



An
Bord
Pleanála

Inspector's Report

ABP-319514-24

Development

Demolition of all existing commercial buildings on the site and construction of a mixed use development up to 8 storeys in height over two levels of basement, comprising restaurant / bar and retail unit, a hotel providing 61 bedrooms, associated ancillary facilities / plant, and 6 residential apartments.

Location

Site known as 'Textile House,' at Nos. 3-5 Johnson's Place (also known as Johnson Place) and Nos. 2-5 Clarendon Market, Dublin 2.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

4128/23

Applicant

Grafton Residence ULC

Type of Application

Permission

Planning Authority Decision

Grant Permission.

Type of Appeal

First Party and Third Party

Appellant(s)

Grafton Residence ULC

Observer(s)	Stock Design (Ireland) Limited and Stock Design Contracts Limited Colm McNamara An Taisce Esther and Hugh McGahon Peter's Pub Limited Frank McDonald
Date of Site Inspection	7 th April 2025
Inspector	John Duffy

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1.0 Site Location and Description

- 1.1. The subject site, located in Dublin city centre, has a stated area of 612.7 sqm and is known as Textile House, with frontage onto Johnson Place to the west and also onto Clarendon Market, to the north. The site is located approximately 200 m north-west of St. Stephen's Green and opposite the northern side of Stephen's Green shopping centre.
- 1.2. The site comprises a two storey commercial building which is divided into three commercial units at 3-5 Johnson's Place. The site also encompasses 2-5 Clarendon Market, with frontage on to that laneway which connects William Street South to Clarendon Row.
- 1.3. The site is bounded to the north by Peter's Pub (a Protected Structure) of four storey design located at Nos. 1 and 2 Johnson's Place, and by a three storey retail unit to the south. Three and four storey structures are on neighbouring sites to the north-east, east and west. The former Mercer Hospital (a Protected Structure) is located opposite the appeal site on Mercer Street.

2.0 Proposed Development

- 2.1. *Original Design*
 - 2.1.1. This is an application seeking permission for the demolition of all existing commercial buildings on the site (c 612 sqm) and the construction of a mixed-use development up to eight storeys in height, over two levels of basement.
 - 2.1.2. Restaurant / bar use and retail use are proposed at ground and lower ground floor levels with access from Clarendon Market. Retail uses are also proposed at ground and lower ground floor levels, with access achieved from Johnson's Place. A hotel comprising 61 no. bedrooms is also proposed, with bedrooms located from first floor to fifth floor, while a gym and ancillary facilities / plant associated with the hotel is provided at basement level. Additional plant is proposed at roof level. The proposed hotel shall operate as an extension to and be managed by the nearby Grafton Hotel. It shall be accessed from Johnson's Place.
 - 2.1.3. Six residential apartments comprising 2 no. 1 bed units, 3 no. 2 bed units and 1 no. 3 bed unit, ranging in size from c 54 sqm to 128 sqm and with balconies are proposed

at 6th and 7th floor levels. Access to the apartments will be via a ground floor lobby shared with the hotel, which is from Johnson's Place.

2.1.4. Total gross floor area of the building including basements is given as c 4,361 sqm. The height of the proposed building is c 25.8 m above ground (parapet level) and 27.5 m to top of plant enclosure level.

2.1.5. Proposed external materials comprise limestone panels, white brick, powder coated metal cills and panels and dark green ceramic textured cladding.

2.1.6. In addition to the normal plans, elevation and section drawings submitted with the application, the following information is also provided:

- Planning Report
- Architectural Design Statement (ADS)
- Hotel Concentration Report
- Delivery and Servicing Management Plan
- Visual Impact Assessment (VIA)
- Architectural Heritage Impact Assessment (AHIA)
- Residential Quality Assessment
- Drainage details including Basement Impact Assessment (BIA) and Flood Risk Assessment (FRA)
- Daylight, Sunlight and Overshadowing Report

2.2. *Revised plans received on foot of Further Information (FI) request*

2.2.1. On foot of a FI request, the applicant submitted revised plans to the planning authority on the 1st of December 2023. Two design options, Option 1 and Option 2, are put forward.

2.2.2. Option 1 maintains the proposed 8 storey design over double basement. Commercial / retail floor space remains the same at c 585 sqm. The total gross floor area of the building is increased to c 4,442 sqm. The height of the proposed building is maintained at c 25.8 m above ground (parapet level) and c 27.5 m to top of plant enclosure. Further, the number of hotel rooms and residential apartments remains unchanged at 61 and 6 respectively.

- 2.2.3. The main differences between Option 1 and the proposal submitted with the planning application relates to design changes to the top floors and changes to external material finishes, to create a lighter character to the upper floors. A rounded edge for the top floors is introduced at the façade facing Johnson's Place. Limestone cladding is extended on the King Street South façade.
- 2.2.4. Option 2 provides for a 7 storey design over double basement. The total gross floor of the building is reduced to c 4,143 sqm resulting in a reduction of the overall gross floor area of 218 sqm. The number of hotel rooms is maintained at 61 (at first to fifth floor levels inclusive), while the number of residential apartments is reduced to 4. The apartment unit mix now provides 2 no. 1 bed units and 2 no. 2 bed units at 6th floor level. Commercial / retail floor space remains at c 585 sqm. The revised height of the proposed building is c 23.6 m above ground (to parapet level) and c 24.3 m to top of plant enclosure level.
- 2.2.5. In addition to revised plans and elevations provided, the following additional information is also submitted:
- Letter of response to FI items
 - Revised Daylight, Sunlight and Overshadowing Report
 - Architectural Design Report
 - Demolition Justification Report
 - Construction Traffic Management Plan (CTMP)
 - Construction Stage Management, Health and Safety Plan
 - Revised BIA
 - EIA Screening Report
 - Archaeology and Built Heritage Report
 - Construction Management Health and Safety Plan
- 2.3. *Revised plans received on foot of Clarification of Further Information (CFI) request*
- 2.3.1 On foot of the CFI request, the applicant submitted revised plans to the planning authority on the 29th of February 2024. An alternative design to the previous Options 1 and 2 submitted at FI stage is proposed.

- 2.3.2 An eight storey development with additional set-backs at 3rd floor level, and then further set-backs at 5th, 6th and 7th floor levels is proposed. Three alternative options for external materials at the top two floors comprise (a) golden mirrored steel panels, which is the applicant's preferred option, (b) glazed panels, and (c) standing seam grey zinc panels. The revised height of the proposed building accords with the original proposed height of c 25.8 m above ground (parapet level) and 27.5 m to top of plant enclosure level.
- 2.3.3 The revisions result in a total gross floor area of c 4,393 sqm. This revised proposal delivers a total of 50 hotel rooms across floors 1 to 4 inclusive and 11 no. residential apartments across three residential floors (i.e. floors 5 to 7 inclusive). The apartment unit mix now provides for the following: 1 studio unit (No. 3), 3 no. 1 bed units (Nos. 4, 6 and 8), 5 no. 2 bed four person units (Nos. 2, 7, 9, 10 and 11), and 2 no. 2 bed three person units (Nos. 1 and 5).
- 2.3.4 In addition to revised plans and elevations provided, the following additional information is also submitted:
- Letter of response to CFI items
 - Revised Daylight, Sunlight and Overshadowing Report
 - Architectural Design Report
 - Residential Quality Assessment

3.0 Planning Authority Decision

3.1. Request for Further Information (FI) and Clarification of Further Information (CFI)

Prior to the decision made to grant permission for the proposed development, the planning authority requested FI and CFI.

3.1.1 FI was requested on 6th of September 2023, summarised as follows:

Item 1: Applicant to submit a Demolition Justification Report or equivalent to ensure any demolition is in line with Development Plan guidelines.

Item 2: The scheme is likely to have a visual impact on the surrounding context in its current form, and there are serious reservations regarding the transition in scale between the proposal and the surrounding urban context, in particular, Peter's Pub (a Protected Structure). Having regard to the submitted views of the site (in particular V2, V6 and V7), it is considered that a reduction in scale is appropriate. Any reduction in scale should involve removal of hotel bedrooms rather than residential units.

Item 3: Reservations that the proposed development would have a detrimental impact on existing nearby occupiers, with reference made to south facing windows overlooking the private laneway to the rear of buildings along King Street South. Applicant to provide details regarding maintenance of windows and / or rearrange and set back the windows from the red line boundary.

Item 4: (a) (i) Re-examine accommodation provided for cyclists, revise cycle parking location, space for parking and means of access. (ii) Separate cycle parking for residents of the residential units from that of commercial uses, to facilitate improved security for long-term spaces. Details on type of cycling parking is required. (b) Submit an outline Construction Traffic Management Plan (CTMP) to detail proposed routes to and from the site and include provision of swept path analysis.

Item 5: (a) Basement Impact Assessment (BIA) not acceptable. Revised BIA to be provided addressing the following (i) While the BIA notionally recommends further groundwater investigation, monitoring and condition surveys as mitigation measures to be provided in further stages of design, more details on proposed measures are required in the outline plan. This is of particular importance as the site is very constrained. (ii) Address whether damage / movement assessment on nearby utilities is required, and if so, carry out the assessment. (iii) Construction Management Plan (CMP) to be submitted and included or referenced in the BIA.

Item 6: Prepare an Archaeological Assessment, and consult with the City Archaeologist in its preparation, as outlined in Section 3.6 of the Framework and Principles for the Protection of the Archaeological Heritage (1999).

Item 7: Submit an EIA Screening Report, or a full EIA if required.

3.1.2 **FI was submitted on 1st December 2023, summarised as follows:**

Item 1: Demolition Justification Report provided. It finds that the existing building is in a poor state of structural repair, that build quality is substandard and that the building

is not for re-use / refurbishment. Some of the materials which have the largest carbon impact (e.g. bricks, concrete, slates, glazing) can be salvaged and potentially used for future projects.

Item 2: Two options are proposed. Option 1 retains the original height but alters materials to create a lighter character to the upper floors. Option 2 reduces the height by one storey, reducing it to 7 storeys. This option omits one of the residential floors, and retains all proposed hotel bedrooms to ensure the proposed development is economically viable. Option 2 will have a similar impact on the protected structure. An ADS, a revised Daylight, Sunlight and Overshadowing report is provided along with revised plans, elevations and section drawings.

Item 3: As set out in the ADS, three windows overlook the laneway per floor. One of the windows is a stair core, and is a transitory space. Six of the proposed windows do not share a direct line of sight and are at an angle to the rear façade line of 32, 33 and 34 King Street South. Five of the six remaining windows are above first floor level with minimal potential for direct overlooking. Further, a conflict in terms of overlooking leading to a loss of privacy is not likely given the uses of the upper floors between the buildings, with hotel bedrooms being used at night and the commercial / storage spaces being used during the day. Windows will be fitted with internal voils to mitigate potential for impacts on privacy. Due to the higher floor to ceiling heights at ground, first and second floor level, compared to the existing buildings, the proposed windows will not have a direct line of sight between windows. In terms of maintenance, all proposed windows on upper levels will comprise glazing that can be turned 180 degrees for safe cleaning and maintenance from inside the rooms.

Item 4: (a)(i) and (ii) The ADS and associated drawings sets out the revised parking spaces and means of access. Segregated bicycle parking will be in the basement and may be accessed either from the core lifts or the stairs located in the Clarendon Market which would have wheel channels to enable access to the parking facilities. Cycle parking will be in the form of wall bike racks.

(b) A Construction Traffic Management Plan is provided identifying proposed routes to and from the site. Drawings submitted provide auto-track analysis and details for loading and unloading.

Item 5: (a)(i) A revised Basement Impact Assessment (BIA) is provided with Section 6 summarising the assessment findings. Ground movement analysis has concluded that predicted damage to neighbouring properties would generally be in the category of 'very slight' to 'slight.' It considers the construction of the basement will not unduly impact on groundwater conditions and that groundwater quality, quantity and classification will be protected. The BIA has been carried out based on limited information. It is recommended that future site investigations be undertaken and findings included in the next revision of the BIA. (ii) Section 5.4 of the BIA considers that the proposed CMP should be adequate to avoid damaging existing buildings and utilities provided best practice is adopted. (iii) A Construction Stage Management, Health and Safety Plan is provided.

Item 6: An Archaeology and Built Heritage report is provided. Section 6 sets out its conclusions and recommendations. They state, inter alia, that there may be unrecorded burials present relating to the monastery. The possibility that archaeological levels survive within the development footprint is raised and that having regard to the proposed depth of excavation, any surviving archaeological material would be truncated. As such, it is recommended that the survival of in situ deposits should be comprehensively assessed by way of licensed archaeological test trenching, which could most-likely be undertaken post-demolition.

Item 7: An EIA screening report is provided. It concludes that the proposed development is below the thresholds of a mandatory EIAR. It notes the proposed development will be connected to public services (water and foul drainage), that standard construction practices will be used to mitigate risk of noise, dust or pollution and that the proposed development would not individually or cumulatively have significant impacts on the environment. As such, a sub-threshold EIAR is not required.

3.1.3 CFI was requested on the 5th of January 2024, and is summarised as follows:

Item 1: Option 2, involving the removal of the top floor, is considered the more favourable of the two options indicated in the FI response. There are however serious reservations regarding the loss of a residential floor level. Whilst the argument that the viability of the development is in balance subject to ensuring an appropriate quantum of hotel accommodation, an appropriate level of residential units within this scheme is

a key dynamic in the overall redevelopment of the site. Therefore the applicant is requested to re-examine Option 2 to ensure a minimum of two residential floors are retained. As part of this revision, a revised Daylight, Sunlight and Overshadowing Report should be provided to reflect any changes in urban form or internal layout to ensure BRE Daylight, Sunlight requirements are met for the proposed dwellings.

3.1.4 **CFI was submitted on the 29th of February 2024**

Item 1: An alternative third option / proposal to Options 1 and 2 is submitted. It comprises an 8th storey development with additional set-backs at the 3rd floor, and then further set-backs at the 5th, 6th and 7th floor. This will result in the 7th floor being only visible from long range views and it reads similar in mass and scale to the Option 2 submitted at FI stage. To further reduce the impact of top floors, golden mirrored steel panels are proposed. Revised drawings and photomontages are provided with the CFI response, as are a revised ADS, a revised Daylight, Sunlight and Overshadowing Report and a revised Residential Quality Assessment.

50 no. hotel rooms are proposed across floors 1 to 4 inclusive. 11 no. apartments are proposed across the top three floors comprising the following mix:

- Floor 5 - 3 no. two bedroom units, 1 no. 1 bed unit, and one studio unit.
- Floor 6 - 2 no. two bedroom units and 2 no. one bedroom units.
- Floor 7 - 2 no. two bedroom units.

64% of the units are dual aspect. Nine of the apartments are +10% above the minimum required floor area. The living / kitchen / dining (LKD) areas for apartments 1, 2, 5 and 7 do not meet the required LUX level and do not achieve 50% penetration. Apartments 1, 2 and 5 are on the 5th floor

3.2 **Decision**

By order dated 26th March 2024, the planning authority issued a decision to grant permission subject to 20 conditions. The following conditions (summarised) are of note:

C2 – Section 48 Development Contribution.

C3 – Section 49 Development Contribution

C5 – Prior to commencement the applicant to submit drawings for written approval as follows:

(a) The proposed 5th and 6th floor levels shall mirror the layout and set backs of the proposed 7th floor level. There shall be a maximum of 50 hotel bedrooms at 1st, 2nd, 3rd and 4th floor levels and a maximum of 6 residential units at 5th, 6th and 7th floor levels.

(b) Details of external design and treatments at 5th, 6th and 7th floor levels, including balcony arrangements for proposed residential units.

(c) All proposed mitigation measures to the windows along southern elevations to safeguard neighbouring amenity.

C6 – Proposed residential units shall not be used for the purposes of short-term letting or tourism.

C7 – Proposed signage and lighting details to be submitted for approval prior to commencement.

C17 – Archaeology condition.

3.3 Planning Authority Reports

3.3.1 Planning Reports

The **first report** of the area planner is dated the 4th September 2023. It sets out the nature of the proposed development, the site's planning history, and relevant national, and local planning policy. In addition, the contents of all submissions and observations received in connection with the proposal are provided. Inter-departmental reports relating to the proposed development are also detailed.

Having regard to the Urban Development and Building Heights – Guidelines for Planning Authorities (2018), the report considers that the site is suitable for a higher density of development in accordance with the principles established in the NPF. Concern is raised that the building is too high (parapet height is 25.8 m above ground and 27.4 m to roof of plant enclosure) and that its scale and mass may need to be reduced.

Noted that a VIA and verified views / photomontages are provided which show that the proposals affect the surrounding context. However the report considers that the increase in scale and mass is likely to be offset by the surrounding urban context, including large scale (both existing and permitted) in the surrounding area.

Serious reservations are regarding the transition in scale between the surrounding urban context, in particular Peter's Pub (a Protected Structure) and the proposed development. The abrupt transition in scale between the proposal and the receiving urban environment is particularly evident when the following views are examined: V2 Johnston's Place, V6 and V7 South King St and V8 Lower Mercer St. As such, the report recommends that a further information request be made to the applicant, to reconsider the scale and massing of the scheme and explore options to reduce its height by at least one or two levels. Any reduction in scale should involve removal of hotel bedrooms rather than residential units.

The report acknowledges the high quality external finishes proposed. The proposal would introduce hotel, commercial (i.e. a restaurant and retail) and residential uses (6 no. apartments at 6th and 7th levels) onto the site which would contribute to the mix of uses in the area where office and commercial uses dominates.

The report also recommends further information is sought on six other items as set out in Section 3.1.1 of this report.

The **second report** of the area planner is dated the 5th of January 2024. It assesses the responses submitted in respect of the FI request. In terms of the FI response received relating to the design and height of the building, the report details and assess both options (Options 1 and 2) submitted by the applicant.

Option 2 involving removal of the top floor is favoured by the planning authority, however there are serious reservations expressed relating to the loss of a residential floor level. In this context the report recommends that the applicant be requested to re-examine Option 2 by way of a CFI request, to ensure that two floor levels for residential use are retained within the scheme. Furthermore it is recommended that the Daylight, Sunlight and Overshadowing Report be revised to reflect any changes to ensure BRE Daylight Sunlight requirements are met.

In terms of the FI provided by the applicant in connection with the remaining issues which were the subject of the FI request, the report indicates these issues are generally satisfactorily addressed, and could be conditioned, as appropriate.

The **third report** of the area planner assesses the applicant's response to the CFI request in which an alternative proposal or third option to the previous submitted options 1 and 2 (which were submitted at FI stage) is put forward. This comprises an eight storey building with set-backs at 3rd, 5th, 6th and 7th floors along with golden mirrored steel panels at upper floors to further reduce the impact of the proposed building. 11 no. apartments across three top floors are proposed along with 50 bedrooms from 1st to 4th floor inclusive.

Revised views for View 2, 6, 7 and 8 are submitted showing the difference in the proposals i.e. from the original application to the FI proposal and to the CFI proposal. View 2 is still noted to be of significant concern however; it provides the backdrop to the protected structure, Peter's Pub.

The report notes that unit 5 on the fifth floor now proposes a balcony and a kitchen/living/dining room window on the red line boundary with the adjacent site to the south. The submitted daylight/sunlight assessment indicates that the kitchen/living/dining room of this apartment is not currently compliant in terms of Spatial Daylight Autonomy (SDA). The report considers that the location of windows and private amenity space on the site boundary and the poor performance of this apartment in terms of daylight would impact on the future development of the adjacent site. At further information stage the windows on the boundary were serving circulation space, hotel bedrooms and two bedroom windows serving apartment 4 (option 2). The revised floor plans now submitted on foot of the CFI request provide private amenity space and kitchen/living room windows on the red line boundary and as such significantly intensifies this situation. These windows/balconies have substantial daylight requirements which could hamper the development potential of the adjacent site to the south. The report notes the presence of private amenity space along the site boundary would impact on the development potential of the adjacent site. The revised daylight and sunlight assessment highlights that this proposal would significantly impact the windows on the Mercer Clinic, the rear of 30-34 King Street and along Clarendon Market.

While the proposed increase in the number of residential units from 6 at FI stage to 11 at CFI stage is welcomed in principle, the report considers that the over-reliance of windows on the red line boundary serving private amenity space and kitchen / living / dining rooms would not provide adequate residential amenity to future occupants and would significantly impact on the development potential of the adjoining site to the south.

In conclusion, the report states it is appropriate to condition the scheme to allow for a more suitable level of development at 5th, 6th and 7th floor levels, with the number of residential units to be reduced from 11 to 6 in total. In this context, prior to commencement of development, amended drawings showing the mirroring of the proposed 7th floor level at 5th and 6th floors are to be submitted. 5th and 6th floor levels will be set back from the southern façade, reducing likelihood of overlooking and allowing appropriate levels of daylight and sunlight.

3.3.2 Other Technical Reports

Transportation Planning (first report): FI recommended in relation to proposed cycle facilities / accommodation and submission of an outline CTMP to include proposed routes to and from the site and provision of swept path analysis for HGVs.

Transportation Planning (second report): Following consideration of the FI, no objection to the proposal subject to conditions.

Environmental Health: Conditions given if permission is granted.

Drainage Division (first report): Lack of adequate information provided to fully assess the proposed development. A revised BIA is required. A CMP should also be submitted or referenced in the BIA.

Drainage Division (second report): Following consideration of the FI, no objection to the proposal subject to conditions.

Archaeology, Conservation and Heritage (first report): FI recommended. Preparation of an Archaeological Assessment is required.

Archaeology, Conservation and Heritage (second report): Conditions given if permission is granted.

3.4 Prescribed Bodies

It is evident from the file that the following bodies were notified of the proposed development by the planning authority: National Transport Authority (NTA), Transport Infrastructure Ireland (TII), Irish Water (now Uisce Eireann), and the Department of Housing, Local Government and Heritage. Submissions were received from An Taisce and TII.

Transport Infrastructure Ireland - No objection to the proposed development. The submission notes the proposed development falls within the area set out in a Section 49 Levy Scheme for Light Rail. As such the report requests that in the event of a grant of permission a condition be included for the Section 49 Contribution Scheme Levy.

An Taisce – The submission contends that the proposed 8-storey development would be overbearing adjacent to protected structures, and that it would result in a serious reduction in amenity and light levels to these 4 storey properties. It is considered that the proposal would be an obtrusive element in the streetscape immediately adjacent to an ACA with heights ranging from 3 to 5 storeys. It would negatively impact on the former Mercer Hospital (a protected structure). The proposed development should be significantly revised.

3.5 Third Party Observations

The Planning Authority received five observations relating to the planning application, including one from An Taisce which is summarised under the ‘Prescribed Bodies’ heading in Section 3.3 of this report. Concerns raised in the third party observations as summarised in the planner’s report are as follows:

- The proposed 8-storey development would represent an overbearing form of development in this location in Dublin’s south retail core and directly adjacent to Protected Structures.
- The proposal result in a serious reduction in amenity and light levels to neighbouring 4-storey properties, which are in the characteristic format of commercial ground floors and accommodation over, by reason of its direct proximity and relative height and bulk.

- The proposed development would represent an obtrusive element in the streetscape immediately adjacent to an ACA where the established heights are generally 3, 4 and 5 storeys and would constitute a random jump in the scale of the street.
- Due to its size and proximity it would furthermore negatively impact on the landmark Victorian stone former Mercer Hospital on the opposite side of the street, a Protected Structure.
- The proposal needs to be significantly revised.
- The proposal constitutes an overdevelopment of the subject site.
- The proposal does not integrate with its surroundings and fails to respond to the urban environment.
- The proposal does not make a positive contribution to place making.
- The design and fenestration of the proposed building is not of sufficient quality.
- The proposed uses and combination of uses should not be supported and will likely devalue neighbouring property.
- The proposed scheme has not been sufficiently designed to take into account the neighbouring properties and will negatively impact on adjoining lands.
- The proposal will create privacy, overlooking and overshadowing issues.
- The access and servicing of the building is not sufficiently considered.
- Concern regarding the impacts on existing businesses.
- There is already sufficient hotel accommodation in the local area

4.0 Planning History

Subject Site

Planning Authority Reg. Ref. 0265/23 refers to an August 2023 decision to grant a social housing exemption certificate in respect of the proposed development, the subject of this appeal.

Planning Authority Reg. Ref. 4742/19 refers to a February 2020 decision to grant retention permission for existing ground floor window and door fenestration, new awnings with graphics onto previously approved internal alterations at Pablo Picante, Nos. 4 / 4a and 5 Clarendon Market, Dublin 2.

Planning Authority Reg. Ref. 3971/18 refers to a December 2018 decision to grant permission for removal of internal wall separating two ground floor units, minor internal alterations and external works comprising changes to façade, associated signage and graphics, at Pablo Picante, Nos. 4 / 4a and 5 Clarendon Market, Dublin 2.

An Bord Pleanála Reference PL29S.245942 / Planning Authority Reg. Ref. 3381/15 refers to an April 2016 decision to grant permission for change of use of ground floor from retail shop to bar / restaurant with terrace and change of use of the first floor from retail storage to a live music venue and all associated works, at 5 Clarendon Market, Dublin 2.

In the vicinity

An Bord Pleanála Reference ABP-318865-24 / Planning Authority Reg. Ref. 3012/23 refers to a current appeal relating to the reconfiguration and redevelopment of St. Stephen's Green Shopping Centre resulting in a building of up to 8 storeys over basement with retail, café/restaurant/bar and office uses along with a reduced quantum of car parking.

5.0 Policy Context

5.1. National Planning Policy

5.1.1. Project Ireland 2040: National Planning Framework (2018)

National Strategic Outcome 1, Compact Growth, recognises the need to deliver greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Of relevance to the subject application are the following:

- National Policy Objective 2a: 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 5: 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 6: 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 and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.
- National Policy Objective 11: Outlines a presumption in favour of development that can encourage more people and generate more jobs / activity within existing settlements.
- National Policy Objective 33: 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 35: 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 and increased building heights.
- National Policy Objective 27: seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- National Policy Objective 33: seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.2. Regional Policy

5.2.1. Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning

Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient economic base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

The followings RPOs are of particular relevance:

RPO 3.2: Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.3: Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

- Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

5.3. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

Sustainable Residential Development & Compact Settlement Guidelines 2024

The guidelines expand on the higher-level policies of the National Planning Framework (NPF) in relation to the creation of settlements that are compact, attractive, liveable and well-designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlement.

In accordance with the provisions of Section 34 of the Act when making a decision in relation to an application that includes a residential element or other elements covered by these guidelines, the planning authority is required to have regard to the policies and objectives of the Guidelines and to apply the specific planning policy requirements (SPPRs).

Of relevance to the subject application are the following:

- Residential densities of 100-300dhp for city centre sites within Dublin and Cork
- SPPR1 – separation distances of c.16m between directly opposing first floor windows.
- SPPR2 - Apartments and duplex units shall be required to meet the private and semi-private open space requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 (and any subsequent updates). All residential developments are required to make provision for a reasonable quantum of public open space.
- SPPR3: In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is

justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.

- SPPR4: It is a specific planning policy requirement of these Guidelines that all new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors. The following requirements for cycle parking and storage are recommended:
 - i. Quantity – in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/ enlargement, etc. It will be important to make provision for a mix of bicycle parking types including larger/heavier cargo and electric bikes and for individual lockers.
 - ii. Design – cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction. Cycle parking areas shall be designed so that cyclists feel safe. It is best practice that either secure cycle cage/compound or preferably locker facilities are provided.

Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.

Of particular reference within these guidelines is Section 2.8 which states:

Historic environments can be sensitive to large scale and tall buildings. In that context, Planning Authorities must determine if increased height buildings are an appropriate typology or not in particular settings. An initial assessment of the existing character and setting of a place will assist in a robust framework for decision-making that will facilitate increases in building height and involve an integrated understanding of place. With regards to large-scale and tall buildings in historic urban areas, an examination of the existing character of a place can assist planning authorities, and others to:

- *establish the sensitivities of a place and its capacity for development or change and;*
- *define opportunities for new development and inform its design.*

Architectural Heritage Protection – Guidelines for Planning Authorities (2011)

This guidance is a material consideration in the determination of applications and sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

Sustainable Urban Housing: Design Standards for New Apartments

The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.

5.4. Dublin City Development Plan 2022-2028

- 5.4.1. The subject site is zoned Z5 City Centre on Zoning Map E of the Dublin City Development Plan 2022-2028.
- 5.4.2. The subject site adjoins the South Retail Core ACA and a red hatched conservation area (as indicated on Map E). It adjoins Peter's Pub located at Nos. 1 and 2, Johnson's

Place, Dublin 2 which are Protected Structures of four storey design to the north (RPS Ref. 4063 and 4064 refer). Another Protected Structure, the former Mercer's Hospital (RPS No. 5074) is located opposite the subject site on Mercer Street, Dublin 2.

The site is located within the Zone of Archaeological Potential for the Recorded Monuments DU018-020 (Historic City), DU018-020593 (Church), DU018-020063- (Hospital).

5.4.3. Chapter 3: 'Climate Action' contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policies from this section include:

- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility.
- CA6: Retrofitting and Reuse of Existing Buildings.
- CA8: Climate Mitigation Actions in the Built Environment.
- CA9: Climate Adaptation Actions in the Built Environment.
- CA24: Waste Management Plans for Construction and Demolition Projects.
- CA27: Flood Risk Assessment and Adaptation.

5.4.4. Chapter 4: 'Shape and Structure of the City,' sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter are:

- SC5: Urban Design and Architectural Principles.
- SC10: Urban Density.
- SC11: Compact Growth.
- SC13: Green Infrastructure.
- SC14: Building Height Strategy.
- SC15: Building Height Uses.
- SC16: Building Height Locations.
- SC19: High Quality Architecture.

- SC20: Urban Design.
- SC21: Architectural Design.

5.4.5. Chapter 5: 'Quality Housing and Sustainable Neighbourhoods,' seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin remains competitive as a place to live and invest in. The relevant policies from this chapter include:

- QHSN6: Urban Consolidation.
- QHSN10: Urban Density.

5.4.6. Chapter 6: 'City Economy and Enterprise,' seeks to safeguard and develop Dublin's role as a competitive capital city and global gateway to the country and, inter alia, promote strategic and targeted employment growth, support key economic sectors, innovation, and develop the economy of Dublin city. The relevant policies from this chapter include:

- CEE1 – Dublin's Role as the National Economic Engine
- CEE2 – Positive Approach To the Economic Impact of Applications
- CEE26 – Tourism in Dublin
- CEE28 – Visitor Accommodation

5.4.7. Chapter 8: 'Sustainable Movement and Transport,' seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related carbon dioxide emissions.

5.4.8. Chapter 9: 'Sustainable Environmental Infrastructure and Flood Risk,' aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity, and flood risk/surface water management. The relevant policies of this section are

SI14: Strategic Flood Risk Assessment.

SI15: Site Specific Flood Risk Assessment.

5.4.9. Chapter 11: 'Built Heritage and Archaeology,' recognises that the city's heritage contributes significantly to the collective memory of its communities and to the richness and diversity of its urban fabric. It is key to the city's character, identity and authenticity and is a vital social, cultural, and economic asset for the development of the city. The Development Plan plays a key role in valuing and safeguarding built heritage and archaeology for future generations. The plan guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology. The relevant policies of this section include:

- BHA26: Archaeological Heritage
- BHAO17: Tourism

5.4.10. Chapter 15: 'Development Standards' contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed, both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. Relevant sections of Chapter 15 include (but are not limited to):

15.4: Key Design Principles.

15.5: Site Characteristics and Design Parameters.

15.14.7.2: Restaurants / Cafes

15.14.7.4: Noise, Odour, Ventilation

15.7.1: Re-use of Existing Buildings.

15.15.1: Archaeology.

15.15.2: Built Heritage.

15.18: Environmental Management.

5.4.11. Relevant Appendices include

Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.

Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments.

5.5. **Natural Heritage Designations**

The subject site is not located within and is not adjoining any Natura 2000 Sites. There are no proposed or designated Natural Heritage Areas in the vicinity of the site. The site is located c. 3.3 km from South Dublin Bay SAC (Site code 000210), c 3.1 km from South Dublin Bay and River Tolka Estuary SPA (Site Code (004024), c 6 km from North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) and c 7.5 km from the North West Irish Sea SPA.

6.0 **EIA Screening**

The applicant has submitted an Environmental Impact Assessment Screening Report at FI stage, which addresses issues which are included in Schedule 7A of the Planning and Development Regulations 2001, as amended. This matter is further addressed in Section 10 of this report and also in Form 1 and Form 3 appended to this report.

7.0 **The Appeals**

7.1. **Grounds of Appeal**

Two third party appeals and a first party appeal have been made in connection with the Dublin City Council decision to grant permission for the proposed development.

The grounds of the **third party appeal** submitted by Colm McNamara, leaseholder of 4 and 5 Clarendon Markets, Dublin 2, are summarised as follows:

- The lease relating to Nos. 4 and 5 Clarendon Market does not expire until 2032. As such, the decision to grant permission cannot be implemented as the appellant has a legal right to occupy the property until 2032.
- The proposed development is overbearing, directly adjacent to a Protected Structure.
- The proposal would reduce amenity levels and light to the surrounding 3-4 storey properties.

- The proposal would be an obtrusive element in the streetscape, located adjacent to an ACA.
- Negative impacts would arise on Mercer Hospital, a Protected Structure, located opposite the subject site.
- Proposed height of the development contravenes the City Development Plan and the Urban Development and Building Height Guidelines 2018.
- Proposed plot ratio and site coverage are contrary to and exceed Development Plan figures.
- Proposal is contrary to the City Centre zoning objective. A mix of uses should be provided. It is inappropriate to allow mono use on city centre lands or an over-concentration of hotel uses in a particular area.

The grounds of the **third party appeal** submitted by O'Neill Town Planning on behalf of Stock Design (Ireland) Ltd. and Stock Design Contracts Limited, stated to be the owners and occupiers of adjoining businesses at 32-34 South King Street and 6,7 and 8 Clarendon Market, Dublin 2, are summarised as follows:

- Gross overdevelopment of the site which adjoins Protected Structures and next to an ACA. Excessive scale and density which does not integrate appropriately with its surroundings.
- Comparisons made in the application to the Stephen's Green Shopping Centre site and the redeveloped South King Street / Chatham Street block are misplaced as they relate to redevelopment of large urban blocks, while the subject proposal comprises an embedded / infill site.
- Proposed development does not make a positive contribution to placemaking and does not create visual interest in the streetscape.
- The overall area should have been subject to a masterplan, which would have included adjoining buildings, including the appellant's property.
- In terms of condition 5, the planning authority has not fully examined potential impacts the proposed development would have on the appellant's property.
- Proposed plot ratio and site coverage exceed Development Plan quantum.

- Design and mix of proposed uses will lead to overlooking, overshadowing and overbearing impacts on adjoining properties.
- Proposal would seriously interfere with the appellant's 'ancient lights' rights.
- Proposed height of the development would significantly negatively affect any development potential on the appellant's sites. Potential development for residential use on their sites will be curtailed, with only commercial development likely.
- Potential issues arise for the appellant's building due to proximity of windows and non-fire rated glass in the proposed development.
- Concern raised that two basement floors could affect the integrity of the appellant's building, its use and deliveries to the premises.
- The water table in the immediate area will be changed as a result of basement constructions, possibly undermining the foundations of the appellant's building. It is inappropriate to deal with this issue by way of condition.
- A detailed construction plan should have been submitted with the application, rather than it being conditioned.
- Property devaluation.
- Heritage Impact Statement is deficient as it fails to recognise potential impacts on adjoining 18th century buildings.
- Results of daylight analysis inadequate to deal with existing and future issues regarding daylight and sunlight.

The following attachments are appended to this appeal:

- Photographs of upper floor indicating proximity of the proposed development to the appellants' site.
- A copy of the appellant's observations to the planning authority in relation to the application which generally reflect the grounds of appeal, as set out above, and accord with the issues raised in the third party observations set out in Section 3.4 of this report.

- A copy of the acknowledgement which issued to the appellants by the planning authority on foot of the submission made to it in relation to the planning application.
- A copy of the planning authority's decision.
- A report dated 21st April 2024 prepared by CSC providing commentary on the impact and potential impacts on the appellant's properties or their development potential.

This report is summarised as follows:

- The form of the report prepared on behalf of the applicant by Passive Dynamics and the metrics analysed therein appear to be consistent with best practice.
- Impacts on neighbours is tested by three main metrics i.e. Skylight, Sunlight and Shadow.
- In terms of the appellant's properties, the windows on South King Street were assessed and are compliant.
- Numerous other windows to the rear of the applicant's properties and other adjacent landowners do not appear to have been tested. It is considered they should have been included in the assessment and considered by the planning authority.
- The proposed design indicates a number of residential rooms on the upper floors are lit by windows which overlook the appellants buildings, and other buildings. The rooms also appear to have balconies overlooking adjoining spaces. Windows which receive all of their light over neighbouring lands are not 'good neighbours,' in terms of the BRE guidelines (BRE v3 2022).
- BRE guidelines also refer to impact on development potential. Section 2.3 of the BRE guidance document refers. The windows all get their light from over lands owned by others, which is contrary to the BRE guidelines for the protection of adjacent land. If allowed to remain, this would place new limits on the scale of other potential development on this block.

The **first party appeal** relates to the inclusion of Condition 5 (a). The grounds of appeal may be summarised as follows:

- Condition 5 (a) substantially changes the character and the appearance of the proposed development and reduces the number of proposed residential units.

- The rationale given for the inclusion of this condition is questioned, in that the stated purpose of the condition was to 'ensure future residential amenity and development potential of adjoining properties are safeguarded.' However, a viable solution which addressed these matters had previously been provided and as such this condition was not warranted.
- Direct and indirect consequences of this condition have not been given due consideration.
- Through this grant of permission, the proposed development at 8 storeys in height is acceptable in principle, while the planner's report is accepting of the scale and massing proposed. As such, it is the residual impact on the adjoining neighbouring sites in terms of future development potential and the protection of residential amenity that is to be considered.
- Concerns raised relate to units 4 and 5 on the 5th floor, with windows or private amenity space positioned along the application boundary, instead of a hotel bedroom or circulation space as originally proposed. It is considered that the development potential of adjoining sites would be impacted, due to higher amenity levels required for apartment units and private open space. Use of the 5th floor for hotel rooms could be conditioned by the Board. Otherwise, there has never been any concerns raised regarding the use of the building for tourist accommodation / hotel rooms from first floor and above.
- The primary complication with provision of apartment units on the 5th floor relates to the availability of natural daylight. Good levels of daylight are achievable at 6th and 7th floor levels.
- Condition 5 (a) reduces the number of residential units from 11 to 6, resulting in the delivery of 51 hotel bedrooms. This is considered to have a detrimental impact on the layout and design and on the viability of the proposed scheme.
- The provision of hotel rooms on the 5th floor and 6 apartment units above would constitute an appropriate use of zoned lands.
- Imposition of Condition 5 is a crude design tool which may result in lesser quality in terms of the overall scheme.

- Condition 5 (a) has created potential issues relating to other aspects of the proposed development. The mirroring of level 7 at levels 5 and 6 is ill-conceived because there will be knock-on effects on massing, visual impact, proportions and aesthetics.
- Mirroring the 7th floor as conditioned will erode benefits gained from the set back of the upper floors by reducing the parapet height of the building at the back of footpath level and will therefore accentuate the presence and visibility of the upper levels in an imbalanced composition. The resultant change would have a detrimental impact on massing, giving rise to an incongruous top heavy design.
- Requests that the proposed development is permitted as per the original design or that Condition 5 (a) be omitted or amended to require the 5th floor to be used for tourist accommodation / hotel bedrooms and a total of 61 hotel bedrooms be permitted from 1st to 5th floors inclusive, as originally submitted, and that a total of six apartments are provided at 6th and 7th floors.

7.2. **Planning Authority Response**

A response from the Planning Authority was received on the 13th of May 2024. The response requests that the decision of the Planning Authority be upheld and that conditions be applied as follows:

- Section 48 contribution.
- Section 49 special contribution – Luas Cross City Development.
- Contribution in lieu of open space.
- Payment of a bond.
- Naming and numbering.
- Management company.

7.3. **Applicant's response to third party appeals**

The applicant's response to the two third party appeals may be summarised under headings as follows:

Existing lease

The matter of the commercial lease pertaining to Nos. 4 and 5 Clarendon Market is a civil matter, rather than a planning matter. Therefore, this issue is not for consideration in the appeal process.

Uses proposed

It is incorrect to suggest that a single use is proposed. Hotel, residential, restaurant / bar and retail uses are all proposed in this mixed-use building. All these uses are permissible within the Z5 City Centre zoning.

The claim that there is an over-concentration of hotels in the area is unfounded. The Hotel Justification Report provided with the application finds there is a strong case for progressing the proposed development, while the demand analysis undertaken forecasts a need for a much greater quantum of visitor accommodation in Dublin City.

Plot Ratio / Site Coverage

Plot Ratios and Site Coverage standards are set out in Appendix 3 of the Dublin City Development Plan 2022-2028 and they are indicative. The City Development Plan notes that higher ratios and site coverage may be permitted in certain situations. Given the inner-city location of the subject site it is reasonable to propose a plot ratio of 5.02 and site coverage of 94.7%, which the applicant states are accurate figures. The proposed development does not exceed an acceptable plot ratio or site coverage quantum.

Height

The proposed height of the development is supported by Dublin City Council. The planner's report considers that the proposed increase in mass and scale would likely be offset by the surrounding urban context including existing and permitted developments. The proposed building height is in keeping with varying heights that are characteristic of the area.

The Addendum VIA submitted at FI stage notes that it would be very difficult to achieve a development that will not, of itself, result in a substantial visual impact due to the site's shortened frontage which hinders the ability to increase the height of the development gradually across the site.

Daylight / Sunlight

The Daylight and Sunlight Analysis provided at FI stage assumes there is residential use in adjoining buildings, and therefore provides a worst case scenario situation. However these properties are in fact in commercial use, where requirements for daylight / sunlight would be less than those required for residential use.

The appeal prepared by Michael O'Neill Town Planning and the appended Daylight Study prepared by CSC do not appear to have considered the Daylight and Sunlight Impact Assessments submitted at both FI and CFI stages. The site which the appellant refers is identified as No. 6 in the Assessments, and it clearly shows which windows will be impacted by the proposed development.

The report acknowledges that the proposed development will have a major impact on some buildings in the area, but that all buildings have access to good light in other rooms within the same building and therefore are compliant with BRE Guidelines.

Turning to the reference in the appeal that the proposed development would interfere with 'ancient lights' rights, the proposed development is located on a city centre site suitable for high density development. The Daylight / Sunlight assessments undertaken show that the proposal will have an impact on the surrounding area, however, having regard to the city centre context, the fact that surrounding buildings are not in residential use, it is considered that proposed impacts are acceptable. The proposed development accords with the Building Heights Guidelines and Appendix 3 of the Development Plan.

Impact on Built Heritage

The subject site / buildings thereon are not within an ACA, and are not Protected Structures. The site adjoins an ACA and there are several Protected Structures in the vicinity of the site, and in this context, an Architectural Heritage Impact Assessment has been provided. The proposed development abuts the south gable of No. 2 Johnson's Place (RPS No. 4064) and the east gable of No. 1 Johnson's Place (RPS No. 4063). The AHIA report and the VIA contend that the impact is acceptable. The planning authority also viewed the proposal as positive in the context of the surrounding area.

While a third party appellant claims the AHIA is deficient as it fails to recognise the impact of the proposed development, including the proposed basement abutting 18th

century structures, this is disputed as the purpose of the AHIA relates solely to the effects on architectural heritage and not the structural stability of buildings. The CMP and BIA have assessed demolition and construction impacts and Dublin City Council have included conditions relating to construction and demolition management.

Construction Plan

A Construction Stage Management, and Health and Safety Plan was, in fact, submitted at FI stage. Condition 14 (c) requires a Construction Management Plan to be provided prior to commencement of development; this is a standard condition.

Change in ground levels / Water table

A BIA was submitted at application stage and concluded, inter alia, that the proposed basement is not likely to impede ground water flow and that predicted damage to neighbouring properties would generally be in the category of very slight to slight. The BIA also recommends a series of further ground investigations. Condition 13 (k) is standard and requires that recommendations / mitigation measures proposed in the BIA are to be implemented in conjunction with site investigation, monitoring and condition surveys referenced in the CMP.

Development potential of adjacent sites

It is not the case that the proposed development would inhibit the development potential of adjacent sites. It is considered that the increased height and volume of the proposed building would enable the appellant to realise an increase in height and volume of a similar scale should they wish to redevelop their site. It is considered that the proposal would enhance the attractiveness of the surrounding areas, potentially increase property values and also increase footfall in the area.

7.4. Further response received

7.4.1 A response to the first party appeal was received from Stock Design Ireland Limited and Stock Design Contracts Ltd. represented by O'Neill Town Planning. This response is summarised as follows:

- Reiterates grounds of appeal.
- Planning is not about a 'first come, first served approach.'

- The planning authority has a duty to ensure the overall area would be developed in a manner where all stakeholders have equal and comparable development rights within the same area.
- The contents of the first party appeal does not alter the appellant's view regarding the overall scale and use of the proposed development.

7.5. Observations

An Bord Pleanála received 4 no. observations in relation to the appeals, from the observers listed on page 2 of this report. The concerns raised are summarised as follows:

Planning Authority's decision

- Condition 5 requires the submission of additional drawings which will have knock-on impacts in relation to the design, finishes, and built-form of the proposed development, in addition to the mitigation measures to safeguard the amenity of neighbouring properties.
- As such, final designs have not been provided. The decision does not require the submission of a revised daylight, sunlight and overshadowing study in respect of the final design.
- Condition 12 stipulates that no lift motors and air handling units are to occur at roof level. However, drawings provided at additional information stage clearly indicate projections above roof level.
- The further information request required the applicant to contact the planning authority in relation to the proposal, however, this clearly did not happen.
- The applicant should be required to bring forward a design that would be viable to construct and which meets the requirements of the planning authority.

Building mass and height / Amenity impacts

- The proposal constitutes overdevelopment of an urban block which includes two protected structures and adjoins an Architectural Conservation Area (ACA).
- Overbearing nature of development. Overlooking and overshadowing impacts also arise which will result in reduced amenity levels and sunlight.

- Proposal is visually obtrusive in the streetscape by reason of its scale, massing and design.
- Abrupt transition in scale relative to adjoining development.
- Predominant heights of urban blocks in the area are 4-5 storeys.
- The proposed development would dwarf remaining buildings in the block.
- The area is not in need of the intensification which is proposed by the development, and it will not make a positive contribution to the urban neighbourhood.

Impact on Built Heritage

- Proposed development is out of character with its setting adjoining Protected Structures and breaches guidance contained in the Architectural Heritage Protection – Guidelines for Planning Authorities (2011).
- The submitted AHIA does not specify impacts of the proposed development on the heritage of the adjoining Protected Structures. The proposal does not acknowledge the impact of the development would have on the foundations (if there are any) of the abutting Protected Structures.
- View of the Mercer building and its clock would be obstructed by the proposed development.

Other issues

- Delivery and Service Management Plan makes no reference as to how the proposal would impact on the over-congested streets which provide access to the site.
- Excessive plot ratio.
- The subject site and adjoining areas are incorrectly described as an 'underutilised brownfield site.'
- Proposal is contrary to the City Centre zoning objective.
- Proposal not in accordance with the Urban Development and Building Height Guidelines.
- Proposal would set an undesirable precedent.

- Possibility of upper floor apartments being incorporated into the hotel.
- Criticism of the hotel concentration report. Large number of hotels permitted / constructed in the past decade.
- The proposal should comprise predominantly residential use in a building no higher than five storeys.
- The applicant could sell the development if / when planning permission is obtained.
- European standards rather than British standards should be followed in terms of visual impact standards.
- Failure to provide photomontages of the building from particular points (towards Clarendon Row and from Clarendon Row).
- EIA is seriously flawed.
- Criticism of Architectural Design Statement.

8.0 **Assessment**

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

- Land use and nature of the proposed development
- Height, Scale and Design / Impact on character of the area
- Impacts on Built Heritage
- Amenity
- Visual Impact
- Other Issues
- Condition 5 (a)
- Other planning authority conditions

- Appropriate Assessment Screening
- EIA Screening

8.1. Land-use and nature of proposed development

- 8.1.1. From an examination of this appeal case, it is apparent that a number of iterations / versions of the proposed development have been submitted by the applicant on foot of FI and CFI requests from the planning authority. These are set out under Section 3 of this report.
- 8.1.2. My report will assess Option 1 of the applicant's FI submission received by the planning authority on the 1st of December 2023. This iteration essentially retains the height and layout as proposed in the application as submitted to the planning authority, but alters mainly external materials to create a lighter character to the upper floors. In this iteration, 61 no. hotel bedrooms are proposed from 1st to 5th floor inclusive, while a total of 6 no. apartments are proposed across 6th and 7th floor levels.
- 8.1.3. The subject site is zoned Z5 'City Centre,' in the Dublin City Development Plan 2022-2028. The Zoning Objective states the following: 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.'
- 8.1.4. The applicant is seeking permission for the demolition of all commercial buildings on the site to make way for a mixed-use 8 storey development which will provide for a hotel, gym, retail, restaurant / bar and residential units. 'Hotel,' 'public house,' 'sports facility and recreational uses,' and 'residential' uses are all listed as permissible uses under the Z5 - 'City Centre' zoning objective.
- 8.1.5. The Dublin City Development Plan 2022-2028 notes the primary purpose of Zone Z5 (city centre) is to sustain life through intensive mixed-use development, with a mix of uses to occur ideally through the floors of buildings as well as horizontally along the street frontage. In my view, the proposed development provides a dynamic mix of uses interacting with each other, sustaining the vibrancy of the of the city centre both during the day and at night.
- 8.1.6. There is an overarching aim within the Dublin City Development Plan to encourage high quality sustainable residential development in accordance with the principles of

the 15 minute city in order to enliven the city, create vitality and contribute to the evening economy of the city and to counterbalance the loss of any physical employment space. This has been encapsulated within Policy SC3 of the City Plan which seeks 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.”*

- 8.1.7. With regard to the proposed hotel development, I note that the City Development Plan seeks to avoid overconcentration of visitor accommodation in areas of the city centre but at the same time recognises the importance of the tourism industry and the need to provide for much needed additional accommodation for visitors to Dublin city. In this context, the applicant prepared and submitted a Hotel Concentration Report with the application. Its findings suggest that there is a solid case for progressing the proposed hotel development, and that there is a need for a greater quantum of visitor accommodation in Dublin city. While I note the criticism raised relating to the Hotel Concentration Report in terms of omission of specific information, I consider it to be a detailed document and I note the planning authority raised no concerns in relation to its content or findings. The demand analysis included in the report forecasts the requirement for a greater quantum of visitor accommodation in the capital in the future and the need to ensure a consistent pipeline of new rooms for the market in order to address increasing demand. I would also note that the level of hotel bedspaces in Dublin City has been an issue for many years and that demand is consistently higher than beds available. In conclusion, I note also that the proposed use is compatible with the zoning objective pertaining to the site.
- 8.1.8. In my view, the applicant as part of this proposal is seeking to provide for a balance between residential and tourism accommodation by providing for 6 no. apartment units and a 61-bedroom hotel. In this regard, based on the submitted Daylight, Sunlight and Overshadowing studies, it is apparent that provision of a greater number of residential units within the proposed development would be challenging, as it would not be possible to achieve minimum daylight standards for residential units below the upper floors in this built-up city centre location.
- 8.1.9. I consider that the mix of uses would provide for a balance between visitor accommodation and sustainable residential development which achieves the objectives set out within the Dublin City Development Plan 2022-2028 with a particular

reference to Policy SC3 and Section 4.5.1 - Approach to the Inner City and Docklands. I therefore consider that the proposed development is considered to be acceptable in principle on the subject site.

8.1.10. Table 2 of Appendix 3 of the City Development Plan sets out indicative plot ratios and site coverage percentages for particular areas including the 'Central Area,' where a plot ratio of 2.5-3.0 and a site coverage percentage of 60-90% is indicated. The proposed development proposed a plot ratio of 5.2 and a site coverage of 94.7%, which exceed the indicative levels given in Table 2 of Appendix 3. This issue is raised in the appeals and observations.

8.1.11. I note that there is provision in Appendix 3 for higher plot ratios and site coverage to be permitted in certain circumstances, such as at locations which, inter alia, adjoin major public transport corridors, where an appropriate mix of residential and commercial uses are proposed, and where a site already has the benefit of a higher plot ratio. These two factors apply to the subject site. I note that the planning authority raised no objection to the proposed plot ratio and site coverage, and having regard to the foregoing, I consider these metrics to be acceptable in this instance.

8.2 Height, scale and design / Impact on character of the area

8.2.1 Having regard to the grounds of appeal and the content of the observations, and having regard to the nature of the proposal which involves the construction of an eight storey building over double basement, I consider it appropriate to assess the height, scale and design of the proposed development.

8.2.2 The parapet height of the proposed building height would be c 25.8 m above ground level, and c 27.4 m to the top of the plant enclosure at roof level. Third party submissions received in respect of this case contend the proposed development is of excessive height, scale and mass, and as such, seriously impacts on adjoining buildings and associated amenities. Conversely, following the undertaking of a volumetric study of the site and the introduction of set-backs on upper floors, the applicant considers that the proposed building would facilitate a transition in massing from four storey development to development above eight storeys. The applicant, in their planning report submitted with the planning application, has assessed the

proposal against the performance criteria of Table 3 of Appendix 3 of the Dublin City Development Plan 2022-2028 in terms of height and scale.

- 8.2.3 In terms of integration with the character of the area, the applicant has prepared Architectural Design Statements which set out the design rationale and evolution, and includes detail on the context of the site, making reference to building heights in the immediate and wider area. The applicant's planning report also notes there are permitted and constructed contemporary buildings nearby which are taller and more expansive including 35-45 South King Street and Stephen's Green Shopping Centre. The case is made that the proposed building height is a reflection of more recent contemporary buildings in the area and in accordance with the transition to a more compact city, denoted by increased building heights.
- 8.2.4 Section 4 of Appendix 3 of the City Development Plan addresses how to achieve sustainable height and density. The proposed development comprises a new eight storey over double basement mixed-use building. While adjoining development comprises predominantly three and four storey commercial development, there are a range of building heights evident in the immediate area including the buildings referenced in Section 8.2.3 above. My view is that while the height of the proposed development would be significantly above adjoining commercial buildings, it would accord with the heights of newer / more contemporary developments in the immediate area.
- 8.2.5 Section 3.1 of the Building Height Guidelines notes that there is a general presumption in favour of increased heights in town and city centres, and urban locations, provided they are served by high capacity and frequent transport services. I would consider that the subject site is located within such an area where the Board can positively consider increased building heights.
- 8.2.6 Having regard to the foregoing, it would be useful, in my opinion, to consider the proposed development in terms of Table 3 of Appendix 3 of the Dublin City Development Plan 2022-2028, as it relates to height and scale. Density considerations will not be considered in this instance given the predominantly commercial nature of the proposed development. I have applied the performance criteria in my assessment in Table 1 below.

Table 1: Performance Criteria in Assessing Proposals for Enhanced Height and Scale

<p><i>Criteria 1 – To promote development with a sense of place and character</i></p>	<p>This area of the City is transitioning to one which accommodates higher and larger buildings as evidenced by existing developments in the immediate area – Section 8.2.3 of this report refers. In this context, and in my view, the proposed development comprising a well-designed 8 storey over basement building, would not be out of character with the area. The proposed development includes high quality finishes as described in Section 2.1.5 of this report and have considered the site context and adjoining protected structures. Proposed set-backs at 3rd floor level, and then further set-backs at 5th, 6th and 7th floor levels are appropriate and somewhat mitigate overbearing impacts on the adjoining protected structures which form Peter’s Pub.</p> <p>In my opinion the proposed mixed-use building would generate additional footfall at this location and lead to enhanced vibrancy in the area.</p>
<p><i>Criteria 2 – To provide appropriate legibility</i></p>	<p>The proposed development provides for greater efficiency for the use of this appeal site. I consider that the proposed development would make a positive contribution to the legibility of the streetscape and the wider area.</p>

<p><i>Criteria 3 - To provide appropriate continuity and enclosure of streets and spaces</i></p>	<p>I consider that the proposed development would accord with the character of the area and would be an appropriate response to a site where the prevailing character and pattern of development in the area is in the process of transitioning to higher buildings of larger scale.</p> <p>The proposed mixed-use development provides active ground floor uses generating street level activity and animation.</p> <p>The height of the proposed building will facilitate passive surveillance in the area.</p>
<p><i>Criteria 4 - To provide well connected, high quality and active public and communal spaces.</i></p>	<p>This is a constrained site in a city centre location with no public or communal open space available. However, the site is proximate to St. Stephen's Green. Patrons of the proposed hotel will also have access to the amenities on offer in the Grafton Hotel which opposes the subject site.</p>
<p><i>Criteria 5 - To provide high quality, attractive and useable private spaces</i></p>	<p>Appropriately sized and useable private amenity spaces comprising terraces / balconies are proposed for the 6 no. residential units at 6th and 7th floor levels.</p>
<p><i>Criteria 6 - To promote mix of use and diversity of activities</i></p>	<p>The proposed development envisages a range of uses including hotel, retail, bar / restaurant, gym and residential uses. As such the proposal offers a range of</p>

	activities. The uses proposed are considered acceptable in terms of the Z5 land use zoning and support its city centre location.
<i>Criteria 7 - To ensure high quality and environmentally sustainable buildings.</i>	The proposal seeks to demolish all existing commercial buildings on the site. A Demolition Justification Report is on file. The building materials are considered to be of high quality and there are energy efficiencies proposed in the new build which is welcomed. The application documentation includes Architectural Design Statements and it is noted that high quality materials are proposed.
<i>Criteria 8 - To secure sustainable density, intensity at locations of high accessibility</i>	<p>The proposed development is located within the inner city where there are a multiplicity of high frequency transport options available.</p> <p>A more intensive mixed use is proposed on this centrally located and accessible site, which accords with the Z5 zoning objective.</p> <p>No car parking provision is proposed.</p> <p>Active travel is promoted.</p>
<i>Criteria 9 - To protect historic environments from insensitive development</i>	It is noted that Protected Structures adjoin and oppose the site. Further, the site adjoins the South Retail Core ACA and a red-hatched Conservation Area as indicated on Development Plan Map E. Section 8.3 of this report relates to the

	<p>impact of the proposed development on built heritage.</p> <p>Policy BHA2 (d) of the Dublin City Development Plan 2022-2028 is relevant and seeks, inter alia, to ensure that any development 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. While it is accepted and acknowledged that the proposed development would impact on the setting of protected structures in the area, in my opinion, the proposal has had regard to the site context. It is the case that the setting of the protected structures would change as a result of the development, however I consider that the altered setting would be acceptable and appropriate at this city centre location.</p>
<i>Criteria 10 - To ensure appropriate management and maintenance</i>	<p>Matters of security, waste management, servicing and delivery can all be satisfactorily addressed by condition in the event that the Board grant permission.</p>

8.2.7 I consider that the character of the area is undergoing change and redevelopment as evidenced by a number of relatively recently constructed buildings of height and scale in the immediate area, in addition to a number of proposals to redevelop existing sites in the vicinity, involving increased building heights. In my opinion, the proposed development in terms of its height, scale and massing would be consistent with the

emerging character of the area and while substantial in terms of visual impact (which is examined in Section 8.4 below), I consider the proposed development would not significantly detract from the character of the surrounding streetscape and adjacent properties.

8.3 Impact on Built Heritage

- 8.3.1 The third party appellants and a number of observers express concerns that the proposed development would give rise to negative impacts on the built heritage of the area, including the adjoining protected structures at Nos. 1 and 2 Johnson's Place and the nearby former Mercer Hospital at Stephen's Street Lower. I advise the Board that there is no report from the Dublin City Council Conservation Officer on the file.
- 8.3.2 While the subject site does not accommodate any protected structure, it adjoins to the south the four storey protected structures at Nos. 1 and 2 Johnson's Place (RPS Refs. 4063 and 4064 refer respectively) in use as Peter's Pub. The subject site also lies opposite the protected structure of the former Mercer Hospital (RPS Ref. 5074), altered and substantially extended during the 1990s, and presently in use as a medical centre. Further, a large proportion of buildings (37 in total) along South William Street are protected structures. South William Street is within the South City Retail Quarter ACA and is also a Conservation Area (as denoted by red-hatching on Development Plan maps).
- 8.3.3 The submitted AHIA notes that the subject site is within a transitional location between the 18th century built heritage of South William Street and the more modern commercial area dominated by the Stephen's Green Shopping Centre, flagship retail stores and large office blocks.
- 8.3.4 The AHIA finds that the proposed development has the potential to impact on the setting of the Mercer Library, but has no potential to give rise to direct physical impacts on this protected structure. In terms of impacts on Nos. 1 and 2 Johnson's Place (Peter's Pub), the AHIA notes that the proposed development would adjoin the blank south gable of No. 2 and the east gable of No. 1. No. 39 South William Street (RPS Ref. 8580) is also noted to be located near the proposed development. The AHIA concludes that the proposed development located close to the above-mentioned

protected structures is likely to be regarded by many as giving rise to ‘significant’ impacts on the heritage of these buildings.

- 8.3.5 The planning authority initially expressed concerns regarding the transition in scale between the surrounding urban context, in particular Peter’s Pub and the proposed development as articulated in Item 2 of the FI request. Option 1 of the applicant’s FI response retains the height of the proposed development, and as set out in the revised Architectural Design Statement submitted with the FI response, alters external materials to create a lighter character to the upper floors and proposes modest changes in massing comprising the rounded / curved edge at the top floors. I consider that the proposed alterations would be acceptable and I concur with the applicant that they serve to soften the transition between Nos. 1 and 2 Johnson’s Place and the proposed development. This is supported by the Addendum VIA which finds that the proposed design amendments serve to soften the appearance of transition in scale in views from surrounding areas.
- 8.3.6 Policy BHA2 (d) of the Dublin City Development Plan 2022-2028 is relevant and seeks, in summary, to ensure that any development 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. It is undoubtedly the case that the proposed 8 storey over double basement building, by reason of its height and scale, would impact on the setting of protected structures in the area, particularly the adjoining Peter’s Pub. This is clearly evident when the submitted Visual Impact Assessment is examined. In my opinion, the proposed development is well designed and has considered the site context, including the adjoining historic buildings. I am satisfied that the overall mass and form of the building has had regard to the context of the site and the presence of the adjoining buildings and protected structures. While the setting of the protected structures adjoining and opposing the subject site would change on account of the proposed building which is to be an intensively mixed use development, as required by the Z5 zoning objective pertaining to the site, I consider that the altered setting would be acceptable and appropriate at this city centre location.
- 8.3.7 As indicated above, this is a transitional area in which a number of taller mixed use and commercial buildings have been constructed in recent years, including significant developments at Clarendon Row and King Street South. The proposed modern mixed

use development, demonstrating high quality design and external finishes which will complement the surrounding context, will in my view, enhance the streetscape along Johnson's Place and Clarendon Market, providing visual interest and attracting vibrancy and higher levels of footfall to the area.

8.3.8 On balance, and having regard to the foregoing, I consider that the proposed development would not have a detrimental impact on protected structures adjoining and opposing the subject site and the adjoining South City Retail Quarter ACA and red hatched Conservation area. To conclude, I do not anticipate any significant undue impacts arising from the proposed development on the built heritage of the area.

8.3.9 The archaeology potential of the site is also noted in the AHIA and the Archaeology and Built Heritage report. The City Archaeologist requires that a condition be included in any grant of planning permission, requiring inter alia an Archaeological Assessment and (Impact Assessment). Condition 17 of the planning authority's decision to grant is relevant and should be included should the Board be minded to grant permission in this instance.

8.4 **Visual Impact**

8.4.1 A number of third party submissions consider that the proposed development by reason of its height, scale and massing would be visually obtrusive in the streetscape and would negatively impact the visual amenity of the area.

8.4.2 A Visual Impact Assessment (VIA) and verified 'before' and 'after' photomontages of the proposed development is provided with the planning application. The VIA is based on views from 10 locations in the surrounding streets. In the first instance, I have considered the more distant and / or obscured views from locations 4, 5, 9 and 10. In this regard, I would consider the proposed development to be imperceptible from viewpoints 4 and 5 and slight to moderate from viewpoints 9 and 10.

8.4.3 Otherwise, I would assess the impact from the remaining viewpoints as follows:

Views 1 and 2 – These views are from Stephen Street Lower and Johnson's Place respectively. I concur with the VIA which notes that the character of Stephen Street Lower has changed in recent years with the redevelopment of sites there including 51-53 Stephen Street Lower and the Grafton Hotel opposing the appeal site. The proposed development will be opening visible at locations closest to Johnson's Place

and as such a substantial change in the visual environment would be experienced. However, I would agree with the finding of the VIA that the proposed building would be viewed in the context of other existing significant buildings located in the immediate vicinity including the Stephen's Green Shopping Centre and that the potential impact of the proposed development is moderate, meaning that the change is consistent with a pattern of change that is already occurring or is likely to occur.

View 3 – This view is from Clarendon Street where the upper floors of the proposed development will be visible. In my view this part of the proposed development would be read in tandem with the recently constructed mixed use development on Clarendon Row, opposite the rear of the appeal site. As such I would concur with the finding of the VIA that the potential impact of the proposed development on views from street level at Chatham Street, Chatham Row and surrounding streets would be moderate.

Views 6 and 7 – These views are from King Street South. Due to the presence of intervening buildings, the VIA notes that the proposed development is unlikely to be visible from street level for almost the entire length of this street.

At the junction of King Street South with Clarendon Row upper elements of the building will become visible and as noted by the VIA, the proposal is likely to result in a moderate change in views from street level, which I concur with.

At the junction of Mercer Street and South King Street (see View 7) it is clear that the proposed development will be prominent in views towards Johnson's Place. Again, I would consider the potential impact of the proposed development on views from this location as moderate in extent, given the context of modern development in the vicinity.

View 8 – This view is from Mercer Street Lower looking north, towards Johnson's Place. Mercer Street is dominated by the rear façade of Stephen's Green Shopping, with other buildings including hotels and the former Mercer Hospital, opposing the appeal site. The front façade of the proposed development will clearly be visible from this view point. The proposal is likely to result in a slight change at more distant locations on this street and a moderate change at locations closer to the subject site.

- 8.4.4 It is clear that the proposed development comprising the comprehensive redevelopment of this city centre site would result in a substantial change in views from particular areas, as identified above. The settings of the adjoining protected

structures and the former Mercer Hospital opposing the site will also change, with the VIA indicating such a change as moderate, or consistent with the emerging concerns for development in the area. I generally concur with the findings of the VIA, and in my opinion, this well designed proposal would generate visual interest in the streetscape. I consider that the proposed revised finishes as set out in the FI submission would assist in integrating the proposed development into this central location. In this regard I note and concur with the finding of the Addendum VIA which considers that the proposed design revisions would serve to soften the appearance of the transition in scale in views from surrounding areas.

8.5 Amenity

- 8.5.1 Concerns are raised in the third party appeals and observations that the proposed development would impact the current level of amenity enjoyed at this location. Specifically, it is contended that the proposed development would be overbearing and would reduce amenity levels in terms of daylight and sunlight to the surrounding three and four storey properties. Further, the appeal submitted on behalf of Stock Design (Ireland) Ltd. and Stock Design Contracts Limited, which includes a report from CSC, considers that windows to the rear of the applicant's properties and other adjacent landowners do not appear to have been tested, and that they should have been included in the Daylight, Sunlight and Overshadowing assessment.
- 8.5.2 In response, the applicant notes that the surrounding and adjoining properties are in commercial use, and that the requirements for daylight / sunlight would be less than those required for residential use. While the applicant acknowledges that the proposed development will have a major impact on some buildings in the area, they note that all buildings have access to good light in other rooms within the same building and are therefore compliant with BRE Guidelines.
- 8.5.3 In terms of the criticism that some of the appellant's windows and other windows nearby were not included in the Daylight, Sunlight and Overshadowing assessment, the applicant, in their response to the third party appeals, states that the appellant does not appear to have considered the assessments submitted at both FI and CFI stages, in which the site referred to by the appellant (identified as No. 6 in these assessments) shows clearly which windows will be impacted by the proposed development.

- 8.5.4 From a review of the Daylight, Sunlight and Overshadowing assessment provided at FI stage, I am satisfied that it indicates the windows impacted by the proposed development and provides sufficient information to allow an assessment to be undertaken in terms of the impact the proposal would have on adjoining buildings. In this context, I concur with the applicant that the levels of daylight/sunlight serving the existing adjoining buildings, which are commercial entities that do not provide for habitable accommodation are not as sensitive as residential properties.

Daylight

- 8.5.5 The parts of the Daylight, Sunlight and Overshadowing Assessment (provided on foot of the FI request) relating to daylight / sunlight and overshadowing are prepared in accordance with Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice – Third Edition (BRE 2022). Section 6 of the Assessment relates to the impact of loss of daylight to neighbouring buildings, assessed by way of Vertical Sky Component (VSC) analysis, at King Street, Stephen's Street Lower, Johnson's Place, Mercer Street Lower, Clarendon Row and Clarendon Market.
- 8.5.6 If the VSC is greater than or equal to 27%, sufficient daylight is achieved and still reaches the windows of the existing buildings, and compliance with BRE criteria is achieved. Appendix B of the Assessment provide specific VSC results in respect of the surrounding buildings. These are indicated in images of the buildings presented on pages 38 to 40 inclusive, showing that the vast majority of assessed openings meet the VSC requirements as detailed in BRE 2022. These openings are indicated in green on pages 38 to 40.
- 8.5.7 Openings indicated in yellow still meet BRE criteria on the basis that any reduction in daylight is below 20% compared to the original baseline. Openings indicated in red have a significant loss in daylight, with the majority of openings below the BRE target of 27%. These are located to the north and south of the proposed new building. In this regard, the Assessment notes that buildings with non-residential uses do not have the same expectations as dwellings in relation to daylight requirements and therefore the results should be viewed in the context of the overall development of this urban site. The Assessment finds that the proposed development would have a minor impact on the daylight availability to the openings within the surrounding buildings. I concur with these findings.

Sunlight

- 8.5.8 Section 8 of the Assessment provides details and results relating to the testing for sunlight availability of existing amenity areas in the vicinity. Two outdoor amenity areas comprising balconies at the top floor of 32 Stephens Green Lower and the top two floors of 35-39 King Street were assessed for sunlight availability. It was found that the areas largely receive sufficient levels of sunlight in accordance with BRE guidance, achieving two hours of sunlight over at least 50% of their total areas. As such, the study concludes that the proposed development would not cause a significant impact to the level of sunlight in neighbouring amenity areas.
- 8.5.9 Section 8 of the Assessment also provides details and results for sunlight availability for internal spaces in surrounding buildings. BRE guidance notes that rooms will appear reasonably sunlit if (a) at least one main window faces within 90 degrees of due south and (b) the centre of at least one window to a main living room can receive 25% of annual probable sunlight hours in the winter months between 21st September and 21st March. For the purposes of the assessment, all north facing openings were excluded, while any opening within 90 degrees of due south was assessed.
- 8.5.10 It was found that the proposal mainly had a significant impact on the level of sunlight availability to the openings of buildings on Clarendon Market Street, given that the proposed building directly adjoins buildings on Clarendon Street. However an additional simulation was undertaken to show sunlight availability to some existing buildings on Clarendon Street prior to the proposed development and this indicates they are not achieving the required probable sunlight hours (25% and 5% for annual and winter tests respectively). It is concluded that the level of sunlight availability is maintained in the majority of spaces when comparing pre and post development scenarios for the proposed development, meaning that the impact of the development to the surrounding buildings' openings will be minimal.

Overshadowing impacts

- 8.5.10 Appendix A of the Assessment provides images depicting the extent of overshadowing impacts arising from the proposed development. Instances of overshadowing are limited to short periods at the beginning and the end of the day, mainly during winter months. The analysis finds that no significant additional

overshadowing of neighbouring properties arises from the proposed development. As noted in the Development Plan, it is recognised that the city is an urban context, and some degree of overshadowing is inevitable and unavoidable.

Conclusions

- 8.5.11 Having regard to the findings of the Daylight, Sunlight and Overshadowing Assessment (provided on foot of the FI request), I am satisfied that the proposed development would not cause undue overshadowing impacts on neighbouring properties, or amenity spaces. The Assessment demonstrates that the proposal would, overall, have a minor impact on the daylight availability to the openings within the surrounding buildings. Further, it is apparent that the proposed development would not significantly diminish sunlight availability to the openings of buildings surrounding it. Based on the information provided as referenced above I consider the proposed development would not seriously injure the amenity of adjoining areas in terms of access to daylight and sunlight.

Other matters

- 8.5.12 The appeal lodged on behalf of Stock Design (Ireland) Ltd. and Stock Design Contracts Limited considers that the proposal would seriously interfere with their 'ancient lights' rights. However, this appellant has not demonstrated that they have a civil established right to light over the adjoining properties / the appeal lands in the form of an easement or otherwise.
- 8.5.13 This third party appeal states that the proposed residential apartments and their amenity spaces benefit from light over neighbouring lands owned by others which is contrary to BRE guidelines and as such are not considered 'good neighbours' as per the BRE guidelines.

As detailed in Section 8.2 of this report, it is concluded that the subject site is located in an area where increased building heights may be positively considered. In this regard, I note also that the planning authority deemed the site to be one in which increased building height could be accommodated. Given the inner city location of the site, the Z5 City Centre zoning pertaining to the lands which requires intensive mixed-use development, with a mix of uses to occur ideally through the floors of buildings as well as horizontally along the street frontage, and also local, regional and national policies requiring compact development and the efficient use of town and city centre

sites, I am satisfied that the proposed development is appropriate at this location. The applicant has undertaken detailed studies in terms of the submitted Daylight, Sunlight and Overshadowing Assessments submitted, as outlined above. These demonstrate that there would be no undue overshadowing impacts on neighbouring properties, or amenity spaces from the proposed development and that the proposal would, overall, have a minor impact on the daylight availability to the openings within the surrounding buildings, and also that sunlight availability to the openings of surrounding buildings would not be significantly diminished.

Overlooking

- 8.5.14 Six residential apartments comprising 2 no. 1 bed units, 2 no. 2 bed units on the 6th floor and 1 no. 2 bed unit and 1 no. 3 bed unit on the 7th floor are proposed. The proposed development introduces private amenity space in the form of terraces / balconies at the northern side of Floor 6 above Clarendon Market and also at the western side of this floor above Johnson's Place. At 7th floor level, a terrace is proposed at the western side above Johnson's Place and also at both the south eastern side of this floor and the eastern side above Clarendon Street.
- 8.5.15 I note that the planning authority raised concerns that the proposed development would have a detrimental impact on existing nearby occupiers on account of proposed south facing windows overlooking the private laneway to the rear of buildings along King Street South. In this context the applicant was requested to, inter alia, rearrange / set-back the windows from the red line boundary. The applicant in response submitted revisions noting that three windows overlook the laneway per floor, one of which is a stair core and therefore a transitory space. Six of the windows are at an angle to the rear façade line of 32, 33 and 34 King Street South and therefore do not share a direct line of sight with these buildings. Further, five of the six remaining windows are above first floor level with minimal potential for direct overlooking. It is also stated that windows will be fitted with internal voils to mitigate potential for impacts on privacy. Having regard to the foregoing, I would not anticipate that the proposed development would result in significant overlooking impacts on adjoining buildings. In my view, potential for direct overlooking impacts are sufficiently mitigated as set out in the applicant's FI submission. Notwithstanding, some level of overlooking is inevitable in a built up city centre area.

Future Potential Residential Amenity

- 8.5.16 Six residential apartments comprising 2 no. 1 bed units, 2 no. 2 bed units on the 6th floor and 1 no. 2 bed unit and 1 no. 3 bed unit on the 7th floor are proposed. These range in size from c 54 sqm to 128 sqm, with balconies / terraces proposed at 6th and 7th floor levels.
- 8.5.17 I note the Daylight, Sunlight and Overshadowing Assessment (provided on foot of the FI request) finds that all bedrooms, kitchen / living / dining rooms and other areas / spaces assessed achieve the required annual illuminance according to BS EN 17037:2018 'Daylight in Buildings.' The Assessment notes that the proposed development has been assessed against both BS EN 17037 and EN 17037 'Daylight in Buildings.'
- 8.5.18 From assessment of the schedule of areas submitted with application documentation the applicant has demonstrated that all six proposed residential units generally accord with the requirements of the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2022). The schedule demonstrates that 83% of the units proposed (i.e. 5 units) exceed the minimum area requirements by 10%. 67% of the units (i.e. 4 units) are dual aspect. All units with the exception of unit 4 (a two bedroom, 4 person apartment on the 6th floor) exceed private open space requirements. Private open space for this apartment is below the required 7 sqm at 3.4 sqm. In my view, there is scope to provide sufficient private amenity space in this instance. Should the Board decide to grant permission I recommend inclusion of a condition in this regard.
- 8.5.19 Given the site constraints of this city centre site, no public open space is provided. Should the Board decide to grant permission I recommend that a contribution condition in lieu of public open space be attached to the permission.

8.6 Other issues

8.6.1 Existing lease in place

An appellant who is leaseholder of Nos. 4 and 5 Clarendon Market, presently in use as a restaurant, contends that the permission, if granted, cannot be implemented on the basis that they hold a commercial lease for these units until 2032. In terms of the legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal intent to make an application pertaining to the lands. Any further legal dispute is

considered a Civil matter and is outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of section 34(13) of the Planning and Development Act 2000, as amended.

8.6.2 Overdevelopment

Concern is raised in third party submissions that the proposed development comprises overdevelopment of this city centre site. I note that the Z5 zoning objective which pertains to the site requires an intensive level of uses to occur through the floors of buildings in addition to horizontally along the street frontage. The proposal accords with this objective through the provision of a range of uses as described above. In my view the proposed development makes good use of an existing brownfield low-rise city centre site, and in this regard it accords with the tenets of compact growth as set out in local, regional and national policies, which are, inter alia, to make better use of land within the existing built-up urban footprint so that quality housing and employment options are available to citizens.

8.6.3 Devaluation of property

I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

8.6.4 Environmental Report

An observer has claimed that the submitted Environmental Impact Assessment (EIA) is flawed; I note that no detail in terms of this contention is provided. The applicant has provided an EIA Screening report at FI stage. I am satisfied that the submitted EIA Screening identifies and describes adequately the effects of the proposed development on the environment. These matters are explored in detail in Section 10 and Appendices 1 and 2 of this report.

8.6.5 Condition No. 12

An observer claims that Condition 12 of the permission requires that no lift motors and air handling units are to occur at roof level, but that drawings provided clearly indicate projections above roof level. Having examined the text of Condition No. 12, I note it

requires that no additional development is to take place above roof level, other than that shown on the drawings approved, unless authorised by a prior grant of planning permission. As such, I conclude it is not the case that Condition No. 12 requires that no plant is to be placed at roof level.

8.6.6 Proposed residential use on upper floors

Concern is raised that the proposed upper floor residential uses would be incorporated into the hotel. Should the Board decide to grant permission, Condition No. 1 will require that the development be carried out in accordance with submitted plans and particulars. Furthermore, I recommend inclusion of a condition stating that the residential units shall not be used for the purposes of short term letting, should the Board decide to grant permission for the proposed development.

8.6.7 Fire resistant windows

An appellant raises concern that non-fire rated windows in the building would potentially have implications for their building, located proximate to the subject site. The issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

8.6.8 View of Mercer building

An observation from residents of Clarendon Court objects that the proposed development would obstruct their view of the former Mercer Hospital and its clock tower. It is the case that views to this structure would be impeded by the proposed development from certain locations in the city. Notwithstanding, I note that the subject site is located in Dublin city centre, where compact mixed-use development is supported by local, regional and national policies. Any development in the city centre, due to its built-up nature, is likely to obstruct views of other buildings in the vicinity and this is acceptable, given the urban context of the site. I note, also, that there is no legal right to a view.

8.6.9 Impacts from proposed basement development

Concerns are raised in the third party submissions regarding impacts on adjoining buildings and the water table arising from the proposed double basement. The applicant provided a revised Basement Impact Assessment (BIA) on foot of a FI request (Item 5(a) refers) which the Drainage Division considered to be acceptable.

Having reviewed the BIA, it finds that the ground movement analysis has concluded that the predicted damage to neighbouring properties would be in the category of 'very slight' (Cat 1) to 'slight' (Cat 2). Further, it is considered that basement construction would not unduly impact groundwater conditions and that groundwater quality, quantity and classification will be protected. The BIA recognises that further ground investigations are required including, inter alia, foundation inspection pits to ascertain the foundation types, level and dimensions of adjacent structures and site surveys of adjacent structures. In my view the BIA outlines appropriate recommendations and mitigation measures. The report notes also that should any sensitive structures be considered to be at risk during the construction phase, works will be implemented to address such risk. In my opinion, it is appropriate that the planning authority has included a condition (Condition 13 k refers) requiring that recommendations and mitigation measures outlined in the BIA are implemented in conjunction with the site investigation, monitoring and condition surveys. Should the Board decide to grant permission I recommend inclusion of this condition.

8.6.10 Use of British standards in visual impact assessment

An observer criticises the use of British Standards in the VIA and considers that European standards in this regard should be used. Both the VIA and the Addendum VIA are acceptable and are usable as a guide in the assessment of the visual impact of the proposed development. I note the VIA indicates that regard was had to the *Guidelines on the Information to be contained in Environmental Impact Assessment Reports* prepared by the EPA (2022) and also to European Directive 2011/92/EU (as amended by Directive 2014/52/EU) on the assessment of likely effects of projects on the environment.

8.6.11 Development potential of adjoining site

The appeal lodged on behalf of Stock Design (Ireland) Ltd. and Stock Design Contracts Limited, states that the proposed development by reason of its height and design would negatively affect any development potential on their site at 33/34 King Street South, with residential development curtailed and only commercial development likely to be permitted.

I note that there is no current proposal to re-develop Nos. 33/34 King Street South. Any proposal for development on these lands would be assessed in accordance with

planning policies in force at the time of application. Notwithstanding, in my view, the development potential of that site would not be compromised by the proposed mixed use building, subject to a suitable design being put forward for consideration by the planning authority.

8.6.12 Delivery and Service Management

Concern is expressed in terms of how deliveries to the proposed development would impact on congested streets in this city centre location. I note that three existing commercial units are presently located at ground floor level in Textile House, one of which is a supermarket outlet. Given the nature of the uses planned for the mixed-use development, I do not consider that the quantum of deliveries and level of service management for the proposed development would be significantly above the existing situation. No carparking spaces are proposed in this scheme and residential bicycle spaces are located at basement level. I note that the applicant provided a Delivery and Service Management Plan which notes that the majority of incoming goods deliveries will be made using vans using set down facilities in close proximity to the site. It also envisages that while hotel guests would arrive by car, customers to the retail unit, restaurant and bar would predominantly arrive by way of active travel or public transport.

8.7 **Condition 5 (a)**

8.7.1 This condition included in the grant of permission requires the applicant to submit revised drawings to indicate the 5th and 6th floors to mirror the layout and set-backs of the proposed 7th floor level, which would result in a maximum of 50 hotel bedrooms from first to fourth floor levels and a maximum of six residential units at 5th, 6th and 7th floor levels.

8.7.2 The applicant is appealing this condition on a number of fronts, including viability concerns, and that the proposed design changes would create potential issues relating to other aspects of the proposal, for example, it is stated that the mirroring of level 7 at levels 5 and 6 would have knock-on impacts on massing, visual impact, proportions and aesthetics. The applicant also asserts that the primary complication with residential use at 5th floor level relates to the availability of natural daylight and also contends that the development potential of adjoining sites would be impacted due to higher amenity levels required for apartment units and private open space.

- 8.7.3 The observation lodged on behalf of the adjoining Peter's Pub also expresses concern in relation to Condition 5(a), stating that it will impact on, inter alia, massing, design and built-form and noting that the applicant has indicated that the configuration of the development as granted is not viable.
- 8.7.4 I have a concern that the final design and built form of the development remains unknown until revised drawings are provided and accepted by the planning authority. In my view, it is not appropriate to determine the design of the proposed mixed use development by way of a compliance submission, as this process would exclude interested third parties from making their views known on any revisions made to the building design. Furthermore, having regard to the changes in the design sought by the planning authority as articulated in Condition 5(a), it is likely that knock-on changes to the massing and scale of the proposed development would result. This would require, in my view, a revised Daylight, Sunlight and Overshadowing Assessment, and potentially a further Addendum VIA.
- 8.7.5 The applicant has expressed serious concern that the reduction in hotel bedrooms to 51, as set out in Condition 5 (a) would have a detrimental impact on the viability of the proposed scheme. They indicate the provision of hotel rooms on the 1st to 5th floors inclusive with a total of 6 no. residential units above (on the 6th and 7th floors) would be an appropriate use of zoned lands. I concur with the applicant on this issue.
- 8.7.6 In conclusion, I consider that the design provided by the applicant at FI stage, which provides for 61 hotel rooms at 1st to 5th floor levels, and a total of 6 residential units at 7th and 8th floor levels, would be acceptable. In this regard, I recommend that Condition 5 (a) be omitted, should the Board decide to grant permission for the proposed development.

8.8 Other planning authority conditions

- 8.8.1 Many of the planning authority's conditions are standard in nature and I am generally satisfied that they are appropriate. As referenced in Section 8.3.9 of this report, I note that a bespoke condition (Condition 17) relating to archaeology is attached, which I consider should be included without amendment, in the event the Board decides to permit the development.

- 8.8.2 Condition 6 requiring the proposed residential units not to be used for the purposes of short-term letting or tourism is also appropriate and should be included should the Board decide to grant permission.
- 8.8.3 I recommend that Condition 10, which relates to noise control levels during demolition and construction phases with reference made to BS 5228 and BS 4142, should be included in the Board Order if permission is granted.
- 8.8.4 Further to Section 8.7 above, I am recommending to the Board that a condition be attached stating that the permitted design and layout of the development is Option 1 as submitted with the FI received on the 1st of December 2023.
- 8.8.5 Should the Board decide to grant permission I recommend that a contribution condition in lieu of public open space be attached.

9.0 Appropriate Assessment Screening

9.1 Stage 1 - Screening Determination for Appropriate Assessment

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

The subject site comprises a brownfield site in Dublin City Centre.

No nature conservation concerns were raised in the planning appeals.

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 reasons for this conclusion are as follows:

- The nature and scale of the proposed development.
- Location-distance from nearest European sites and lack of any direct connections.
- Taking into account the conclusion of the Appropriate Assessment Screening undertaken by the Planning Authority.

- 9.1.2 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.

- 9.1.3 No measures intended to avoid or reduce harmful effects on European Sites were taken into account in reaching this conclusion.

10.0 EIA Screening

10.1 Screening Determination for Environmental Impact Assessment

- 10.1.1 The applicant submitted an EIA screening report on foot of a FI request from the planning authority. It addresses issues included in Schedule 7A of the Planning and Development Regulations 2001, as amended.
- 10.1.2 Part 2 of Schedule 5 of the 2001 Regulations, as amended, identifies classes of development with specified thresholds for which EIA is required.
- 10.1.3 In terms of Option 1 as set out in the FI response provided by the applicant which relates to demolition of commercial buildings, provision of a mixed use building of 8 floors above a double basement with uses comprising retail, restaurant / bar, gym, hotel (61 bedrooms) and residential (6 no. apartments), the following classes of development as set out in the Planning and Development Regulations 2001, as amended, are of relevance:
- Class 10(b) relates to infrastructure projects that involve:
 - (i) Construction of more than 500 dwelling units,
 - (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, and
 - Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 2 of Schedule 5 where such works would be likely to have significant

effects on the environment, having regard to the criteria set out in Schedule 7 of the Regulations.

- 10.1.4 The proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 10(b)(i) and / or (iv) and, by association, Class 14 of the Regulations. As such, the criteria in Schedule 7 of the 2001 Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The criteria include the characteristics of the proposal, the location of the site, and any other factors leading to an environmental impact.
- 10.1.5 Based on the criteria in Schedule 7, I have completed an EIA screening determination of the project, which is presented in detail in Appendix 3 of this report. I have concluded that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report (EIAR) is not therefore required.
- 10.1.6 In undertaking the EIA screening determination, I have had regard to the information provided in the applicant's EIA Screening Report and other related assessments and reports included in the case file. The EIA Screening Report includes a description and characteristics of the project, a description of the site's location, and a description of the aspects of the environment likely to be significantly affected by the proposed development (population and human health, biodiversity, lands and soils, water, air, noise and climate, landscape, and material assets).
- 10.1.7 I have reviewed the EIA Screening Report and the applicable supporting reports and I concur with the nature of the impacts identified, that is, there are no impacts with significant negative effects such that would require the preparation of an EIAR for the project, and I note the standard measures proposed to avoid, reduce, or mitigate likely impacts.
- 10.1.8 I am satisfied that the submitted EIA screening identifies and describes adequately the effects of the proposed development on the environment. The EIA screening concludes that an EIAR is not required due to the project being below thresholds for

a mandatory EIAR for Schedule 5 classes of project requiring EIA, that mitigation measures and standard practices will be employed throughout construction and operation phases to ensure that the proposed development will not create any significant impacts on the surrounding environment. The EIA screening report concludes that the proposed development would not be likely to have permanent, long-term significant effects on the environment other than a visual impact due to the introduction of a new 8 storey building on the site. This is a conclusion with which I concur.

11.0 Recommendation

I recommend that the Board uphold the decision of Dublin City Council and grant planning permission for the following reasons and considerations, subject to conditions.

12.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022 – 2028, the Z5 – City Centre zoning of the site, the nature, scale and design of the proposed development, and the pattern of existing development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be contrary to the Dublin City Development Plan 2022 – 2028, would not seriously injure the visual amenities or other amenities of the area or of property in the vicinity, would not give rise to negative impacts on adjoining and nearby protected structures, the South City Retail Quarter ACA and red hatched Conservation area, would not significantly affect the development potential of adjoining lands, would not adversely affect the value of property in the vicinity, and would not affect the water table and undermine the foundations of adjoining buildings. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area

13.0 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 1st day of December 2023 and the 29th of 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>Reason: In the interest of clarity.</p>
2.	<p>(a) The design and layout of the development hereby permitted shall accord with Option 1 as set out in the plans and particulars received by the planning authority on the 1st day of December 2023, which relates to an 8th storey over double basement, mixed-use development.</p> <p>(b) 61 no. hotel rooms shall be accommodated at first floor to fifth floor inclusive.</p> <p>(c) 6 no. residential units comprising 2 no. 1 bed units, 3 no. 2 bed units and 1 no. 3 bed units shall be located at 6th and 7th floor levels.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The proposed residential units shall not be used for the purposes of short-term letting or tourism.</p> <p>Reason: In the interest of residential amenity.</p>

4.	<p>(a) Details of the materials, colours and textures of all the external finishes to the proposed mixed use development , including balconies for the proposed residential units, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.</p> <p>(b) Mitigation measures to hotel bedroom windows along the southern elevations to safeguard the amenity of neighbouring properties, comprising opaque glazing, fritting and / or louvres, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual and residential amenity and to ensure an appropriate high standard of development.</p>
5.	<p>Details of private amenity space of a least 7 sqm to serve apartment 4 at sixth floor level shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of residential amenity.</p>
6.	<p>The non-amenity roof areas shall not be accessible except for maintenance purposes only.</p> <p>Reason: In the interest of residential amenity.</p>
7.	<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>Reason: To protect the amenities of property in the vicinity and the visual amenities of the area.</p>
8.	<p>(a) Drainage arrangements including 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</p>

	<p>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) Recommendations and mitigation measures proposed in the Basement Impact Assessment submitted as part of the Further Information response shall be fully implemented in conjunction with the site investigation, monitoring and condition surveys referenced in the Construction Stage Management, Health and Safety Plan.</p> <p>Reason: In the interest of public health.</p>
9.	<p>Prior to the commencement of development the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for a service connections to the public water supply and wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
10.	<p>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.</p> <p>Reason: In the interest of visual amenity.</p>
11.	<p>Prior to the commencement of the proposed use, detailed drawings of the proposed signage materials and finishes to the building, including illumination/lighting details shall be submitted for the written approval of the Planning Authority.</p> <p>Reason: In the interest of visual amenity.</p>

12.	<p>A minimum of 11 long term residential cycle parking spaces, 6 commercial cycle parking spaces and wheel channels within stairwells from Clarendon Market access to assist access to basement cycle parking stores shall be provided and shall be in place prior to the development.</p> <p>Reason: In the interest of clarity.</p>
13.	<p>(a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and Open sites Part 1. Code of practice for basic information and procedures for noise control.'</p> <p>(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in British Standard 4142: Method for rating industrial noise affecting mixed residential and industrial areas.</p> <p>Reason: In the interest of amenity.</p>
14.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <p>(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</p> <p>(b) Location of areas for construction site offices and staff facilities;</p> <p>(c) Details of site security fencing and hoardings;</p>

	<p>(d) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>(m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;</p> <p>Reason: In the interest of amenities, public health and safety and environmental protection</p>
15.	<p>Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management</p>

	<p>Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of reducing waste and encouraging recycling.</p>
16.	<p>The following requirements of the Dublin City Council's Archaeology Department shall be complied with:</p> <p>(a) No construction or site preparation work may be carried out on the site until all archaeological requirements of the Planning Authority are complied with.</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> <ul style="list-style-type: none"> i. The archaeological and historical background of the site, to include industrial heritage. ii. A paper record (written, drawn, and photographic, as appropriate) of any surviving industrial heritage features, historic buildings, and boundary treatments, etc. iii. The nature, extent and location of archaeological material on site by way of archaeological testing and/or monitoring of the removal of overburden.

	<p>iv. The impact of the proposed development on such archaeological material.</p> <p>(c) The archaeologist shall forward their Method Statement in advance of commencement to the Planning Authority.</p> <p>(d) 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. The assessment shall be prepared on the basis of a comprehensive desktop study and, where appropriate/feasible, trial trenches excavated on the site by the archaeologist and/or remote sensing. The trial trenches shall be excavated to the top of the archaeological deposits only. The report containing the assessment shall include adequate ground-plan and cross-sectional drawings of the site, and of the proposed development, with the location and levels (corrected to Ordnance Datum) of all trial trenches and/or bore holes clearly indicated. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.</p> <p>(e) 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>(f) One hard copy and 1 digital copy in pdf format containing the results of the archaeological assessment shall be forwarded on completion to the Planning Authority. The Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Dept. of Housing, Local Government and Heritage, shall determine the further archaeological resolution of the site.</p>
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	<p>(g) 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, which may negate the facilitation of all, or part of any basement.</p> <p>(h) The developer shall make provision for archaeological excavation in the project budget and timetable.</p> <p>(i) 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> <p>iii. A final report on the archaeological excavations not later than twelve months after the completion of the excavation</p> <p>(j) Before any site works commence the developer shall agree the foundation layout with the Planning Authority.</p> <p>(k) 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>Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.</p>
17.	The following requirements of the Dublin City Council's Air Quality Monitoring and Noise Control Unit shall be complied with:

	<p>(a) The works must be carried out having regard to a Construction Management Plan. The plan must be written having regard to this Unit's Good Practice Guide for Construction and Demolition (below link). The plan must be approved by the Planning Department before work commences. https://www.dublincity.ie/residential/environment/air-quality-monitoring-and-noise-control-unit/good-practice-guide-construction-and-demolition</p> <p>(b) The LAeq level measured over 15 minutes (daytime) or 5 minutes (nighttime) at a noise sensitive premises when plant is operating shall not exceed the LA90 (15 minutes day or 5 minutes night), by 5 decibels or more, measured from the same position, under the same conditions and during a comparable period with no plant in operation.</p> <p>(c) No emissions, including odours, from the activities carried on at the address associated with the development shall result in an impairment of, or an interference with amenities or the environment beyond the site boundary or any other legitimate uses of the environment beyond the site boundary</p> <p>Reason: In the interests of residential amenity and in order to ensure a satisfactory standard of development.</p>
18.	<p>A detailed final construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.</p> <p>Reason: In the interest of traffic safety and convenience.</p>
19.	<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 within the mixed-use development and within each apartment unit, shall be submitted to, and</p>

	<p>agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment and the amenities of properties in the vicinity.</p>
20.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0700 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>Reason: In order to safeguard the amenities of property in the vicinity.</p>
21.	<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>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.</p>

22.	<p>The developer shall pay to the planning authority a financial contribution in lieu of the provision of public open space, in accordance with 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. The application of indexation required by this condition 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.</p> <p>Reason: It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.</p>
23.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City Scheme (St. Stephen's Green to Broombridge Line) 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>

24.	<p>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.</p> <p>Reason: To ensure satisfactory reinstatement of the site.</p>
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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.

John Duffy
Planning Inspector

22nd April 2025

Appendix 1 – Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319514-24		
Proposed Development Summary	Demolition of all existing commercial buildings on the site and construction of a mixed use development up to 8 storeys in height over two levels of basement, comprising restaurant / bar and retail unit, a hotel providing 61 bedrooms, associated ancillary facilities / plant, and 6 residential apartments.		
Development Address	Site known as 'Textile House,' at Nos. 3-5 Johnson's Place (also known as Johnson Place) and Nos. 2-5 Clarendon Market, Dublin 2.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	√	Class 10(b)(i): Threshold of 500 dwellings. Class 10(b)(iv): Urban Development - Threshold of 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. Class 14: Works of demolition.	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	√		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	<p>Class 10(b)(i) Construction of more than 500 dwelling units: 6 no. apartments are proposed – below threshold.</p> <p>Class 10(b)(iv) Urban Development: Site size is c 612 square metres, below the 2 hectare threshold for a business district, and below the 10 hectare threshold for a built up area.</p> <p>Class 14 Works of Demolition. Demolition of all existing commercial buildings on the site proposed. Not likely to have a significant effect on the environment due to relatively minor scale of demolition.</p>	

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

Inspector: _____

Date: _____

Appendix 2: Form 3 - EIA Screening Determination Form

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-319514-24	
Development Summary	Demolition of all existing commercial buildings on the site and construction of a mixed use development up to 8 storeys in height over two levels of basement, comprising restaurant / bar and retail unit, a hotel providing 61 bedrooms, associated ancillary facilities / plant, and 6 residential apartments.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	On foot of the EIA Screening Report provided at FI stage and taking into account the nature and scale of the development, the planning authority considered that an EIAR is not required in this case.
2. Has Schedule 7A information been submitted?	Yes	An EIA Screening Report was submitted as part of the FI response. The Screening Report provides for a screening against Schedule 7A criteria.
3. Has an AA screening report or NIS been submitted?	Yes	<p>An Appropriate Assessment Screening Report or NIS has not been submitted. The subject site is located c 3.3 km west of South Dublin Bay SAC (Site Code: 000210), c 3.1 km from South Dublin Bay and River Tolka Estuary SPA (Site Code:004024), c 6 km from North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) and c 7.5 km from the North West Irish Sea SPA.</p> <p>The planning authority considered there would be no significant negative effects on any Natura 2000 site as a result of the proposed development and therefore a Stage 2 Appropriate Assessment would not be required.</p>

4. Is an 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 carried out pursuant to other relevant Directives – for example SEA	Yes	EIA Screening Report Construction Stage Management, Health and Safety Plan Engineering Report including, inter alia, information on drainage, flood risk and a Basement Impact Assessment Visual Impact Assessment / Addendum Visual Impact Assessment Architectural Heritage Impact Assessment SEA was undertaken in respect of the Dublin City Development Plan 2022-2028 by the planning authority.	
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
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 development proposes demolition of an existing commercial buildings and the provision of a provision of a mixed-use scheme comprising	No

		<p>retail, hotel, restaurant / bar and residential uses in an 8 storey building at this city centre location.</p> <p>Given the proposed mixed-use on the subject lands, the project is not significantly different in character to the existing surrounding environment in Dublin city centre.</p> <p>While adjoining sites accommodate generally 3-4 storey high buildings, it is noteworthy that this area is in transition to one which accommodates higher and larger buildings as evidenced by existing relatively recent developments in the immediate area.</p> <p>It is not considered that the proposed development comprising an 8 storey mixed-use building would be significantly different in character or scale to the existing surrounding environment.</p>	
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	No	<p>The proposed development will result in the demolition of existing low-rise commercial buildings and the construction of an 8 storey mixed-use development on lands which are zoned Z5 – City Centre.</p> <p>Demolition of buildings and construction works will be managed through both a Resource Waste Management Plan (RWMP) and a final Construction Management Plan (CMP), to be provided should permission be granted. There are no water courses on the site and the lands are not located in an area of flood risk.</p>	No

		While construction works will lead to physical changes across the site, these would not be detrimental to the surrounding area.	
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?	Yes	<p>The proposed development will utilise materials which are standard for this type of urban development and are not considered to be in short supply. The loss of natural resources or local biodiversity as a result of the redevelopment of the site are not regarded as significant in nature.</p> <p>At operational stage, the development would not use natural resources in short supply. The proposed development will connect into public water services which have adequate capacity to meet demands.</p>	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?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels, hydraulic oils, and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and the implementation of the RWMP and CMP will appropriately 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?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels, hydraulic oils, and other such substances, and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Any impacts would be local and temporary in nature and the implementation of the RWMP and CMP will appropriately mitigate potential impacts. No	No

		significant operational impacts are expected. Operational waste shall be managed by way of an appropriate condition(s) should permission be granted.	
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	<p>No significant risk identified subject to the implementation of appropriate mitigation measures. The operation of the RWMP and CMP will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water will be attenuated within the site and wastewater and surface water (as necessary) will be discharged to the public drainage system, which meets Uisce Eireann and planning authority requirements. No significant emissions during operation are anticipated.</p> <p>There are no watercourses on or adjacent to the site. The site is not proximate to coastal waters.</p>	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of the RWMP and CMP. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts. Noise at operational stage is largely associated with increased activity and uses on the site.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of the RWMP and CMP would satisfactorily address potential impacts on human	No

		health. No significant operational impacts are anticipated.	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk 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. There are no Seveso / COMAH sites in the vicinity of this location.	No
1.10 Will the project affect the social environment (population, employment)	Yes	The development of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses, which are characterised by mixed use development. Employment will be generated during the construction phase.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	The project is not part of a wider large-scale change in the area. The site constitutes an infill site within the built-up urban area.	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: <ul style="list-style-type: none"> - 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 	No	No European sites located on or adjacent to the site. No designated or proposed Natural Heritage Area in the immediate vicinity of the site. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in the AA screening undertaken in Appendix 3, 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 any	No

development plan/ LAP/ draft plan or variation of a plan		European Site and is therefore excluded from further consideration. Appropriate Assessment 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 subject site is located in the city-centre and the majority of the site is occupied by commercial buildings. The proposed development would not be likely to result in significant effects on the environment in terms of biodiversity loss.	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	<p>The site adjoins the South City Retail Quarter Architectural Conservation Area (ACA) and also a red hatched conservation area. It bounds Peter's Pub located at Nos. 1 and 2, Johnson's Place, Dublin 2 which are Protected Structure of four storey design to the north (RPS Ref. 4063 and 4064 refer). Another Protected Structure, the former Mercer's Hospital (RPS No. 5074) is located opposite the subject site on Mercer Street, Dublin 2. Further, a large proportion of buildings (37 in total) along South William Street are protected structures.</p> <p>The proposed development would not likely result in significant negative effects on the environment in terms of cultural heritage and landscape importance.</p> <p>The site is located within the Zone of Archaeological Potential (ZAP) for the Recorded Monuments DU018-020 (Historic city), DU018-020593 (Church), DU018-020063 (Hospital).</p> <p>The archaeology potential of the site is noted in the AHIA. Should permission be granted a condition will be included requiring, inter alia, archaeological</p>	No

		assessment (and impact assessment) of the proposed development	
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, agriculture, water/coastal, fisheries, minerals?	No	No such resources on site or in the area.	No
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	There are no watercourses on or adjacent to the site. The site is at a significant remove from coastal waters. (c 5 km). The site is located c 0.6 km south of the River Liffey and c 1.2 km north of the Grand Canal). The lands are not located in an area of flood risk.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No such impacts are foreseen.	No
2.7 Are there any key transport routes (e.g. 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	<p>The site is located in Dublin City Centre with a multiplicity of high frequency transport services available.</p> <p>No car parking spaces are proposed. It is anticipated that occupants of the apartments and hotel guests would use active travel and public transport. Bicycle spaces are proposed at basement level.</p> <p>Having regard to the foregoing the transport infrastructure / network serving the area is capable of accommodating the proposed development.</p>	

2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	There are no existing sensitive land uses or community facilities such as hospitals and schools in the immediate area. The site adjoins residential development.	No
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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 development in the area have been identified which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans-boundary effects arise as a result of the proposed development.	No
3.3 Are there any other relevant considerations?	No	No	

C. CONCLUSION

No real likelihood of significant effects on the environment.	√	EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

(a) The nature and scale of the proposed development which is below the thresholds in respect of Class 10(b)(i), 10(b)(iv) and Class 14 of the Planning and Development Regulations 2001 as amended,

(b) The location of the site on lands zoned Z5 'City Centre' and the provisions of the Dublin City Development Plan 2022-2028,

(c) The brownfield nature of the subject site, its location in an urban area and outside of any sensitive land designation, and the pattern of development in the area,

(d) The availability of mains water supply and wastewater infrastructure and services,

(e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

(f) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001 as amended, and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction Stage Management and Health and Safety Plan and the Engineering Report providing details of drainage.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 3: Screening for Appropriate Assessment

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics Case file: ABP-319514-24	
Brief description of project	<p>Demolition of all existing commercial buildings on the site and construction of a mixed use development up to 8 storeys in height over two levels of basement, comprising restaurant / bar and retail unit, a hotel providing 61 bedrooms, associated ancillary facilities / plant, and 6 residential apartments.</p> <p>This AA Screening relates to the proposal as amended by additional information at FI stage.</p>
Brief description of development site characteristics and potential impact mechanisms	<p>The site is brownfield in nature, measuring c 612 sqm; it is generally flat in topography and is located within Dublin city centre and comprises low-rise commercial buildings.</p> <p>There are no watercourses on or adjacent to the site. The site is at a significant remove from coastal waters. (c 5 km). The site is located c 0.6 km south of the River Liffey and c 1.2 km north of the Grand Canal. The lands are not located in an area of flood risk. There are no direct natural hydrological connections from the subject site to Dublin Bay.</p> <p>The site is located c 3.3 km from South Dublin Bay SAC (Site Code: 000210), c 3.1 km from South Dublin Bay and River Tolka Estuary SPA (Site Code:004024), c 6 km from North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) and c 7.5 km from the North West Irish Sea SPA.</p> <p>The applicant is proposing to connect to existing municipal services in terms of water supply and wastewater/drainage. Therefore, there is an indirect pathway to the European sites of Dublin Bay via the Ringsend Waste Water Treatment Plant. I therefore acknowledge that there are potential connections to the European sites within Dublin Bay via the wider drainage network and the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.</p>

Screening report		No. Dublin City Council screened out the need for AA.		
Natura Impact Statement		No.		
Relevant submissions		None.		
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
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
South Dublin Bay SAC (Site Code: 000210)	Mudflats, sandflats ConservationObjectives.rdl NPWS, 2013 (Accessed on 16.4.25)	c 3.1 km	No direct connections Possible indirect connection	Y
South Dublin Bay and River Tolka Estuary SPA (Site Code:004024)	Water birds (13 x species) Wetland and water birds ConservationObjectives.rdl NPWS, 2015 (Accessed on 16.4.25)	c 3.1 km	No direct connections Possible indirect connection	Y
North Dublin Bay SAC (Site Code: 000206)	Coastal habitats Mudflats, sandflats, Atlantic salt meadows, Mediterranean salt meadows, Dunes, Petalwort ConservationObjectives.rdl NPWS, 2013 (Accessed on 16.4.25)	c 6 km	No direct connections Possible indirect connection	Y
North Bull Island SPA (Site Code: 004006)	Water birds (17 x species) Wetland and water birds ConservationObjectives.rdl NPWS, 2015 (Accessed on 16.4.25)	c 6 km	No direct connections Possible indirect connection	Y
North West Irish Sea SPA (Site Code 004236)	Water birds (21 x species) CO004236.pdf	c 7.5 km	No direct connections	Y

	NPWS, 2023 (Accessed on 16.4.25)		Possible indirect connection	
¹ Summary description / cross reference to NPWS website is acceptable at this stage in the report ² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species ³ if no connections: N				
Further commentary / discussion Given the enclosed nature of the development site (fully serviced) and the significant distance between this brownfield site and the closest river / waterbody, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.				
Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites AA Screening matrix				
Site names Qualifying interests		Possibility of significant effects (alone) in view of the conservation objectives of the sites		
		Impacts on these 5 sites within Dublin Bay	Effects	
Site 1: 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] Site 2: South Dublin Bay and River Tolka Estuary SPA (Site Code:004024) A046 Light-bellied Brent Goose A130 Oystercatcher A137 Ringed Plover A141 Grey		Direct: None Indirect: Potential indirect hydrological connections between the project and these 5 European Sites located within Dublin Bay. Firstly, through potential surface water discharges to the public system and secondly through wastewater discharges via the public drainage system (effluent will be treated at Ringsend WWTP) to Dublin Bay. Localised, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during construction.	The contained nature of the appeal site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to the SACs and SPAs make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within (a) the SACs for the QIs listed and (b) within the SPAs for the SCIs listed. Conservation objectives would not be undermined. The applicant is proposing to connect to existing municipal services in terms of water supply and wastewater /	

<p>A143 Knot</p> <p>A144 Sanderling</p> <p>A149 Dunlin</p> <p>A157 Bar-tailed Godwit</p> <p>A162 Redshank</p> <p>A179 Black-headed Gull</p> <p>A192 Roseate Tern</p> <p>A193 Common Tern</p> <p>A194 Arctic Tern</p> <p>A999 Wetlands</p> <p>Site 3: North Dublin Bay SAC (Site Code: 000206)</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1210 Annual vegetation of drift lines</p> <p>1310 Salicornia and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows</p> <p>1395 Petalwort</p> <p>1410 Mediterranean salt meadows</p> <p>2110 Embryonic shifting dunes</p> <p>2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>2190 Humid dune slacks</p> <p>Site 4: North Bull Island SPA (Site Code: 004006)</p> <p>A046 Light Bellied Brent Goose</p> <p>A048 Shelduck</p> <p>A052 Teal</p>		<p>drainage. Therefore, there is an indirect pathway to the European sites of Dublin Bay via the Ringsend Waste Water Treatment Plant. I therefore acknowledge that there are potential connections to the European sites within Dublin Bay via the wider drainage network and the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.</p> <p>I do not consider that the increased loading from the proposed development would generate any significant demands on the existing municipal sewers for foul water. I acknowledge that there would be a marginal increase in loadings to the sewer and the WWTP, however, upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening.</p> <p>Having regard to the distance separating the site to the aforementioned Natura 2000 sites there is no pathway for loss or disturbance of important habitats or important species associated with the feature of interests of any of the European Sites identified above.</p>
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<p>A054 Pintail</p> <p>A056 Shoveler</p> <p>A130 Oystercatcher</p> <p>A140 Golden Plover</p> <p>A141 Grey Plover</p> <p>A143 Knot</p> <p>A144 Sanderling</p> <p>A149 Dunlin</p> <p>A156 Black-tailed Godwit</p> <p>A157 Bar-tailed Godwit</p> <p>A160 Curlew</p> <p>A162 Redshank</p> <p>A169 Turnstone</p> <p>A179 Black-headed Gull</p> <p>A999 Wetlands</p> <p>Site 5: North West Irish Sea SPA (Site Code 004236)</p> <p>A001 Red-throated Diver</p> <p>A003 Great Northern Diver</p> <p>A009 Fulmar</p> <p>A013 Manx Shearwater</p> <p>A017 Cormorant</p> <p>A018 Shag</p> <p>A065 Common Scoter</p> <p>A179 Black-headed Gull</p> <p>A182 Common Gull</p> <p>A183 Lesser Black-backed Gull</p> <p>A184 Herring Gull</p> <p>A187 Great Black-backed Gull</p> <p>A188 Kittiwake</p>		
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A192 Roseate Tern		
A193 Common Tern		
A194 Arctic Tern		
A195 Little Tern		
A199 Guillemot		
A200 Razorbill		
A204 Puffin		
A862 Little Gull		
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
<p>I conclude that the proposed development (alone) would not result in likely significant effects on any European Sites. The proposed development would have no likely significant effect in combination with other plans and projects on any European sites. No mitigation measures are required to come to these conclusions.</p>		

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 any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The nature and scale of the development.
- Location-distance from nearest European site and lack of any direct connections.
- The location of the subject site within the urban context of Dublin City Centre
- Taking into account the conclusion of the Appropriate Assessment Screening undertaken by the planning authority.