant's Appeal submission, in addition to the Demolition Justification Report submitted as part of the planning application documentation, the Applicant does not, in my opinion, suitably address the issue of embodied carbon within the existing buildings proposed to be demolished. The Applicant instead states that *'by focusing on the embodied carbon, through detailed design development, it will ensure that the carbon impact associated with the construction process will be minimised. As the development will achieve an A Rated BER, the operational energy will be greatly reduced, when compared to the current building arrangement.'* As such, it is my opinion that, although the Applicant has to some degree had regard to the issue of embodied carbon within the existing buildings, adequate justification for the proposed demolition of the existing buildings on site has not been provided in accordance with the policies and objectives of the 2022 development plan.

7.4.7. I consider the Applicant's omissions in respect of the specific issue of embodied carbon within the existing buildings are such that they contravene Section 15.7.1 of the Plan. However, owing to the fact that the Applicant has had some regard to the issue, I do not consider, such contravention to be material.

7.4.8. The Board could decide to seek Further Information from the Applicant in respect of this matter. However, having regard to the other substantive reasons for refusal set out below, it may not be necessary to pursue the matter.

7.5. Overconcentration of Hotels

7.5.1. The issue of a potential Overconcentration of Hotels in the area is raised in the Local Authority Assessment where it is stated that *'the Applicant has not sufficiently demonstrated that the proposed hotel will not result in an overconcentration of hotels or aparthotels in the area.'* I note that this issue does not form part of the 2 no. reasons for refusal issued as part of the subject Split decision.

7.5.2. In response, the Applicant has provided an updated letter from Property Consultants which states there are 20 no. hotels (2,986 no. bedrooms) and 2 no. Aparthotels (52 no. aparthotel rooms) within 1km of the subject appeal site. In addition, there are a total of 6 no. extant permissions for a total of 537 Hotel/ Aparthotel rooms within the 1 km catchment which may or may not materialise. The Applicant submits there is no

evidence of an overconcentration of existing or proposed hotels or aparthotels in the vicinity of the subject site. I am satisfied that the Applicant has suitably justified the principle of a proposed hotel at the subject site having regard to the extent of existing and proposed hotels and aparthotels in the vicinity.

7.6. Hotel Development

- 7.6.1. The proposed Hotel Development has a stated combined floor area of 13,271 sqm and includes Plots C and D. The extent of development (new build) proposed on Plot C is stated to measure 11,731 sqm and on Plot D (Georgians) is stated to measure 1,540 sqm. The Hotel is proposed to provide a total of 300 no. bedrooms in the form of 206 twin rooms, 48 no. single rooms, 20 no. universal access rooms and 26 no. suites. The building is also proposed to include Meeting Facilities, Arts and Cultural Spaces/ Café/ Bar and Dining Area, 2 no. Landscaped Courtyard Gardens and a Roof Garden. The Hotel building (new build) is proposed to measure 15.5 metres in height to parapet level along James's Place East (maximum height of 25.9 metres to top of plant room (ridge level is indicated as 36.4 metres)), 52 metres in width facing onto James's Place East and 47.6 metres in depth. The adjacent Protected Structures facing onto Mount Street Upper (no's 38, 39 & 40) are shown to have a maximum chimney pot level of 28.9 metres. This means the proposed 7 storey over basement Hotel building, at its highest point (ridge level at top of plant room 36.4 metres) is at least 7.5 metres above the ridge level of the said adjacent Protected Structures. The proposed relationship between the Hotel Building and the surrounding Protected Structures is shown on Drawing no. A2111-03-030 (Proposed Front Elevation (North) as Existing and Proposed).
- 7.6.2. I note Figure 1.7 of the Architects Design Statement shows the proposed Hotel building with a maximum height of 24 metres relative to surrounding buildings in the area including the Miesian Plaza (36 metres in height) to the southwest of James's Place East and ESB Offices (29.5 metres in height) to the west at James's Street East. The Applicant considers the proposed Hotel Building is not out of scale within its context and notes the proposed street facing elevation onto James's Place East, at 15.7 metres, is below that of the street facing elevations of the notable surrounding buildings.

7.6.3. The subject appeal site however, in my view, differs from the surrounding contexts and settings of the above referenced buildings. The subject appeal site (including Plots C & D), in the first instance, forms part of the original rear gardens and mews of 7 no. Protected Structures on Mount Street Upper (no's 37 to 43) and no's 37 to 43 James's Place East. In addition, the majority of the proposed development site faces onto James's Place East which is an historic mews lane. As noted in the Conservation Officer's Report, almost all of the historic mews buildings have been removed from James's Place East, with the exception of one surviving example at no. 50 James's Place East, which is a 2 storey building. The buildings on this side of James's Place East are generally 2 storeys in height and include the existing office building (Mathews Building) proposed for demolition. Other notable buildings in the area include the adjacent 3 storey school building on the south side of James's Place East and no. 30 Herbert Street (17.7 metres in height) which is a 5 storey above basement office building located further to the east. There is no existing precedent building on the subject appeal site or within the general locality which shares the same setting and context to the subject appeal site to the rear of 7 no. Protected Structures and which faces directly onto an historic mews lane. I am therefore satisfied that the character and setting of the subject appeal site, to the rear of said Protected Structures and facing onto an historic mews lane, differs significantly to that of surrounding sites in the wider area. I am further satisfied that notable nearby taller commercial buildings cannot therefore be relied upon as relevant design references or precedent developments having regard to the sensitive context and character of the subject appeal site.

- *Built Heritage Impacts (Hotel)*

7.6.4. I note the specific guidance in relation to Mews Developments as set out in Section 11.5.3 of the Development Plan. In particular, Sections 15.13.5.1 (Design and Layout) and 15.13.5.2 (Height, Scale and Massing). While it is accepted that the Hotel element of the proposed development is not strictly a mews development in the conventional sense, i.e. pertaining to a single mews plot, it is my opinion that similar design principles apply and are therefore applicable in this instance. These include, for example, new buildings serving to compliment the character of the mews lane and the main buildings with regard to scale, massing, height, building depth and

so forth. The proposed Hotel Development is not subordinate in terms of Height and Scale to the main buildings (7 no. Protected Structures along Mount Street Upper).

- 7.6.5. I note Policy BHA14 (Mews) expressly refers to the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core. The Policy further specifically refers to sensitively designed, appropriately scaled, infill residential development. The focus of the Mews development policy, in my opinion, is to encourage residential development to an appropriate scale and design. Although the proposed Hotel development will serve to remove inappropriate backland car parking areas, it is not for residential development and is not, in my view, to an appropriate scale or sensitively designed for the mews lane setting as envisaged in the Policy.
- 7.6.6. Policy BHA9 (Conservation Areas) seeks to protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. The subject appeal site, although predominantly zoned Z10 (Inner Suburban and Inner City Sustainable Mixed Use), includes lands zoned Z8 (Georgian Conservation Area) and is entirely within the red hatched Georgian Conservation Area. The policy states, inter alia, that *'development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible...'*. A number of enhancement measures are set out in the Policy which include *'no. 4 Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.'* I consider the proposed development, as presented, and in particular the proposed Hotel Development, does not serve to positively contribute to the character and distinctiveness of the Conservation Area and does not take opportunities to protect and enhance the character of the Conservation Area.
- 7.6.7. Policy BHA2 relates to the Development of Protected Structures. This policy relates to the Protected Structure itself as well as its curtilage. Reason for refusal no. 1 includes reference to this policy, in particular subsections a), b), d), e), f), g) and h). Having reviewed the stated policy and stated subsections, it is my opinion that the proposed Hotel Development, as presented, and by reason of its excessive height, scale, mass and bulk serves to negatively impact upon the special character and

appearance of the adjacent Protected Structures, does not respect the historic fabric of the Protected Structures and adversely impacts upon the respective curtilages.

- *Impact of (Hotel) on Neighbouring Properties – Overlooking, Loss of Privacy and Overbearance*

- 7.6.8. I note the concerns of the Local Authority in relation to the issue of Overlooking. The main areas of concern are to the front and rear of the proposed Hotel Building owing to the extent of glazing proposed. At the rear of the proposed Hotel Building, I estimate the northernmost projection alone would provide a total of 44 no. individual windows over 4 floors. This is in addition to full height glazing, for the majority of the width of the recessed ground floor and extensive additional glazing on each floor for the remainder of this elevation. Notwithstanding the maximum separation distance of 23.5 metres between the main rear façade of the Protected Structures and the rear elevation of the proposed Hotel, it is my opinion, the extent of glazing proposed to the rear of the Hotel, together with the proposed intensity of use, is such that it will give rise to an unacceptable level of overlooking and a loss of privacy for the adjoining properties to the rear.
- 7.6.9. I note a similar concern in relation to Overlooking is raised by the Conservation Officer in respect of the front of the proposed Hotel Building facing onto James's Place East and the stated overwhelming dominance of the form compared with the scale of the school buildings. The proposed front elevation onto the historic mews lane (James's Place East) includes full height glazing for the majority of the Ground Floor. It is also proposed to have a total of 42 no. twin bedroom windows at the First, Second and Third Floors facing onto the historic mews lane, 14 no. twin rooms on each floor. At the fourth floor it is proposed to provide a Roof Garden on the Front Elevation with 7 no. single bedrooms set back c. 4.4 metres from the edge. The same set back is replicated at the fifth floor where it is proposed to provide the same number of single bedrooms. At sixth floor level it is proposed to provide a glazed corridor behind a roof garden.
- 7.6.10. As shown on the proposed south elevation drawing no. A2111-03-301, it is proposed to provide a curtain walling glazing system which spans the first to fourth floors in 7 no. protruding metal box sections which include vertical metal screens. Section 6.4.2

of the Architects Design Statement provides a design justification and background as to the purpose of the proposed screens.

7.6.11. Having regard to the proximity of the proposed development site relative to the adjacent school and associated playground to the immediate south, the extent of glazing proposed along this elevation, particularly on the ground to fourth floors and notwithstanding the Applicants proposed screening measures to 'limit' views out to the school, I would still have concerns as to the potential for undue overlooking of the school property arising as a result of the proposed development. It is unclear, for example, how the vertical metal louvre screens are proposed to operate and be managed. Although the proposed measures would serve to 'limit' views of the school property there would still nonetheless, in my view, be the potential for a perception of being overlooked to arise. This, together with the scale and height of the proposed Hotel design at this location and the proximity of the site to the said school property means the proposed building presents an overbearing effect upon its surroundings at this location and, in particular, the adjacent school property. In this regard, I would share the concerns of the Local Authority in respect of the issue of Overlooking, Loss of Privacy and Overbearance at this location.

- *Impact of (Hotel) on Neighbouring Properties - Daylight, Sunlight and Overshadowing*

7.6.12. The Applicant submitted a Daylight and Sunlight Assessment which has been carried out in accordance with recommendations contained in BRE Guide 209 2022 (Third Edition): Site layout planning for Daylight and Sunlight: A guide to good practice, and has had regard to IS EN17037:2018 and BSEN17037:2018+A1:2021. As per guidance set out in Section 5.3.7 of the Sustainable Compact Settlement Guidelines, 2024, in relation to Daylight, I consider BRE Guide 209 2022 and the above stated standards to be of relevance in the assessment of Daylight and Sunlight for the proposed development.

7.6.13. I note the Assessment found the proposed development to be below minimum thresholds for the Virtual Sky Component (VSC) for both the adjacent school building and office block at no. 50 Herbert Place and significantly below minimum sunlight standards for the majority of the selected 7 no. gardens and open spaces within the proposed development, with the exception being Plot G (Public Park). The

Assessment did not include the proposed internal garden space in the centre of the proposed Hotel or the Hotel Courtyard to the north. A separate sunlight assessment for the school playground and the existing amenity space to the side/ east of the adjacent Office Block at No. 50 Herbert Place found these spaces to be within acceptable limits. Based on the existing and proposed Shadow Projection Diagrams for 21 March, it is evident, in my opinion, that the proposed Hotel building will serve to significantly increase the extent of overshadowing experienced by surrounding properties.

7.6.14. I am satisfied that the proposed Hotel Development, as presented, serves to impact negatively upon surrounding properties, including the adjacent school building, the surrounding existing office buildings and the proposed amenity areas within the scheme, in terms of overbearance, loss of daylight and overshadowing.

- *Layout of proposed Hotel*

7.6.15. The primary means of access to the proposed Hotel is via the proposed main entrance at no. 39 Mount Street Upper. As set out in the Architects Design Statement, see Section 6.0, the main Hotel reception is proposed to be located within the new build element to the rear on Plot C. At the rear of the site, facing onto James's Place East, it is proposed to provide a Multi-Use School Space (Arts/ Cultural) of 180 sqm GFA with direct access to James's Place East. There is no direct access or formal entrance to the main Hotel for members of the public from James's Place East. This element of the proposed design, notwithstanding the concerns raised above in relation to the principle of the proposed Hotel at this location, does not, in my opinion, suitably adhere to recommendations for Hotel Development set out in Section 15.14.1.1 of the Development Plan. In particular, the proposals do not serve to generate any significant activity at street level throughout the day. This, in my view, does not accord with normal urban design principles and, by extension, the proper planning and sustainable development of the area.

- *Transitional Zone Area*

7.6.16. The proposed Hotel development is located for the most part on lands zoned Z10 (Inner Suburban and Inner City Sustainable Mixed-Uses). I note the guidance set out in Section 14.6 of the Development Plan relating to Transitional Zone Areas, particularly where it is stated that *'it is important to avoid abrupt transitions in scale*

and land-use between zones’ and that ‘in dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones.’

7.6.17. I consider the subject appeal site represents such a Transitional Zone Area. The height, scale and bulk of the proposed Hotel development at this location is, in my opinion, such that it results in an abrupt transition in scale and indeed land-use between two zones and presents detrimental impacts to the more environmentally sensitive zone, being that of the adjacent Protected Structures, the historic mews lane and the wider conservation area.

- *Revised Proposals*

7.6.18. As part of the Appeal submission, the Applicant has presented a revised proposal for the Hotel building which includes the omission of the top 2 no. floors. The revised proposals are supported by an addendum to the initial Daylight and Sunlight Assessment and indicate a reduced overall height of the building by 6.0 metres from 25.9 metres to 19.9 metres. Owing to the extent of glazing proposed at the front and rear of the building, I still have serious concerns in relation to undue overlooking of adjacent properties to the north and south, including the adjacent school. I am not satisfied that the proposed amendments serve to suitably address the concerns raised in relation to overlooking. The revised proposals, which still include a basement level, in my view, serve to present similar built heritage and conservation concerns as the initial proposals. These include, for example, impacts upon the original mews plots, the historic mews lane and the general character and setting of the conservation area and adjacent protected structures. In this regard, I am not satisfied that the revised proposals represent an appropriately scaled proposal for this sensitive conservation area. I would also still be concerned that the revised proposals represent an abrupt transition in scale and bulk at this location. I note the Daylight and Sunlight Assessment - Addendum Report. I note the revised assessment finds that, as a result of the proposed amendments, there will be marginal improvements in terms of daylight levels to the surrounding buildings and to the classrooms of the adjacent school. It is further found that there will be no reduction to the available sunlight to the amenity space. Having regard to my assessment of the initial Daylight and Sunlight Assessment further above in Sections 7.6.12 to 7.6.14, to the revised design proposals presented as part of the appeal,

including the updated/ Addendum Daylight and Sunlight Assessment Report, I am not satisfied that the revised proposals serve to fully alleviate concerns in relation to negative impacts upon surrounding properties, including the adjacent school building, the surrounding existing office buildings and the proposed amenity areas within the scheme, in terms of overbearance, loss of daylight and overshadowing. In summary, the revised proposals do not, in my opinion, serve to suitably address the fundamental concerns raised in the above assessment, particularly in respect of the excessive height, scale, mass and bulk of the proposed Hotel development and its associated impacts upon surrounding built heritage, the subject Georgian Conservation Area, the historic mews lane and established properties in the area.

7.7. Material Contravention

- 7.7.1. I note the Local Authority's reason for refusal no. 1 issued as part of the Split Decision states that the proposed hotel development would materially contravene Policies BHA2 (a), (b), (d), (e), (f), (g), (h), BHA9 and BHA14, and Sections 11.5.3, 15.13.5.1 and 15.13.5.2 of the Dublin City Council Development Plan 2022-2028. Policy BHA2 refers to Development of Protected Structures, Policy BHA9 to Conservation Areas and Policy BHA14 to Mews Developments. Section 11.5.3 relates to Built Heritage Assets in the City, Section 11.5.3.1 to Design and Layout of Mews Developments and Section 15.13.5.2 to Height, Scale and Massing of Mews Developments.
- 7.7.2. I note Hotel use is identified as a use which is 'Permitted in Principle' on lands zoned Z8 (Georgian Conservation Areas: *To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*) and Z10 (Inner Suburban and Inner City Sustainable Mixed-Uses: *To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses*). The proposed Hotel (New Build) is predominantly located on lands zoned Z10.
- 7.7.3. Having regard to the location of the proposed Hotel development, to the rear of 7 no. Protected Structures and within a Georgian Conservation Area and positioned along an historic mews lane, I am satisfied that the proposed height, scale, massing, form and design of the proposed Hotel, together with the proposed excavation of a large

basement area, is such that it represents a material contravention of the aforementioned development plan policies and sections.

- 7.7.4. Where the Board is of the same opinion that a material contravention arises, permission may only be granted in accordance with the circumstances set out in Section 37 (2) (b) of the Planning and Development Act, 2000, as amended.

7.8. Residential Development

- 7.8.1. The subject appeal site comprises Plots A to G. Plots A, B, E & F are proposed for residential use. The Local Authority has approved permission for the development of these said 4 no. plots for residential use, albeit with some minor amendments by way of conditions, see conditions 6 and 7, in particular, as quoted above in Section 3.0.

- Plot A

- 7.8.2. Plot A (rear of no. 50 Mount Street Upper (Protected Structure ref. no. 5674) and including no. 50 James's Place East) comprises an existing 2 storey Mews dwelling which faces James's Place East and includes surface car parking to the front and rear.

- Plot A (Mews Building and 3 Storey Apartment Building)

- 7.8.3. The proposed development includes the redevelopment of the existing Mews building facing onto James's Place East to provide 1 no. 2 bedroom (4 person) house. The proposed Mews house has a maximum height of 7 metres (ridge Level of 17.1 metres) and an estimated overall gross floor area of 91 sqm (33 sqm on the ground floor and 58 sqm on the first floor). Private open space of 25.1 sqm is proposed to be provided to the rear of the structure, vehicular access to the rear of the main Protected Structure (no. 50 Mount Street Upper) is proposed to be maintained via the existing archway.
- 7.8.4. A new 3 storey Apartment Building is proposed to be positioned to the rear of the Mews building. The Apartment Building is proposed to have an overall height of 11 metres (ridge level 21 metres). The ground floor Studio Apartment has a stated Gross Floor Area of 41.7 sqm and the 2 no. upper floor 2 Bedroom (4 Person) Apartments have a stated Gross Floor Areas of 104.6 sqm each. A separation distance of c. 11.6 metres to the south of the 3 storey rear return of the Protected

Structure (no. 50 Mount Street Upper) and 10 metres to the rear of the Mews building is proposed to be observed.

- (Plot A) Future Residential Amenity of Protected Structure/ Removal of Car Parking

7.8.5. I note the concerns of the Conservation Officer regarding the potential impact of the proposed 3 Storey Apartment building upon the future residential amenity of the Protected Structure at no. 50 Mount Street Upper should it ever return to residential use and require a meaningful garden amenity space. As per the submitted plans the area of the rear of the Protected Structure (no. 50) is proposed to be retained for the purposes of car parking. I estimate the area to the rear of the rear return of the Protected Structure (no. 50) to measure c. 93 sqm. The Conservation Officer is concerned that the proposed retention of 3 no. car parking spaces to the rear of no. 50 will have a seriously negative adverse impact upon the amenity of the architectural quality of the ground floor unit of the new building. I note the Transportation Planning Division also raised concerns as to the principle of car parking at this location and that this is reflected in condition no. 6 a) which expressly omits all said car parking to the rear of no. 50 Mount Street Upper. I note that although the proposed redline boundary does not include this said area of car parking to the rear of no. 50 Mount Street Upper, it is nonetheless located within the blueline boundary and therefore within the control and ownership of the Applicant. I am satisfied that the removal of car parking as stipulated in condition no. 6 a) is appropriate in this instance and is in accordance with development plans and policies and objectives which seek to remove surface car parking from the rear of Protected Structures. I consider the removal of said car parking and replacement of same with amenity space will serve to enhance the residential amenities of future residents.

7.8.6. It is proposed to provide 2 no. balconies on the first and second floors of the new Apartment block to serve bedrooms 1 and 2 of Apartments 2A.1 and 2A.2. Separation distances of c. 11.6 metres between the 2 no. buildings and 12.7 from the centre of the proposed bedroom windows are proposed to be observed. I note it is also proposed to provide privacy screens with fritted glazing to the said balconies. Having regard to the proposed introduction of privacy screens to the respective

balconies, I am satisfied that the proposed development will not result in any undue overlooking of the rear of the adjoining Protected Structure (no. 50).

- (Plot A) Private Amenity Space

- 7.8.7. The Conservation Officer is concerned that the gardens and amenity spaces for the proposed residential units on Plot A are insufficient. The proposed private amenity space for the studio apartment measures 16.4 sqm and for each of the 2 no. 2 bedroom apartments measures 17.6 sqm respectively. This exceeds the minimum private amenity standards as set out in the Apartment Guidelines, 2023.
- 7.8.8. The mews building is proposed to be converted into a 2 bedroom dwelling. This includes the provision of 25.1 sqm of private amenity space. This is below the minimum private open space standard for a new 2 bedroom house of 30 sqm, as set out in SPPR 2 of the Sustainable and Compact Settlement Guidelines, 2024. However, having regard to the nature of this element of the subject proposal, which involves the conversion of the existing mews building into residential use as opposed to the construction of a new dwelling, the extent of communal open space provided within plot A (24.6 sqm), the nature of the proposed mews building refurbishment works, the urban infill nature of the site and the restricted plot size of 0.0376 hectares, I am satisfied that a relaxation is justified in this instance in relation to a shortfall of 4.9 sqm of private amenity space as per recommendations contained in SPPR 2 of the above said Guidelines. In my opinion, the proposed private amenity space arrangements for Plot A are adequate and will serve to achieve an acceptable level of residential amenity for the future occupants of the proposed dwelling units on Plot A, whilst also protecting the setting of the Protected Structure. Should the Board have a concern in this regard, the recommended minimum private amenity space requirement for the said dwelling can readily be increased to 30 sqm by reducing the size of the private amenity space associated with the adjacent studio Apartment. Should the Board see fit, such an amendment can be agreed by way of condition in the event of a Grant of permission being issued.
- 7.8.9. As previously mentioned, it is recommended that the car parking to the rear of the Protected Structure be omitted. The area vacated, as per condition 6 a) of the Local Authority Notification of Decision to Grant permission, should be provided for the

enhancement of the amenity space to the Protected Structure. This will serve to increase the extent of amenity space within the overall site.

- (Plot A) Overbearance

7.8.10. I note the issue of Overbearance is raised in the Third Party Appeal wherein it is considered that the proposed 3 storey Apartment Building will have an overbearing impact upon the existing Protected Structure. I note the ridge level of the rear return (18.9 metres) of the Protected Structure, the ridge level of the proposed 3 Storey Apartment Building (21.4 metres) and the ridge level of the existing and proposed mews building (17.1 metres) to the rear of the site. I also note, as per the revised contextual section drawing (A2111-03-146) submitted by the Applicant in the Response to the Third Party Appeal, that the ridge level of the main building, no. 50 Mount Street Upper, is indicated to be 26.5 metres. This means that the proposed ridge level of the Apartment Building (21.4 metres) is 5.1 metres below that of the main Protected Structure (26.5 metres) and 4.3 metres above the ridge level of the mews building (17.1 metres). The ridge level of the proposed Apartment Building (21.4 metres) is however 2.5 metres above the ridge level of the rear return of the main building (18.9 metres).

7.8.11. I do not agree with the Third Party that *'the proposal is substantially taller than the main house.'* Similarly, owing to the separation distances and the aforementioned ridge levels proposed to be observed, I do not consider the proposed 3 storey Apartment building, as presented, will result in an Overbearance of the main Protected Structure. Furthermore, in my opinion, the proposed Apartment Building is subservient to the main structure.

7.8.12. Finally, I note the proposed relationship between the existing mews building (ridge level 17.1 metres) and the proposed Apartment Building (ridge level 21.4 metres). The ridge level of the proposed 3 storey Apartment Building is estimated to be c. 4.3 metres above the ridge level of the mews building/ dwelling. A separation distance of 9.7 metres is proposed to be observed between the buildings. I note the principle of a three storey apartment building on Plot B is acceptable to the Conservation Officer. Having regard to the foregoing, I am satisfied that the proposed development, as presented, will not present an unacceptable overbearing impact upon the character and setting of the existing mews building.

- (Plot A) Overdevelopment

7.8.13. I note the concerns of the Conservation Officer that the introduction of a new residential building between the Protected Structure and the structure to the rear of the block constitutes overdevelopment. I estimate the Plot Ratio to be c. 0.9 which is below the recommended indicative Plot Ratio of between 1.5 – 2.0 for a Conservation Area as per Table 2 of Appendix 3 of the Development Plan. I also estimate the proposed site coverage to be c. 48% which is within the recommended indicative site coverage range of between 45 to 50% for conservation areas also set out in the abovementioned Table 2 of Appendix 3 of the Development Plan. The proposed development on Plot A therefore, as presented, is below the recommended Plot Ratio range and within the proposed Site Coverage range for a Conservation Area.

7.8.14. The Conservation Officer is concerned that the proposed development would destroy the sensitive relationship between the main Protected Structure and its garden space and that this would create an unsatisfactory precedent in similar scenarios where there are long gardens to the rear of Protected Structures.

7.8.15. I note the overall plot for no. 50 Mount Street and no. 50 James's Place East measures 86.5 metres in length. At its closest point, I estimate the 3 storey rear return of the main Protected Structure to be 45 metres from the rear of the original mews building. The proposed new Apartment Building has a maximum length of 23.1 metres and is centred within the plot with generous separation distances to both the main Protected Structure and the mews building to the rear. A link between the front and rear of the site will be maintained.

7.8.16. Section 15.13.5 of the Plan relates to Mews. The proposed development seeks to retain and conserve the existing mews structure for the purposes of residential use. Although a relevant consideration in terms of the protection of architectural heritage, the relationship between the front and rear of the site will not be entirely severed. Although the removal of a vehicular link is recommended, a pedestrian link can still be maintained.

7.8.17. I note Policy BHA14 relates to Mews. The proposed development represents infill residential development as well as removing backland car parking. In my view, the proposed development, as presented, serves to respect the character and setting of

the mews structure while at the same time achieving an appropriately scaled residential development within the subject plot.

7.8.18. Both the proposed fenestration arrangement and the final external materials, as per the proposed development on Plot B, should be conditioned in the event of a Grant of permission being issued.

- Plot B

7.8.19. Plot B (rear of no. 47 Mount Street Upper (Protected Structure ref. no. 5671) and including no. 47 James's Place East) is accessed from James's Place East and is in use for surface car parking. It is proposed to construct a 3 storey Apartment block with a stated maximum height of 11.3 metres (ridge level 21.7 metres) facing onto James's Place East and comprising 2 no. 2 bedroom (4 person) Apartments. It is proposed to maintain vehicular access to the rear of Plot B and the remainder of the rear of no. 47 Mount Street Upper. The Local Authority has consented to the proposed residential development on Plot B.

7.8.20. I note the Conservation Officer, in principle, supports the proposed development on Plot B but has raised some concerns in respect of the proposed use of fibrous cement cladding, further consideration and refinement of the proposed fenestration on the front and rear elevations and the barge edge detail enclosing the building.

7.8.21. I note condition no. 5 a) relates to Plot B and requires revised materials in accordance with the recommendations of the Conservation Officer, i.e. the replacement of the fibrous cement cladding with a high-quality material/metal such as zinc or copper. I note this condition nor indeed any of the conditions imposed do not require a revised design in terms of the barge edge detail enclosing the building as referenced by the Conservation Officer.

7.8.22. Condition no. 6 b) also relates to Plot B and requires that 2 no. car parking spaces to the rear of no. 47 Mount Street Upper shall be allocated to the proposed residential use at Plot B.

7.8.23. I note permission was recently granted on the adjacent site to the immediate east, no's. 45 to 46 James's Place East, for a development which included the addition of a rear third floor to the existing building, as planning reg. ref. no. 3414/24 refers. This permission, in my view, establishes the principle of 3 storeys at this general location.

I am satisfied that the principle for the proposed 3 storey residential development on Plot B is acceptable. I agree with the Local Authority in respect of the proposed external treatments and the replacement of same with high-quality material/metal such as zinc or copper.

7.8.24. In relation to the excessive fenestration concerns raised by the Conservation Officer, I note there are recessed balconies proposed on both the first and second floors to both the front and rear of the building and that the said balconies are proposed to be fronted with toughened glass. Notwithstanding the said recessed balconies, the entire first and second floors end elevations are proposed to be glazed which in my view is excessive having regard to the setting of the subject site within the curtilage of a Protected Structure and its location within a conservation area. I agree with the assessment of the Conservation Officer in this regard and therefore, in my opinion, a condition should be attached in the event of a Grant of permission being issued which seeks revised fenestration arrangements. I note the mews building at no. 50 James's Place East has barge boards to the side of the roof. I therefore have no objection to the proposed barge/ edge detail, as presented.

- Plot E

7.8.25. Plot E comprises no. 41 Mount Street Upper (Protected Structure ref. no. 5665) which is currently in Office use. It is proposed to convert the building into residential use in the form of 4 no. 1 bed (2 person) Apartments and 1 no. 4 bed (8 person) triplex Apartment.

- *(Plot E) Proposed Demolition*

7.8.26. As shown on the submitted Site Plan (As Existing (Showing Demolition, Drg. No. A2111-03-002), it is proposed to remove/ demolish an existing single storey storage shed, to remove an existing portacabin structure and to remove existing telecommunications equipment predominantly in the form of a series of telecommunications dishes mounted on the flat roof of the said shed. I have no objection to this element of the proposed development.

- *(Plot E) Proposed Residential*

7.8.27. The proposed change of use to no. 41 Mount Street Upper includes the provision of 4 no. 1 bedroom (2 Person) Apartments (including 1 no. 1 bedroom (2 Person)

Duplex Apartment) and 1 no. 3 bedroom (6 Person) Duplex Apartment. The Local Authority has consented to the principle of residential use on Plot E. Apartment no. 1, which is a 1 bedroom (2 person) Apartment, is proposed at Lower Ground Floor Level and has a stated floor area of 68 sqm. Apartment no. 2, which is also a 1 bedroom (2 person) Apartment, has a stated floor area of 53 sqm and is proposed to be located at Ground Floor Level. Apartment no. 3 is a 1 bedroom (2 person) Duplex Apartment which measures 44.4 sqm and is proposed to be located at both Lower Ground Floor and Ground Floor levels. Apartment no. 4 is also a 1 bedroom (2 Person) Apartment, has a stated floor area of 64 sqm and is proposed to be located at First Floor level. Finally, Apartment no. 5, which is a 3 Bedroom (6 person) Duplex Apartment, has a stated floor area of 159.8 sqm and is proposed to be located on the Second and Third Floors. I note an area of communal amenity space measuring 39 sqm is proposed at Lower Ground Floor Level.

7.8.28. I note Apartment 3 is a duplex unit and has a stated floor area of 44.4 sqm which is below the minimum apartment floor area standard for a 1 bedroom unit (45 sqm) as set out in the Apartment Guidelines, 2023. The proposed internal floor areas are also below the minimum aggregate floor areas for both the combined living area/ dining/ kitchen (stated to measure 17sqm (minimum standard is 23 sqm)) and the minimum bedroom size (stated to measure 10.8 sqm (minimum standard is 13 sqm)). The proposed living room width is also below standard (stated to be 2.7 metres (minimum standard is 3.3 metres)). The Local Authority Planner, owing to the substandard width of Apartment no. 3, recommends that it be omitted and that the lower ground floor and ground floor of the subject building be laid out as per the proposed corresponding floor plan layouts (lower and ground floor) as no. 37 (Plot F), as per drawing no's A2111-03-010 and A2111-03-011. I consider this arrangement to be reasonable in the circumstances. This can be conditioned in the event of a Grant of permission being issued.

7.8.29. I note the Conservation Officer raises no objection to the principle of the proposed works save for the submission of some additional details in relation to service runs, the impact on the historic fabric and the reinstatement of a meaningful garden/ external amenity to serve these buildings which is reflective of the historic plot and previously removed boundary walls and to submit drawings to fully describe the works proposed and the conservation gain arising. The recommendations of the

Conservation Officer, in respect of Plot E, should be attached as part of a condition in the event of a Grant of permission being issued.

7.8.30. I am satisfied that the proposals for Plot E, save for the amendments referenced above, are acceptable in accordance with policy BHA9 (Conservation Areas), particularly in terms of the return of buildings within the Conservation areas to residential use.

- Plot F

7.8.31. Plot F comprises no. 37 Mount Street Upper (Protected Structure ref. no. 5661) which is currently in Office use. It is proposed to convert the building into residential use in the form of 4 no. 1 bedroom (2 person) Apartments and 1 no. 4 bedroom (8 person) Triplex Apartment. The Local Authority has consented to the principle of residential use on Plot F. Apartment no. 1, which is a 1 bedroom (2 person) Apartment, proposed at Lower Ground Floor Level and has a stated floor area of 84.4 sqm. Apartment no. 2, which is also a 1 bedroom (2 person) Apartment, has a stated floor area of 45 sqm and is proposed to be located at Ground Floor Level. Apartment no. 3 is a 1 bedroom (2 person) Apartment which measures 55 sqm and is proposed to be located at Ground Floor Half Landing level. This Apartment (no. 3) also includes part of the rear First Floor Half Landing of no. 38 Mount Street Upper. Apartment no. 4 is also a 1 bedroom (2 Person) Apartment, has a stated floor area of 66.2 sqm and is proposed to be located at First Floor level. Finally, Apartment no. 5, which is a 4 Bedroom (8 person) Triplex Apartment, has a stated floor area of 231.3 sqm and is proposed to be located on the Second, Third and Fourth Floors. I note an area of communal amenity space measuring 30 sqm is proposed at Lower Ground Floor Level.

7.8.32. Similar to the comments for Plot E, the Conservation Officer raises no objection to the principle of the proposed works save for the submission of some additional details in relation to service runs, the impact on the historic fabric and the reinstatement of a meaningful garden/ external amenity to serve these buildings which is reflective of the historic plot and previously removed boundary walls and to submit drawings to fully describe the works proposed and the conservation gain arising. The recommendations of the Conservation Officer, in respect of Plot F,

should be attached as part of a condition in the event of a Grant of permission being issued.

7.8.33. As mentioned, Apartment no. 3 includes the amalgamation of part of the rear First Floor Half Landing of no. 38 Mount Street Upper. This element of the proposed works will not result in any external works to the buildings and is solely related to the existing rear return and not the main building. I do not consider there has been any mislabelling of Apartment no's on behalf of the Applicant.

7.8.34. I am satisfied that the proposals for Plot F, save for the amendments referenced above, are acceptable in accordance with policy BHA9 (Conservation Areas), particularly in terms of the return of buildings within the Conservation areas to residential use.

7.9. Pocket Park (Plot G)

7.9.1. It is proposed to provide a Pocket Park at Plot G between no's 33/ 34 Mount Street Upper and 30 Herbert Street. Plot G is L shaped, is estimated to measure c. 286 sqm in area and is in current use for surface car parking (providing a minimum of 7 no. car parking spaces) and circulation. The proposals seek to convert the side and part of the front of the Plot to a landscaped Pocket Park. The proposals will result in the loss of the said 7 no. car parking spaces. The Pocket Park will still continue to be accessible from the rear of no. 35 Mount Street Upper, will be accessible to the public and will not be segregated from the remainder of the Plot. I am satisfied that the proposals for Plot G are acceptable and will serve to compliment the open space provision for the residential elements of the proposed development.

7.10. Traffic and Access

- *Traffic and Access for Plots A, B, E and F*

7.10.1. I note the Report from the Transportation Planning Division as it pertains to the proposed residential uses at Plots A, B, E and F. A Request for Further Information was recommended in relation to 3 no. main issues, i.e. 1. Public Road, 2. Other Access and 3. Cycle Parking.

7.10.2. In relation to Plot A and as discussed further above, I agree that car parking to the rear of No. 50 Mount Street should be omitted and that vehicular access to the rear be curtailed. This should be conditioned in the event of a Grant of permission being

issued. I also agree that adequate cycle parking should be provided within the scheme. This can also be conditioned.

8.0 Appropriate Assessment (AA)

8.1. Appropriate Assessment Screening Determination

8.1.1. Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on

- North Dublin Bay SAC (Site Code 000206)
- South Dublin Bay SAC (Site Code 000210)
- North Bull Island SPA (Site Code 004006)
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)
- Northwest Irish Sea SPA (Site Code 004236)

in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment (and submission of a Natura Impact Statement (NIS)) is not required.

This determination is based on:

- The nature and scale of the proposed development and the lack of impact mechanisms that could significantly affect a European Site, including the above referenced European Sites.
- The location and distance of the subject appeal site relative to European sites, including the above referenced European sites and the weak and indirect connections to said European sites.
- No significant ex-situ impacts on wintering birds.

9.0 Water Framework Directive

9.1. Screening the need for Water Framework Directive Assessment Determination

- 9.1.1. The subject appeal site is located in an inner urban location and is brownfield in nature. The site lies above the Dublin Groundwater Body. Other nearby water bodies include the Grand Canal (located c. 175 metres to the southeast) and the River Dodder (located 1.1 km to the northeast).
- 9.1.2. The proposed development includes Demolition of buildings; Construction of hotel, Change of use of Protected Structures to 12 residential apartments, Conversion of mews to residential, Construction of 5 dwellings along with all associated site works. A detailed development description is provided in Section 2.0 above. No water deterioration concerns were raised in the planning appeal.
- 9.1.3. I have assessed the proposed mixed use commercial and residential development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 9.1.4. The reason for this conclusion is as follows:
- Nature of the proposed works and the confined nature of the subject site;
 - Location-distance from nearest Water bodies and lack of direct hydrological connections

9.2. Conclusion

- 9.3. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

10.1. I recommend a **SPLIT DECISION** to

GRANT permission for the following elements of the proposal:

- Change of use of Nos. 37 and 41 Mount Street Upper from office to residential to provide 8 no. 1 bed apartment units and 1 no. 3 bed apartment unit and 1 no. 4 bed apartment unit;
- Conversion of the existing mews building at No. 50 James's Place East (to the rear of No. 50 Mount Street Upper) to a residential dwelling (2 no. bedrooms);
- Construction of a 3 storey residential building to the rear of No. 47 Mount Street Upper fronting onto James's Place East to provide for a total of 2 no. 2 bedroom apartment units;
- Construction of a 3 storey residential building located between the rear of No. 50 Mount Street Upper and the rear of No. 50 James's Place East to provide for a total of 1 no. studio unit and 2 no. 2 bedroom apartment units;
- Provision of a park within the grounds of Nos. 33-34 Mount Street Upper;
- Provision of bicycle spaces to serve the proposed development and;
- All ancillary landscaping, boundary treatments, associated infrastructure, and site development works to support the development.

For the reasons and considerations marked (1) hereunder and the conditions set out below.

REFUSE permission for the following elements of the development in accordance with the reasons and considerations marked (2)

- The demolition of the existing buildings at Nos. 38-43 James's Place East.
- The construction of a part 4, part 5 part 6 and part 7 storey Hotel building over basement level on the site to the rear of Nos. 37-43 Mount Street Upper fronting onto James's Place East;
- Change of use of No. 38, 39 and 40 Mount Street Upper from office to hotel use and associated changes to layout to accommodate the change of use;

- The hotel will provide for a total of 300 no. guest rooms and will have an overall floor area of c.11, 550 sqm within the new build development, and 1, 540 sqm within Nos. 38, 39 and 40 Mount Street Upper;
- Provision of a glazed link and bridge from the rear of Nos. 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level;
- Provision of 2 no. platform lifts to the front of No. 38 and 39 Mount Street Upper;
- Provision of a glazed link and bridge from the rear of No. 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level;
- Provision of a multi-use school space (c. 180 sqm at ground floor level within the hotel building fronting James's Place East;
- Provision of an arts/cultural space (c. 130 sqm at lower ground floor level within No. 38 Mount Street Upper;

11.0 Reasons and Considerations

Reasons and Considerations (1)

Having regard to the Z8 Georgian Conservation Areas zoning (*‘to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective’*) and the Z10 Inner Suburban and Inner City Sustainable Mixed Use zoning (*‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses’*), the policies and objectives set out in the Dublin City Council Development Plan, 2022 to 2028 and the pattern of development in the area, it is considered that the proposed residential development on Plots A, B, E and F, will serve to positively enhance the area and that subject to compliance with the conditions set out below, would not significantly detract from the amenities of the area and would be acceptable on planning grounds. The proposed development would be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

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

Reason: In the interests of clarity.

2. Prior to the commencement of development, the developer shall submit the following to the Planning Authority for prior written approval:
 - i) Revised site layout plan omitting the existing car parking to the rear of no. 50 Mount Street Upper (Plot A). Revised landscaping plan for the same property which shows the inclusion of a new amenity space in place of said car parking to be removed. Revised floor plans and elevations for the proposed new Apartment building on Plot A which restricts vehicular access to the rear of the site and facilitates pedestrian access only.
 - ii) 2 no. car parking spaces at no. 47 James's Place East (Plot B) shall be reserved for the proposed residential use on site. Proposals for same to be agreed with the Planning Authority.
 - iii) Revised floor plans and elevations for no. 41 Mount Street Upper (Plot E) which omits Apartment no. 3. The lower ground floor and ground floor of no. 41 shall be the same as that of no. 37 Mount Street Upper as indicated on drawing no. A2111-03-010 and A2111-03-011. A revised site layout drawing for no. 41 Mount Street Upper (Plot E) showing the reinstatement of the rear site boundaries of this site.
 - iv) A revised site layout drawing for no. 37 Mount Street Upper (Plot F) showing the reinstatement of the rear site boundaries of this site.
 - v) Cycle parking, bin storage and final access arrangements for Plots A, B, E & F shall be as per the requirements of the Planning Authority.

Reason: In the interests of traffic safety and the proper planning and sustainable development of the area.

3. Prior to commencement of development, the developer shall submit the following to the Planning Authority for written approval:
- i) Proposals for a meaningful garden/ external amenity space to serve no's 37 & 41 Mount Street Upper including 1:50 drawings of the historic boundary walls with clear indications of the repairs required and proposed and A Conservation method statement for the repair of the historic news walls.
 - ii) Revised plans, sections and elevations providing full details in relation to service runs and the impact on historic fabric.
 - iii) Revised proposals for the front and rear fenestration arrangements for each of the proposed new apartment buildings on Plots A and B. The revised proposals shall suitably reduce the extent of glazing proposed as per the requirements of the Planning Authority.
 - iv) A Conservation Architect with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works on site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained fabric and the curtilage of the Protected Structures.
 - v) All works to the structure shall be carried out in accordance with best Conservation Practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair offsite shall be recorded prior to removal, catalogued and numbered to allow for authentic reinstatement.
 - vi) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.

- vii) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.
- viii) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

Reason: To ensure that the integrity of the protected structure is maintained and that all works are carried out in accordance with best conservation practice.

- 4. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recycling materials shall be submitted to, and agreed in writing with, the Planning Authority, prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, in particular, recyclable materials, in the interest of protecting the environment.

- 5. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and wastewater collection network.

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

- 6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

- 7. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping,

emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection and residential amenities.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Friday 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.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

10. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The fibrous cement cladding to the proposed units on Plots A and B shall be omitted and replaced with a high-quality material/ metal to be agreed with the Planning Authority.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

11. Proposals for an estate name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning

authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

12. Public lighting shall be provided in accordance with a scheme, which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

13. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended and any statutory provision replacing or amending them, no development falling within Classes 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interests of the amenities of the area.

14. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97

of the Act, as amended. Where such an agreement is not reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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 satisfactory reinstatement of the site.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

18. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme, in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to the Board 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.

Reasons and Considerations (2)

1. The proposed hotel development on Plots C and D, by reason of its height, scale, massing, form and design, together with the proposed excavation of a large basement area to the rear of no's 37, 38, 39, 40 & 41, Mount Street Upper, would result in a visually obtrusive and overly dominant feature resulting in an abrupt transition within the historic terrace which would detract from the prevailing height, scale and architectural character of the traditional streetscape which incorporates important Protected Structures and forms part of a conservation area. The proposals would also have a significantly adverse and injurious impact on the former mews lane at James's Lane East and on the amenity and outlook of Scoil Caithriona, opposite the subject site. The proposed hotel development would materially contravene Policies BHA2 (a), (b), (d), (e), (f), (g), (h), BHA9 and BHA14, and Section 14.6 (Transitional Zone Areas), Section 15.13.5.1 (Mews – Design and Layout) and Section 15.13.5.2 (Mews – Height, Scale and Massing) of the Dublin City

Development Plan 2022-2028, would set an undesirable precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the design, scale, height and massing of the proposed hotel building, to the proximity of the proposed hotel building to surrounding properties, including an adjacent school to the south, the extent of windows on the rear (north) and front (south) elevation and to the results of the Daylight and Sunlight Assessment submitted with the application, the Board is satisfied, notwithstanding the submission of a revised scheme of reduced scale with the grounds of appeal, that the proposed development would seriously injure the amenities of the surrounding properties at Mount Street Upper and on James's Place East by reason of overbearance, overlooking, potential noise and disturbance and access to daylight and sunlight. The proposed hotel development represents an overdevelopment of the subject appeal site and is contrary to the proper planning and sustainable development of the area.

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

Frank O'Donnell
Planning Inspector

27th June 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-319168-24
Proposed Development Summary	Protected Structure. Demolition of buildings, construction of hotel with all associate site works. Change of use of 37 and 41 Mount Street upper to 12 residential apartments. Conversion of mews to residential. Construction of 2 buildings with 5 dwellings along with all associated site works
Development Address	Site located in Dublin 2, bound by Mount Street Upper to the northeast, James's Place East to the southwest and Herbert Street to the southeast.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?

☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold.	
☒ Yes, the proposed development is of a Class but is sub-threshold.	Class 10 b) (i) Construction of more than 500 dwelling units. Class 10 b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares 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.)

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?

Yes ☒	Screening Determination required (Complete Form 3)
No ☐	

Form 3 - EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	319168-24	
Development Summary	Protected Structure. Demolition of buildings, construction of hotel with all associate site works. Change of use of 37 and 41 Mount Street Upper to 12 residential apartments. Conversion of mews to residential. Construction of 2 buildings with 5 dwellings along with all associated site works.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	EIA not required
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	Appropriate Assessment Screening Report
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been	No	- Climate Action and Energy Statement - Environmental Impact Assessment Screening Report - Flood Risk Assessment Report

carried out pursuant to other relevant Directives – for example SEA		- Mobility Management Plan - Operational Waste Management Plan - Preliminary Construction and Demolition Waste Management Plan - Preliminary Construction and Environmental Management Plan - Preliminary Ecological Appraisal Memorandum - Rationale for Demolition and Redevelopment - SEA and AA were undertaken by the Local Authority in respect of the Dublin City Development Plan, 2022 to 2028
---	--	---

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith			
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The site is located in an urban area and is zoned Z8 (Georgian Conservation Areas) and Z10 (Inner Suburban and Inner City Sustainable Mixed Use) in the Dublin City Development Plan, 2022 to 2028. The development is in keeping with the predominantly urban/ suburban surrounding landscape, is of a similar density to other commercial developments in the area and is not regarded as being of a scale and character significantly at odds with the surrounding pattern of development.	No

1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	No	Construction materials will be typical of such urban development. The loss of natural resources (land, soil, water and biodiversity) as a result of the demolition and redevelopment of the site are not regarded as significant in nature.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	No	Standard construction methods and materials. No significant use of natural resources in operational phase.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	No	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard measures outlined in the Construction and Environmental Waste Management Plan (CEWMP) would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	No	Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances, and will give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local	No

		and temporary in nature and with the implementation of standard measures outlined in a CEWMP would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts and are not anticipated.	
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No	Any water generated during the construction phase will be treated prior to discharge to the receiving surface water sewerage system under a temporary Discharge License submitted by the Contractor to the Local Authority prior to works commencing on site. The Contractor will ensure that no activities will give rise to pollution of the surface water drainage network. This will include adopting appropriate procedures as outlined in the CEMP. It is concluded based on the proposed control measures that the project will not lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	There is potential for the construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts would be suitably mitigated by the operation of standard measures listed in the CEWMP. Management of the scheme in accordance with an agreed management plan will mitigate potential operational impacts.	No

1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within A CEWMP would satisfactorily address potential risks on human health. No significant operational impacts are anticipated, with water supplies in the area provided via piped services.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk is predicted having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. The site is outside the consultation/public safety zones for Seveso/COMAH sites.	No
1.10 Will the project affect the social environment (population, employment)	Yes	Will result in localised increase in population and increase in employment during construction.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	It is not considered that cumulative effects from the Proposed Development and other offsite projects as listed by the Applicant are likely to result in significant effects on the environment.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:	No	No European sites located on or adjacent to the site. An Appropriate Assessment Screening is provided in support of the Application. The Applicant's Appropriate Assessment Screening	No

- European site (SAC/ SPA/ pSAC/ pSPA) - NHA/ pNHA - Designated Nature Reserve - Designated refuge for flora or fauna - Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan		concludes on the basis of best scientific knowledge available and objective information, that the possibility of any significant effects on the identified European sites, whether arising from the project itself or in combination with other plans and projects, can be excluded in light of the identified European sites' conservation objectives. Therefore, the Applicant concludes there is no requirement to proceed to Stage 2 of the AA process and the preparation of a Natura Impact Statement is not required.	
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	No	The site is located in a built-up urban area. Field surveys of the site indicate that overall, the habitats on site are considered to be of negligible ecological importance for both commuting and foraging bats, small mammals, herptiles, and bird species, owing to the highly developed/ urbanised nature of the site. Habitats on site were considered to provide potentially suitable habitat to gull species owing to the flat roofs and height above ground, offering shelter from predators. Pre-demolition checks of the sycamore tree and buildings due to be demolished are proposed, if works are to occur in the breeding bird season (March to August inclusive). The findings of the above pre-construction works are proposed to be compiled in a memo report for reporting to the client and the Local Authority, as appropriate.	No

2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	The site is located in an urban area and is zoned Z8 (Georgian Conservation Areas) and Z10 (Inner Suburban and Inner City Sustainable Mixed Use) in the Dublin City Development Plan, 2022 to 2028. The application site contains Protected Structures/ Lands within the curtilage of Protected Structures (RPS Ref. no's 5658, 5661, 5662, 5663, 5664, 5665, 5666, 5667, 5671 and 5674). An Architectural Heritage Assessment is submitted which includes positive, neutral and negative effects associated with the Proposed Development. The identified negative effects associated with the proposed development on Architectural Heritage have been mitigated for. A Townscape Visual Assessment (TVIA) concludes that the views within close proximity to the Site will have a slight to moderate positive effect on the townscape.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry,	No	No such resources on or close to this urban site.	No

agriculture, water/coastal, fisheries, minerals?			
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	The South Dublin Bay and River Tolka Estuary SPA is located c. 2.2 km east of the Site. The Appropriate Assessment Screening Report assessed the potential pathways (e.g. surface water) between the source (the Site) and the receptor (European site). The AA Screening Report concludes there is no feasible pathways were identified between the Site and the South Dublin Bay and River Tolka Estuary SPA. The Applicant has prepared a Flood Risk Assessment which concludes that the site is not subject to tidal or fluvial flooding given the topography and location of the site. There are no surface water features in the vicinity of the site. It is not anticipated that there will be adverse effects in any watercourses, wetlands, riparian areas, river mouths, coastal zones or the marine environment in the vicinity of the proposed development.	No

2.6 Is the location susceptible to subsidence, landslides or erosion?	No	The application is accompanied by a Structural Methodology Report. No evidence of these risks.	No
2.7 Are there any key transport routes (eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	No. There are no key transport routes such as National Primary Roads on or around the proposed development location which are susceptible to congestion or which cause environmental problems, which could be affected by the project.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	There are no existing sensitive land uses which could be affected by the project. There is an existing community facility (school) located to the immediate south of the subject appeal site on the southern side of James's Place East. Potential environmental impacts which may arise during the construction and or operational phase of the development are anticipated to be localised and temporary in nature. The CEMP indicates that the works programme is anticipated to cover a period of 24 months. Section 4.0 of the CEMP relates to the Environmental Management Plan and includes a Dust Management Programme in Section 4.3. Section 5.0 relates to Liaison with Local Community & Neighbours where, in addition to the preliminary CEMP and the	No

		setting out of clear and thorough procedures for the management of the project, the Contractor will be required to appoint a Community Liaison Officer as a single point of contact to engage with the community and respond to concerns, to ensure specific construction tasks such as large deliveries and standard material deliveries are pre-planned and scheduled to minimise disruption where possible, in particular, to James's Place East and to keep local residents and neighbours informed of progress and the timing of particular construction activities that may impact on them.	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	No overlap of construction projects likely. No significant cumulative effects envisaged.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	The effects of the proposed development will be local in nature. There are no anticipated transboundary impacts associated with the proposed development.	No
3.3 Are there any other relevant considerations?	No	No	No

C. CONCLUSION

No real likelihood of significant effects on the environment.	☒	EIAR Not Required
Real likelihood of significant effects on the environment.	☐	EIAR Required

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

1. the criteria set out in Schedule 7, in particular
 - (a) the limited nature and scale of the proposed mixed use residential/ commercial development, in an established urban area served by public infrastructure
 - (b) the absence of any significant environmental sensitivity in the vicinity, and the location of the proposed development outside of the designated archaeological protection zone
 - (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
2. the results of other relevant assessments of the effects on the environment submitted by the applicant including
 - the Appropriate Assessment Screening Report, the findings of the Local Authority that having regard to the nature and scale of the proposed works, the Planning Authority can conclude that no appropriate assessment issues arise, that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European Site within the 15 km zone of influence and that in the opinion of the Local Authority, the application for planning permission for the proposed development does not require Appropriate Assessment;
 - the Appropriate Assessment (Natura Impact Report) of the Dublin City Development Plan, 2022 to 2028;
 - the EIA Screening Report, the findings of the Local Authority that having regard to the nature of the development in an urban area, the EIA Screening Report which concludes that the proposed development will not have a significant effect on

the environment arising from the proposed development and that the need for Environmental Impact Assessment can therefore be excluded;

- the Strategic Environmental Assessment (SEA) of the Dublin City Development Plan, 2022 to 2028.

3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, including measures identified to be provided in the Preliminary Construction and Environmental Management Plan, the Preliminary Construction and Demolition Waste Management Plan, the Architectural Heritage Impact Assessment Report, the Storm Water Management Plans and the Water supply and Wastewater Management Reports.

The Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Template 2: Standard AA Screening Determination Template

Test for likely significant effects

(For use in all cases beyond de minimis criteria)

Screening for Appropriate Assessment Test for likely significant effects

Step 1: Description of the project and local site characteristics

Brief description of project	Protected Structure. Demolition of buildings, construction of hotel with all associate site works. Change of use of 37 and 41 Mount Street Upper to 12 residential apartments. Conversion of mews to residential. Construction of 2 buildings with 5 dwellings along with all associated site works.
Brief description of development site characteristics and potential impact mechanisms	The subject appeal site has an overall site area of 0.49 hectares. The nearest Natura 2000 sites include South Dublin Bay Special Area of Conservation (SAC) (Site Code: 000210) located c. 2.06 km to the east and South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024) located c. 2.11 km to the east. The design and construction phase, including proposed demolition, is anticipated to take place over a 24 month period. Nature based drainage solutions are proposed to be used in so far as possible. Soakaways are proposed on Plot B. The roofs and existing storm water run-off systems of the Protected Structures are to remain unchanged in accordance with the principles of good conservation practices.
Screening report	Yes – Appropriate Assessment Screening Report
Natura Impact Statement	No
Relevant submissions	N/a to Appropriate Assessment

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

[List European sites within **zone of influence** of project in Table and **refer** to approach taken in the AA Screening Report as relevant- there is no requirement to include long list of irrelevant sites.

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
North Dublin Bay SAC (Site Code 000206)	Mudflats, sandflats and Dunes https://www.npws.ie/protected-sites/sac/000206	6.4 km to the northeast	No direct connection.	Yes

	November, 2013		Weak indirect connection via the Surface Water network.	
South Dublin Bay SAC (Site Code 000210)	Mudflats, Sandflats and Dunes https://www.npws.ie/protected-sites/sac/000210 August, 2013	2.06 km to the east.	No direct connection. Weak indirect connection via the Surface Water network.	Yes
North Bull Island SPA (Site Code 004006)	Seabirds and wetlands. https://www.npws.ie/protected-sites/spa/004006 March, 2015	6.4 km to the northeast	No direct connection. Weak indirect connection via the Surface Water network. No significant suitable <i>ex situ</i> habitat for SCI species was identified on site.	Yes
South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)	Seabirds and wetlands. https://www.npws.ie/protected-sites/spa/004024 March, 2015	2.11 km to the east.	No direct connection. Weak indirect connection via the Surface Water network. No significant suitable <i>ex situ</i> habitat for SCI species was identified on site.	Yes
Northwest Irish Sea SPA (Site Code 004236)	Seabirds. https://www.npws.ie/protected-sites/spa/004236 September, 2023	6.5 km to the northeast	No direct connection. Weak indirect connection via the Surface Water network. One building on site has a flat roof which may provide suitable ex-situ habitat for breeding common,	Yes

			lesser black-backed and herring gulls, SCI species of this European site.	
Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites				
AA Screening matrix				
Site name Qualifying interests		Possibility of significant effects (alone) in view of the conservation objectives of the site*		
		Impacts	Effects	
Site 1: North Dublin Bay SAC (Site Code 000206) Mudflats and sandflats not covered by seawater at low tide [1140], Annual vegetation of drift lines [1210], Salicornia and other annuals colonising mud and sand [1310], Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330], Mediterranean salt meadows (Juncetalia maritimi) [1410], Embryonic shifting dunes [2110], Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120], Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130], Humid dune slacks [2190], Petalophyllum ralfsii (Petalwort) [1395].		<u>Direct:</u> None <u>Indirect:</u> Potential negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution.	Potential disturbance to habitat quality and function. Potential habitat loss or modification to habitat.	
		Likelihood of significant effects from proposed development (alone): No		
		If No, is there a likelihood of significant effects occurring in combination with other plans or projects? No		

	Impacts	Effects
Site 2: South Dublin Bay SAC (Site Code 000210) Mudflats and sandflats not covered by seawater at low tide [1140], Annual vegetation of drift lines [1210], Salicornia and other annuals colonising mud and sand [1310], Embryonic shifting dunes [2110].	<u>Direct:</u> None <u>Indirect:</u> Potential negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution.	Potential disturbance to habitat quality and function. Potential habitat loss or modification to habitat.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there a likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
Site 3: North Bull Island SPA (Site Code 004006) Light-bellied Brent Goose (Branta bernicla hrota) [A046], Shelduck (Tadorna tadorna) [A048], Teal (Anas crecca) [A052], Pintail (Anas acuta) [A054], Oystercatcher (Haematopus ostralegus) [A130], Golden Plover (Pluvialis apricaria) [A140], Grey Plover (Pluvialis squatarola) [A141], Knot (Calidris canutus) [A143], Sanderling (Calidris alba) [A144], Dunlin (Calidris alpina) [A149], Black-tailed Godwit (Limosa limosa) [A156], Bar-tailed Godwit (Limosa lapponica) [A157], Curlew (Numenius arquata) [A160], Redshank (Tringa totanus) [A162], Turnstone (Arenaria interpres) [A169], Black-headed Gull (Chroicocephalus ridibundus) [A179],	<u>Direct:</u> None <u>Indirect:</u> Potential negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution.	Potential disturbance to habitat quality and function. Potential habitat loss or modification to habitat.

Shoveler (<i>Spatula clypeata</i>) [A857], Wetland and Waterbirds [A999].		
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there a likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
Site 4: South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046], Oystercatcher (<i>Haematopus ostralegus</i>) [A130], Ringed Plover (<i>Charadrius hiaticula</i>) [A137], Grey Plover (<i>Pluvialis squatarola</i>) [A141], Knot (<i>Calidris canutus</i>) [A143], Sanderling (<i>Calidris alba</i>) [A144], Dunlin (<i>Calidris alpina</i>) [A149], Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157], Redshank (<i>Tringa totanus</i>) [A162], Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179], Roseate Tern (<i>Sterna dougallii</i>) [A192], Common Tern (<i>Sterna hirundo</i>) [A193], Arctic Tern (<i>Sterna paradisaea</i>) [A194], Wetland and Waterbirds [A999].	<u>Direct:</u> None <u>Indirect:</u> Potential negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution.	Potential disturbance to habitat quality and function. Potential habitat loss or modification to habitat.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there a likelihood of significant effects occurring in combination with other plans or projects? No	

	Impacts	Effects
Site 5: Northwest Irish Sea SPA (Site Code 004236) Red-throated Diver (<i>Gavia stellata</i>) [A001], Great Northern Diver (<i>Gavia immer</i>) [A003], Fulmar (<i>Fulmarus glacialis</i>) [A009], Manx Shearwater (<i>Puffinus puffinus</i>) [A013], Cormorant (<i>Phalacrocorax carbo</i>) [A017], Shag (<i>Phalacrocorax aristotelis</i>) [A018], Common Scoter (<i>Melanitta nigra</i>) [A065], Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179], Common Gull (<i>Larus canus</i>) [A182], Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183], Herring Gull (<i>Larus argentatus</i>) [A184], Great Black-backed Gull (<i>Larus marinus</i>) [A187], Kittiwake (<i>Rissa tridactyla</i>) [A188], Roseate Tern (<i>Sterna dougallii</i>) [A192], Common Tern (<i>Sterna hirundo</i>) [A193], Arctic Tern (<i>Sterna paradisaea</i>) [A194], Guillemot (<i>Uria aalge</i>) [A199], Razorbill (<i>Alca torda</i>) [A200], Puffin (<i>Fratercula arctica</i>) [A204], Little Gull (<i>Hydrocoloeus minutus</i>) [A862], Little Tern (<i>Sternula albifrons</i>) [A885].	<u>Direct:</u> None <u>Indirect:</u> Potential negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution. One building on the subject appeal site has a flat roof which may provide suitable <i>ex-situ</i> habitat for breeding common, lesser black-backed and herring gulls, SCI species of this European site.	Potential disturbance to habitat quality and function. Potential habitat loss or modification to habitat. Potential loss of ex-situ habitat for breeding common, lesser black-backed and herring gulls, SCI species of this European site.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there a likelihood of significant effects occurring in combination with other plans or projects? No	
Additional Comments:		
As noted in the Applicants Appropriate Assessment Screening Report, the building which is identified to have the potential to provide suitable ex-situ habitat for breeding common, lesser black-backed and herring gulls, SCI species of this European site is small in nature and is widely present in the local area. In addition, the proposed new flat roof of the development will provide a larger area for suitable habitat and will be significantly taller at		

six stories compared to the existing two storey flat roofed building. It is anticipated that this will add additional protection to breeding gulls from predators. This indirect effect is therefore deemed to be insignificant.

Step 4 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone) would not result in likely significant effects on [insert European site(s)]. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project].
No mitigation measures are required to come to these conclusions.

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on

- North Dublin Bay SAC (Site Code 000206)
- South Dublin Bay SAC (Site Code 000210)
- North Bull Island SPA (Site Code 004006)
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)
- Northwest Irish Sea SPA (Site Code 004236)

in view of the conservation objectives of these sites and is therefore excluded from further consideration.

Appropriate Assessment (and submission of a Natura Impact Statement (NIS)) is not required.

This determination is based on:

- The nature and scale of the proposed development and the lack of impact mechanisms that could significantly affect a European Site, including the above referenced European Sites.
- The location and distance of the subject appeal site relative to European sites, including the above referenced European sites and the weak and indirect connections to said European sites.
- No significant ex-situ impacts on wintering birds.

WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Bord Pleanála ref. no.	ABP-319168-24	Townland, address	Site located in Dublin 2, bound by Mount Street Upper to the northeast, James's Place East to the southwest and Herbert Street to the southeast.
Description of project		Protected structure: Demolition of buildings; Construction of hotel with all associated site works; Change of use of 37 and 41 Mount Street Upper to 12 residential apartments; Conversion of mews to residential; Construction of 2 buildings with 5 dwellings along with all associated site works.	
Brief site description, relevant to WFD Screening,		The subject site is located on inner urban/ brownfield lands. There are no watercourses on the site. The site is connected via the local surface water network to the Grand Canal Main Line, which ultimately discharges to the River Liffey and South Dublin Bay.	
Proposed surface water details		<u>Hotel Development</u> • Nature Based Solutions in so far as possible. • A combination of Sedum/ Blue roofs shall be to the hotel building in addition to soft and permeable landscaping systems with ample stormwater management volumes are proposed on site to limit any run-off to the public sewers. Storm water shall be contained within the site for most rainfall events. Any excess run-off shall be controlled to a limited of 2.0 l/s.	

	• The development is not suitable for the installation of soakaway systems for the management of stormwater having regard to the reduced level of the proposed basement, the receiving ground conditions and the form of construction proposed for the basement. • The roofs and existing storm water run-off systems of the Protected Structures are to remain unchanged in accordance with the principles of good conservation practices. <u>No. 47 James's Place East (Plot B)</u> • Nature Based Solutions in so far as possible. • A combination of Sedum/ Blue roofs is proposed to be provided to the new multi-storey building. Soft and permeable landscaping systems with ample stormwater management volumes are proposed on site to limit any run-off to the public sewers. Storm water shall be contained within the site for most rainfall events. Any excess run-off shall be controlled to a limited of 2.0 l/s. • The roofs and existing storm water run-off systems of the Protected Structures are to remain unchanged in accordance with the principles of good conservation practices. <u>No. 50 James's Place East (Plot B)</u> • Nature Based Solutions in the form of soakaways and permeable ground level surfacing. • Soakaways: The primary treatment of stormwater is proposed to be to discharge the run-off from the roof footprint to soakaway systems located in the open green space within the development site. (Sedum/ blue roofs are not viable given the proposed form of the roof).
--	--

Proposed water supply source & available capacity			The proposed new water supply will be taken from the Uisce Eireann network on James’s Place East and connected to the new buildings.			
Proposed wastewater treatment system & available capacity, other issues			Wastewater discharge from the new building is proposed via a new connection to the Uisce Eireann network on James’s Place East.			
Others?			N/a			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
Groundwater Waterbody	Underlying site	Dublin: (EU Code: IE_EA_G_008)	Good	Review	No pressures	No – The site is mostly composed of concrete and asphalt, the implementation of best practice construction methodologies and surface water treatment systems (blue roofs, permeable paving and

						soft landscaping) will ensure no groundwater infiltration.
Grand Canal	175 metres (SE)	Grand Canal: (EU Code: IE_09_AWB_GCM LE)	Good	Not at risk	No pressures	No – best practice construction methodologies and surface water treatment systems (blue roofs, permeable paving and soft landscaping) incorporated into the design of the project, will prevent significant pollutants entering the water body.
River Dodder	1.1 km (NE)	Dodder_050: (EU Code: IE_EA_09D01090 0)	Moderate	At risk	No pressures	No – site is not hydrologically connected to watercourse.

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Ground	Dublin: (EU Code: IE_EA_G_008)	Pathway exists but poor drainage characteristics	Spillages	Standard construction practice CEMP	No	Screened out
2.	Surface	Grand Canal: (EU Code: IE_09_AWB_G CMLE)	Weak hydrological connection	Siltation, pH (Concrete), hydrocarbon spillages	Standard construction practice CEMP	No	Screened out

OPERATIONAL PHASE							
3.	Ground	Dublin: (EU Code: IE_EA_G_008)	Pathway exists but poor drainage characteristics	Hydrocarbon spillage	Surface water treatment systems (blue roofs, permeable paving and soft landscaping) incorporated into the design of the project,	No	Screened out
4.	Surface	Grand Canal: (EU Code: IE_09_AWB_G CMLE)	Weak hydrological connection	Spillages	Surface water treatment systems (blue roofs, permeable paving and soft landscaping) incorporated into the design of the project,	No	Screened out
DECOMMISSIONING PHASE							
5.	N/A						