



An  
Bord  
Pleanála

## Inspector's Report

**ABP-319430-24**

<b>Development</b>	A health spa, including ancillary café bar and associated works.
<b>Location</b>	177-179 James's Street, Dublin 8.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4439/23
<b>Applicant(s)</b>	Blue Ant Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Christopher O'Reilly
<b>Observers</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> January 2025
<b>Inspector</b>	John Duffy

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## Appendix 1 – Forms 1 and 2: EIA Pre-Screening and EIA Preliminary Examination

## **1.0 Site Location and Description**

- 1.1. The appeal site at Nos. 177 – 179 James's Street, Dublin 8 measures 1,302 sqm, and is located on the north-west side of the street, opposite the St. James's Hospital complex and near the LUAS stop which serves that facility. James's Hospital is also the site of the National Children's Hospital which is currently under construction.
- 1.2. The site incorporates No.179 James's Street, a narrow two storey flat roofed building and an associated gated vehicular access at its eastern side which opens onto James's Street. The remainder of the site is located to the rear of Nos. 177, 177a, 178 and 178a James's Street, that form a terrace of four properties which appear to be mainly in residential use, other than No. 178 which accommodates a medical centre. The rear located brownfield lands comprise a large area of hardstanding and a number of shed structures.
- 1.3. The site is bounded to the north by a vacant site along Bow Lane West and by No. 11 Bow Lane West, which accommodates a three-storey apartment block. The northern site boundary sits atop an escarpment between James's Street and the lower Bow Lane West. As such, there is a significant difference in ground levels (approximately 10 m), with Bow Lane West being at a much lower level than the appeal site.
- 1.4. To the east, the site bounds the courtyard / communal open space associated with Chandler's Guild apartments, which are accessed from James's Street.
- 1.5. The site to the west appears to be vacant and has the benefit of a planning permission for a hotel development (see Planning History below).

## **2.0 Proposed Development**

- 2.1 The proposed development comprises a health spa (measuring 1407 sqm) to include an ancillary café bar. Key features of the proposal include the following:
  - Change of use of existing single storey warehouse / workshop building (609 sqm) to facilitate the health spa, involving the construction of an additional

floor and a roof terrace above (75 sqm), to include a jacuzzi and two saunas located at the northern part of the roof terrace.

- A new first floor area measuring 580 sqm to accommodate a sauna, jacuzzi, open plan areas and toilets. An ancillary café bar and associated west facing external terrace (c 51 sqm) are also proposed at this level.
- Principal height of building is c 8.3 m. Two roof-top sauna structures increase the overall height to c 9.7 m.
- At ground floor level, the building accommodates an entrance lobby, changing facilities and showers, a Turkish bath area, a steam room, saunas and pool areas.
- A new single storey glazed extension (104 sqm) at ground floor level to accommodate a pool area.
- A landscaped courtyard accessed from James's Street with paved pedestrian area, adjoining the facility to the west.
- A bicycle shelter with 12 no. parking spaces in the courtyard. No car parking spaces are proposed.
- A sauna (39 sqm) at the north-west corner of the site and an external cool dip pool.

2.2. On foot of a Further Information (FI) request from the planning authority dated 3<sup>rd</sup> November 2023, revised plans and drawings were submitted on the 8<sup>th</sup> February 2024. The main changes noted are as follows:

- Provision of 2 no. bicycle shelters in the external courtyard area, accommodating a total of 32 parking spaces.
- At ground floor level: Relocation of external sauna (c 30.5 sqm) to the western boundary and provision of 2 no. cold dip pools (each measuring c 12.6 sqm).

- At roof terrace level: Reduction in the number of saunas from two to one, and relocation of sauna to eastern side of roof terrace.
- Drawing provided which shows the relationship of the subject site to adjoining site to the north.

2.3. The following correspondence / reports were received with the application:

- An overview / design report for the proposed development.
- Drainage Information.
- Document from the applicant relating to the concept of recreational spa and the service offering proposed.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to grant permission on the 4<sup>th</sup> of March 2024 subject to 12 no. conditions. The following conditions are noteworthy:

Condition 2 relates to a section 48 contribution condition.

Condition 3 sets out the requirements of the Transportation Planning Division (TPD) including submission of a Construction Management Plan.

Condition 5 relates to an archaeological condition for the proposed development.

Condition 9 relates to noise control during construction and operational phases.

Condition 10 requires provision of a scheme for the effective control of fumes and odours from the premises, prior to commencement of the proposed use.

#### 3.2. Planning Authority Reports

3.2.1 The **first report** of the area planner notes the policy context, reports received and third party observation made in respect of the planning application. The principle of

the proposed development is considered generally acceptable under the Z1 residential zoning objective, given that it closely matches the description of 'sports facility and recreational uses' in the current Dublin City Development Plan.

The area planner's report recommends that three items be addressed by way of a Further Information (FI) request, which issued on 3<sup>rd</sup> November 2023. The FI items may be summarised as follows:

**Item 1.** The applicant is requested to address the following issues raised by the Transportation Planning Division, which has concerns regarding the impact of the proposed development on the public road due to potential overspill parking and obstruction of other road users as a result by service vehicles, deliveries, drop offs etc.

(a) Submit a detailed Service Delivery and Access Strategy as per Table 15.1 and Appendix 5, Section 2.4 of the Development Plan 2022-2028. This shall contain, but is not limited to, the following information:

- Details how the proposed development will be accessed and served by deliveries, including refuse vehicles and emergency vehicles. Clarity on what vehicles if any are proposed to access the lane should be provided.
- Confirm the number, type and frequency of service vehicles envisaged for the development and detail the locations from which servicing will occur and how it will be managed so as to avoid disruption and conflict with on the adjacent road network. Any gated access arrangements should be clarified.
- Swept-path analysis demonstrating the safe manoeuvrability of all vehicles requiring access to the site, including emergency vehicles such as fire tender and ambulance access if required.
- The applicant shall be cognisant of the proposed BusConnects Liffey Valley to City centre Core Bus Corridor (CBC) which will run along James Street adjacent to the site access.

(b) Clarify any proposed works to the existing laneway including resurfacing and lighting provision. Clarity should also be provided on whether the access is to remain gated, and how this would be managed. Any gates should open inwards.

(c) Re-examine the proposed cycle parking provision increasing the number of spaces to a minimum of Development Plan standards. Cycle parking shall be in a safe secure location, covered and allow both wheel and frame to be locked.

**Item 2.** The topography of the site is such that the northern boundary sits atop an escarpment between James's Street and the lower Bow Lane West, and with the sauna structures on the northern edge, the building would present as a 3-storey structure to this boundary. The impact of the development on sites to the north (lower on Bow Lane West) is not clear from the submitted information. The applicant is invited to provide extended section drawings, which should illustrate relationship between the subject site and buildings and sites immediately to the north, with accurate illustration of the topography of the boundary. It may be necessary to provide shadow analysis to show that the proposed development does not impact unduly on sites to the north; alternatively, the applicant may wish to consider setting the development back from the northern boundary to avoid overshadowing or overlooking houses and sites on Bow Lane West.

**Item 3.** Outline management proposals for the café, including whether it will be open to the public or restricted to customers / members of the spa facility, opening hours and any proposed extraction / ventilation systems.

3.2.2 The area planner's **second report** assesses the further information responses received, along with the internal report from TPD relating to **Item 1**, which, having regard to the FI submitted, recommends that permission be granted subject to conditions.

In relation to **Item 2**, the report notes the revised drawings and the submitted shadow study demonstrate the topography is such that overshadowing of sites to the north is already severe and that the proposal would not lead to increased overshadowing impacts of properties to the north. The relocation of the roof-top saunas away from the northern boundary is welcomed on the basis it would reduce

any increasing visual impact or the possibility of overbearing visual impact to the northern part of the site.

In responding to **Item 3**, the applicant confirms the café would serve customers of the spa facility only, that its opening hours would be from 0900 to 23.00 and that a flue is proposed above the kitchen. This response is deemed to be acceptable with the report noting that it is unnecessary to restrict opening hours given the nature of the proposed use and the city centre location.

### 3.2.3 Other Technical Reports

Transport Planning Division (TPD): The **first report** recommends FI is sought, generally as per the Item 1 of the FI request as set out in section 3.2.1 above.

The **second report** assesses the FI submitted noting, inter alia, the following:

- No vehicular access to the development is proposed and, therefore, no auto-tracking is required.
- All servicing is to take place from James's Street.
- Visitors to the facility (projected to be up to 500 daily) would avail of public transport or park in alternative locations.
- Existing inward opening gates are to be retained.
- Revised proposal for 32 cycle parking spaces.

The absence of vehicular access is considered acceptable given the infill nature of the site and its constraints. While some loading from service vehicles would be currently facilitated at the front of the site, the report notes this is likely to be restricted following implementation of the proposed Core Bus Corridor proposals. Permission is recommended subject to conditions.

Drainage Division: No objection subject to conditions, including that the development incorporates Sustainable Drainage Systems (SuDS).

Archaeology Section: Notes, inter alia, that the site is within the Recorded Monument DU018-020 (Historic City) and that the medieval parish of St. James was in existence from the 14<sup>th</sup> century and, as such, medieval archaeological features may survive within the subject site, and that remains of late 17<sup>th</sup> / 18<sup>th</sup> century



development may survive at a sub-surface level. Furthermore, a Recorded Monument DU018-020291 (Street) referring to 'Murdering Lane' is located west of the subject site. It is noted that groundworks would be undertaken to facilitate the proposed development which may impact on possible archaeological material at a sub-surface level. Therefore, the report recommends a condition for an Archaeological Assessment and an Impact Statement of the proposed development. The Assessment should address several issues including the nature, extent and location of on-site archaeological material by way of archaeological testing and / or monitoring of the removal of overburden.

### **3.3. Prescribed Bodies**

The planning authority invited Uisce Éireann, Irish Rail and the Department of Housing, Heritage and Local Government to comment on the proposal. No comments / reports were received.

### **3.4. Third Party Observation**

A third-party submission from the owner of No. 11 Bow Lane West, Dublin 8, which adjoins the subject site to the north, was received by the planning authority. The main issues raised are as follows:

- Discrepancy in the representation of the site boundaries as reflected in the submitted plans.
- Drawings do not show the relationship between the proposed development and the adjoining premises owned by the observer.
- No shadow analysis provided to demonstrate the impact of the proposed development on the much lower residential properties on Bow Lane.
- Excessive scale and massing of the north elevation would negatively affect the observer's property.
- Excessive height of the proposed blank wall to be constructed on the boundary is directly south of the roof terraces and private open spaces serving the upper apartments in No. 11 Bow Lane. This is compounded by double height windows in the proposed north elevation of the building which

would dominate the outlook from the apartments and seriously impact on the redevelopment potential of the vacant site at Bow Lane, adjoining No. 11 to the west.

- Planting indicated on the plans does not take into account the cliff-like topography or the boundary between the site and the referenced properties at Bow Lane.

## 4.0 Planning History

### 4.1. Subject site

Planning Authority Ref. 3968/20 refers to a planning application lodged in December 2020 for demolition of existing buildings on the site and the construction of a mixed-use development comprising two blocks of 5 and 6 storey height over two basement levels. Block A (6 storeys in height) fronts James's Street and accommodates a medical centre, café/retail at ground floor level, 16 no. apartments above, and a spa at sixth floor. Block B (5 storeys in height) located to the rear of the site comprises 12 no. apartments with spa on top floor. Lower basement consists of spa, gym, pool and associated facilities, while treatment rooms and associated facilities are located at upper basement level. This application was deemed to be withdrawn by the planning authority as no response made to the request for Further Information.

Planning Authority Ref. 5282/08 refers to an August 2009 decision to grant permission to the rear of No. 179 James's Street for the construction of 1 no. residential block (Block B) and associated works, to form part of an overall development, previously permitted at 177-179 James's Street (Dublin City Council reg. ref. 6012/07). Block B to comprise 13 no. apartments, in a 5 storey block and with an overall height of c.15.4 metres. A central courtyard is proposed between Block B (proposed) and Block A (permitted under ref. 6012/07). The application also sought modifications to the scheme as permitted under Reg. Ref. 6012/07 to comprise, inter alia, modifications to the portion of the central courtyard permitted between Block B (proposed) and Block A (permitted), and changes to parts of the 1<sup>st</sup> and 2<sup>nd</sup> level basements.

Planning Authority Ref. 6012/07 refers to a March 2008 split decision at 177-179 James's Street, for a mixed use development, consisting of demolition of all existing

buildings on the site including 4 no. habitable dwellings and the construction of 2 no. blocks ranging from 5 to 7 storeys over single plus part second level basement. (Block A - 5 storeys plus 2 storey set back levels - 7 storeys overall, fronting to James's Street) and Block B - 5 storeys (located to the rear of the site). The development comprises 1 no. retail unit, 1 no. medical and related consultants use, all at ground floor level of Block A. The scheme also comprises 32 no. residential units in Blocks A and B, private balconies/terraces, provision of 33 no. car parking spaces; 44 no. bicycle stands, apartment storage units; refuse storage areas; all associated site development, landscaping and boundary treatment works, including the provision of a central courtyard at ground floor level. Permission was granted for Block A, subject to conditions, but refused for Block B, for the following reason:

1. Having regard to its configuration, massing and close proximity to properties on the adjoining sites, it is considered that the proposed development would seriously injure the residential amenities and/or development potential of property in the vicinity by reason of overshadowing, overlooking and visual intrusion. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and to the provisions of the City Development Plan.

#### **4.2 Adjoining site to the west**

An Bord Pleanála Ref. ABP-308838-20 / Planning Authority Ref. 3444/20 refers to a March 2022 decision to grant permission for demolition of buildings and construction of a 148 bedroom hotel ranging in height from 1 and 7 storeys at 180 – 184 James's Street, Dublin 8.

An Bord Pleanála Ref. PL29S.300057 / Planning Authority Ref. 2950/17 refers to a May 2018 decision to grant permission for demolition of buildings, construction of 7 storey Aparthotel with hotel facilities, bicycle spaces, substation, pedestrian access, ground floor cafe and all associated works at 180 – 184 James's Street, Dublin 8.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2022-2028

The proposed development was considered by the Planning Authority under the Dublin City Development Plan 2022-2028.

#### 5.1.1 Zoning

According to Development Plan Map E, the appeal site is zoned Z1 - Sustainable Residential Neighbourhood, where it is an objective “To protect, provide and improve residential amenities.” The ‘Permitted in Principle’ category of the Z1 zoning objective lists a wide range of uses including ‘sports facility and recreational uses’ and ‘cultural/recreational building and uses.’

#### 5.1.2 Other designations

5.1.3 The subject site is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Historic City), listed on the Records of Monuments and Places (RMP).

5.1.4 West of the proposed development is RMP recorded monument DU018-020291 (Street) which refers to ‘Murdering Lane’ or Cromwell’s Quarters.

5.1.5 Approximately 90 m north-west of the appeal site is RMP site DU018-020287 ‘Bridge’ referring to Bow Bridge on the Cammock River. The present bridge is of modern construction.

5.1.6 The northern edge of the site is hatched red on Development Plan Map E denoting it as being associated with a conservation area with the Royal Hospital Kilmainham.

5.1.7 The appeal site is located within the boundary of Strategic Development Regeneration Area (SDRA) 7 – Heuston and Environs as set out in section 13.9 of the Development Plan and indicated on Map K.

There are 5 key Opportunity Sites within this SDRA including St. James’s St. / Bow Lane West, which the appeal site forms part of. The following guiding principle is applicable:

*Redevelopment of this site should provide activation to the linear walkway leading from St. James's Street to Bow Lane West through the provision of windows and doors opening towards the laneway, as well as balconies providing passive surveillance of the walkway below.*

#### 5.1.8 Relevant Policy

Section 15.14.7.2 Restaurants / Cafes

Section 15.14.7.4 Noise, Ventilation, and Odour for Restaurant / Café / Takeaway

Section 15.17.4 Outdoor Seating and Street Furniture

### 5.2. **Natural Heritage Designations**

5.2.1 South Dublin Bay and River Tolka Estuary SPA is located c 4.7 km northeast of the appeal site.

### 5.3. **EIA Screening**

5.3.1 See completed Forms 1 and 2 below. Having regard to the nature of the proposed development comprising, inter alia, a health spa which involves change of use of existing workshop / warehouse and associated extensions, in a city centre location where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

This is a third-party appeal from Christopher O' Reilly, the owner of No. 11 Bow Lane West, Dublin 8, which is a three storey apartment block adjoining part of the appeal site to the north. The issues raised are summarised as follows:

- There is a discrepancy in the representation of the site boundaries in the submitted plans and the true boundaries as they exist on the ground and in

legal documentation. The site boundaries were more accurately portrayed in the previous application relating to the lands (Reg. Ref. 3968/20).

- The actual distance to the boundary wall from the structure at 11 Bow Lane is 1.3 m.
- The relationship between the proposed development and No. 11 Bow Lane West is not accurately shown on the submitted drawing.
- The shadow analysis submitted at FI stage is based on an inaccurate depiction of the site and misrepresents and underplays the impact of the proposal on the much lower residential properties on Bow Lane to the north.
- The proposed development would have an overshadowing impact and a negative impact on the quality of the external terraces serving No. 11 Bow Lane. In this context, the proposed development includes an 8.3 m high wall, in place of a boundary wall which is 2.4 m high and located just 1320 mm from the building at No. 11 Bow Lane West.
- The buffer of green planting to the north along with the landscaped area, shown on the submitted plans does not exist.
- The proposed development delivers little planning gain and makes it less likely that the existing low scale of the street frontage to James's Street would be redeveloped in the future to a more appropriate urban scale.
- The proposed development would have a dominant and overbearing impact on adjoining residential properties and would negatively impact their residential amenities.
- Inclusion of a roof terrace increases the negative impact of the proposed development by introducing potential for direct overlooking and loss of privacy. Low barriers to the roof terrace.
- No objection in principle to the conversion of the existing buildings to a health spa. However, a reasonable level of stepping down or set-back should be incorporated at the northern interface.

The following documents are attached to the appeal:

1. Aerial view of the site relative to No. 11 Bow Lane. A boundary line is highlighted in red. The existing lean-to roof of the existing structure is stated to be located directly on the property boundary.
2. A photograph taken from Bow Lane West indicating the outline of an 8.5 m high building relative to No. 11 Bow Lane West.
3. Photographs of the second floor south-facing terrace at No. 11 Bow Lane West.
4. A copy of the site layout plan relating to Reg. Ref. 4439/23.
5. A copy of the site location map submitted in relation to Reg. Ref. 3968/20.
6. A copy of the appellant's acknowledgement of their submission received from the planning authority.
7. Contextual drawings showing relationship of the proposed development with No. 11 Bow Lane.

## **6.2. Applicant Response**

This submission may be summarised as follows:

- The red line boundary pertaining to the previous planning application (Reg. Ref. 3968/20) indicated the existing fencing as the boundary line. The boundaries indicated by the red line in this application correspond with those on the legal title deed and are correct.
- Bow Lane lies approximately 10 m below the main part of the site. In addition to this, the existing boundary fence / building gable increases the relative height by a further 3.2m to 3.5 m, with additional dense foliage above. No. 11 Bow Lane would be largely in shadow early in the day. In the afternoon, the private open space to the rear of No. 11 Bow Lane would receive direct sunlight from the south-west regardless of whether the extension was to be built or not.
- Proposed northerly windows occur on the portion of the north elevation which is set back from the boundary. To maintain privacy, deep reveals / baffles are proposed.

- It is the case that dense foliage exists on the bank between the properties (photograph included).
- The proposed development strikes an appropriate balance between allowing the backland building to have a sustainable future while co-existing independently with the existing terraced houses located between the site and James's Street.
- It is not the case that the proposed roof terrace would lead to overlooking of No. 11 Bow Lane West. The boundary at roof level comprises a perimeter fence 1.5 m in height in relation to the finished floor level of the roof. Within that boundary is a raised planting strip preventing people standing adjacent to the fence, which will contain foliage, thereby further enhancing privacy.

### **6.3. Planning Authority Response**

This response requests that the decision to grant permission is upheld and that a condition requiring the payment of a Section 48 contribution is included.

### **6.4. Observations**

None.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Design and impact on residential amenities
- Site boundaries
- Other issues
- Matters Arising
- Appropriate Assessment



## **7.2. Design and impact on residential amenities**

- 7.2.1. The appellant is concerned that the proposed development would negatively impact the residential amenities of No. 11 Bow Lane West, with reference made in the appeal to overshadowing, overlooking and overbearing impacts. Furthermore, it is submitted that the proposed development would compromise the development potential of a vacant site, which adjoins No. 11 Bow Lane West to the west.
- 7.2.2. In terms of the site context and topography, and as set out earlier in this report, the northern site boundary sits atop a heavily planted escarpment, above Bow Lane West. There is a significant difference in ground levels, with Bow Lane West approximately 10 m lower than the appeal site, as reflected in the contextual elevation drawing provided at FI stage.
- 7.2.3. The approximate height of the part of the existing shed structure on the subject site, nearest the northern boundary, is 3.2 m. The proposed development involves the extension of the existing structures on the site to facilitate a two storey building with roof terrace, with a principal height of approximately 8.33 m, as reflected in the revised elevation drawings submitted at FI stage. These drawings demonstrate the omission of two saunas from the northern edge of the roof terrace and the relocation of a sauna to the less-sensitive eastern roof edge, thereby ensuring that the proposed development would present as two storey at the northern boundary, rather than a three storey development. Having regard to this change, I consider that the proposed development would not have a significant overbearing impact on adjoining properties at Bow Lane West.
- 7.2.4. In response to Item 2 of the FI request which raised a concern that the proposed development may impact on sites to the north, the applicant submitted a shadow study of the proposed development. The study examines existing shadowing and post-development shadowing at 9 am, 12 noon and 5 pm on the 21<sup>st</sup> June (Summer Solstice), and at 9 am, 12 noon and 4 pm on the 21<sup>st</sup> March / 21<sup>st</sup> September and the 21<sup>st</sup> December (Winter Solstice).
- 7.2.5. I am satisfied that the shadow study presents an accurate analysis of the impact of the proposed development on adjoining lands. Having examined and reviewed the shadow study, I consider that the proposed development would not cause any additional significant overshadowing impacts on the adjoining sites to the north,

including the vacant site adjoining No. 11 Bow Lane West. It is apparent that the existing topography, specifically the escarpment, results in overshadowing impacts to No. 11 Bow Lane West and the adjoining vacant site on its western side.

Furthermore, as demonstrated in the shadow study, adjoining lands to the east, west and south would not be unduly impacted in terms of shadowing by the proposed development.

- 7.2.6. The appellant considers that direct overlooking impacts would arise from the proposed development, particularly from the proposed roof terrace.
- 7.2.7. Upon review of the revised roof terrace floor plan submitted at FI stage (Drawing No. CPF.J.23.F.I./06 refers) I do not anticipate that direct overlooking impacts from the roof terrace would arise. The boundary at roof level comprises a c 1.5 m high fence relative to the finished floor level of the roof and within that boundary there are raised planting areas which would discourage / prevent patrons from approaching the boundary fencing.
- 7.2.8. I note that fenestration is proposed at first floor level in the northern elevation of the proposed development. In order to mitigate potential overlooking impacts which may arise, the applicant notes that deep window reveals and privacy baffles are proposed for these windows. In my view, these measures would be effective in preventing undue overlooking impacts from the first floor windows on the northern elevation.
- 7.2.9. No fenestration is proposed on the southern and eastern sides of the building and as such no overlooking impacts would arise in relation to adjoining existing development.
- 7.2.10. While extensive fenestration is proposed on the western elevation of the proposed development, given the separation distances to the western site boundary, and the proposed position of the permitted hotel on the adjoining site to the west, along with the less sensitive nature of that permitted use, I am satisfied that no undue direct overlooking impacts are likely to arise.
- 7.2.11. Having regard to the proximity of the first floor terrace relative to existing development to the south, specifically the rear amenity areas of Nos. 178, 178A and 178B James's Street, should the Board decide to grant permission, I recommend inclusion of a condition requiring provision of an opaque glazed 1.8 m

high screen at the southern boundary of the external terrace in order to prevent overlooking impacts.

### **7.3. Site boundaries**

- 7.3.1. The appellant considers that the submitted drawings show a discrepancy in terms of the site boundaries as denoted by the red line on the site layout plan, when compared with the situation on the ground and the boundaries as reflected in legal documentation pertaining to the site.
- 7.3.2. The applicant's response to the appeal refutes the assertion that the site boundaries (as reflected on the site location map by the red line) are incorrect, stating that they correspond to those on the legal title deed and are, therefore, accurate. It is submitted that the red line boundary, indicated in the planning application lodged previously under Reg. Ref. 3968/20, reflected the existing on-site fencing as the boundary line, whereas the actual legal line is reflected in the current application, which is the subject of this appeal.
- 7.3.3. There is clearly disagreement between the parties in relation to the exact location of the boundary pertaining to the subject site. This is, however, not a planning issue but a civil matter, and the provisions of s.34(13) of the Planning and Development Act 2000, as amended, are relevant in this regard. In terms of legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal intent to make an application.

### **7.3 Other issues**

- 7.3.1. The appellant contends that the contextual elevation drawing (Drawing No. CPF.J.23.FI./08) submitted at FI stage does not accurately show the relationship between the proposed development and No. 11 Bow Lane West. I note that the appellant has provided a contextual elevation drawing as part of the appeal submission.

Having visited the appeal site, it is my opinion that the contextual elevation drawing provided on foot of the FI request adequately demonstrates the contextual relationship between the subject site and the adjoining site to the north at No. 11 Bow Lane West. I note also that the planning authority accepted this drawing and raised no concerns in terms of its accuracy.

- 7.3.2. The appellant questions the planning gain offered by the proposed development and contends that, if permitted, the redevelopment of the street frontage to James's Street to a more appropriate urban scale is less likely. In my opinion, the proposed development comprising a health spa would offer high quality wellness services to the general public, including local residents and visitors, on a serviced and well-located site within very close proximity to the city centre, which is presently a vacant and disused brownfield site.
- 7.3.3. In terms of the appellant's concern that redevelopment of James's Street at this location would be less likely to proceed on account of the proposed development, I do not necessarily consider this to be the case. In my opinion, it would not be appropriate to refuse permission for the proposed development on the basis of a possible future development which is not proposed and which may or may not materialise.

## **7.4 Matters Arising**

### **7.4.1. SDRA – Opportunity Site**

As noted under section 5.1.7 above, the appeal site is located within the boundary of SDRA 7 – Heuston and Environs as set out in section 13.9 of the current Dublin City Development Plan. The site forms part of a key Opportunity Site, namely St. James's St. / Bow Lane West. The applicable guiding principle for this Opportunity Site is that its redevelopment should provide *'activation to the linear walkway leading from St. James's Street to Bow Lane West through the provision of windows and doors opening towards the laneway, as well as balconies providing passive surveillance of the walkway below.'*

The linear walkway from James's Street to Bow Lane West is located further west of the appeal site, at the western boundary of the adjoining site. While the proposed building has significant fenestration on its western elevation and would, in my opinion, generally accord with the aforementioned guiding principle in terms of windows facing the walkway, the principle is not directly applicable to the proposed development, as the development site does not incorporate the adjoining lands to the west, which directly adjoin the linear walkway from James's Street to Bow Lane

West. It is noteworthy that these lands have the benefit of an extant permission for a hotel development.

#### 7.4.2 Conditions

I am satisfied that the conditions attached by the planning authority in its decision to grant permission for the proposed development are appropriate. As noted above in section 7.2.11, I recommend inclusion of a condition relating to the southern boundary of the first floor terrace in the interest of residential amenity.

I note that a bespoke archaeological condition relating to the proposed development was crafted by the Assistant City Archaeologist, which I consider should be included, should the Board decide to permit the proposed development.

### 8.0 **Appropriate Assessment**

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject brownfield site is located to the rear of existing two storey properties in Dublin city at 177 – 179 James's Street, Dublin 8.

No nature conservation concerns were raised in the planning appeal.

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 European Site. The reason for this conclusion is as follows:

- Relatively small scale and nature of the development
- Location-distance from nearest European site and lack of connections
- Taking into account the determination by the Planning Authority

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 9.0 Recommendation

- 9.1 I recommend that planning permission should be granted based on the following reasons and considerations and subject to the attached conditions.

## 10.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022-2028 including the Z1 zoning objective for the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of design and scale and would not seriously injure the residential amenities of the adjoining area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 8<sup>th</sup> February 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity and to ensure an appropriate high standard of development.</p>

3.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity and the visual amenities of the area.</p>
4.	<p>A 1.8 metre high glazed opaque screen shall be provided along the southern boundary of the first floor terrace.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
5.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable 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.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
6.	<p>(a) No construction or site preparation work shall be carried out on the site until all archaeological requirements of the Planning Authority are complied with. The developer shall agree the foundation layout with the Planning Authority prior to the commencement of works.</p> <p>(b) The project shall have an archaeological assessment (and impact assessment) of the proposed development, including all temporary and enabling works, geotechnical investigations, e.g., boreholes, engineering test pits, etc., carried out for this site as soon as possible and before any site clearance/construction work commences. The assessment shall be prepared by a suitably qualified archaeologist and shall address the following issues.</p>

	<p>i. The archaeological and historical background of the site, to include industrial heritage.</p> <p>ii. A paper record (written, drawn, and photographic, as appropriate) of any historic buildings and boundary treatments, etc.</p> <p>iii. The nature, extent, and location of archaeological material on site by way of archaeological testing &amp;/or monitoring of the removal of overburden.</p> <p>iv. The impact of the proposed development on such archaeological material.</p> <p>(c) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist which will include specific information on the location, form, size, and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains etc. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.</p> <p>(d) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the Planning Authority in advance regarding the procedure to be adopted in the assessment.</p> <p>(e) The developer shall comply in full with any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains.</p> <p>(f) Should archaeological excavation occur the following shall be submitted to the Planning Authority:</p> <p>i. A bi weekly report on the archaeological excavation during the excavation and post excavation period.</p> <p>ii. A preliminary report on the archaeological excavation not later than four weeks after the completion of the excavation.</p>
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	<p>iii. A final report on the archaeological excavations not later than twelve months after the completion of the excavation</p> <p>(g) Following submission of the final report to the Planning Authority, where archaeological material is shown to be present the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council), and lodged with the Dublin City Library and Archive, 138-144 Pearse Street, Dublin 2.</p> <p><b>Reason:</b> In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.</p>
7.	<p>(a) Bicycle parking provision comprising a minimum of 32 spaces for staff and visitors shall be provided within separate shelters upon occupation of the development. Details of the bicycle parking spaces and layout shall be subject to the written agreement of the planning authority.</p> <p>(b) Details of entrance gates on to James's Street and a layout for the upgrading of the access lane within the development to incorporate paving, lighting, SuDS and landscaping shall be submitted for the written agreement of the planning authority prior to commencement of development.</p> <p>(c) The existing disking of the footpath and kerb to the front of the site on James's Street shall be removed and replaced with a new footpath and kerb at the developer's expense, prior to the occupation of the site.</p> <p>(d) All costs incurred by Dublin City Council including any repairs to the public road and services necessary as a result of the construction of the proposed development shall be at the expense of the developer.</p> <p>(e) Revised plans, drawings and particulars showing the amendments at (c) above shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To ensure that there is adequate bicycle parking spaces to serve the development and to provide a satisfactory standard of development.</p>

8.	<p>Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, off-site disposal of construction/demolition waste and noise and dust management measures including details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels.</p> <p><b>Reason:</b> In the interest of public safety and amenity.</p>
9.	<p>A plan containing details for the management of noise from the premises when operational shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
10.	<p>The attenuation and 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.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>The developer shall control odour emissions from the premises in accordance with measures, including extract duct details, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health and to protect the amenities of the area.</p>

12.	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
13.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
14.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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

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John Duffy  
Planning Inspector

9<sup>th</sup> January 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-319430-24		
<b>Proposed Development Summary</b>	A health spa including ancillary café bar and associated works.		
<b>Development Address</b>	177 – 179 James’s Street, Dublin 8.		
<b>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)	<b>Yes</b>	X	
	<b>No</b>	Tick if relevant. No further action required	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	X	Class 10 b)(iv) Urban Development.	Proceed to Q3.
<b>No</b>	Tick or leave blank		Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	X	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. Total site size is c 1,302 sqm.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-Screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference Number</b>	<b>ABP-319430-24</b>
<b>Proposed Development Summary</b>	A health spa including ancillary café bar and associated works.
<b>Development Address</b>	177-179 James's Street, Dublin 8.
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The site is located on residential zoned lands in Dublin city. The proposed development is not exceptional in the context of the existing environment. The proposed development site has a stated total area of c 1302 sqm. The subject site contains an existing workshops / warehouse buildings, which are proposed to be extended to facilitate the development. The proposed development will not result in the production of any significant waste or emissions of pollutants. The proposed development would not be harmful to human health.</p>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>South Dublin Bay and River Tolka Estuary SPA is located c 4.7 km north east of the appeal site.</p> <p>The site is located within Dublin city and is zoned for residential purposes. There are no locally sensitive environmental sensitivities in the vicinity of relevance.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent,</p>	<p>There is no real likelihood of significant effects on the environment.</p>

nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No