



An
Bord
Pleanála

Inspector's Report ABP-319920-25

Development	Protected Structure. Retention of change of use from retail office to hotel with 17 bedrooms and all associated site works.
Location	18/19 Duke Street & 8 Duke Lane Upper, Dublin 2.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3449/24
Applicant(s)	Lucky Park Limited
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Lucky Park Limited
Observer(s)	None.
Date of Site Inspection	16 th May 2025
Inspector	Dan Aspell

1.0 Site Location and Description

- 1.1.1. The site is at Nos. 18/19 Duke Street and No. 8 Duke Lane Upper, Dublin 2. Nos. 18 and 19 are Protected Structures. They form part of a terrace of buildings on the southern side of Duke Street. No. 19 is located at the corner of Duke St. and Duke Lane Upper. No. 8 Duke Lane is a mid-terrace building that adjoins to the rear of No. 19 Duke Street. No. 18 and 19 are 4-storey over basement buildings. No. 8 Duke Lane is 5 storeys over basement. The stated site area is 241sqm.
- 1.1.2. The development area generally comprises the above-ground floors of the buildings. These levels are interconnected and generally comprise bedrooms, circulation and storage. They are stated as being a hotel. Whilst at an advanced stage of construction, at the time of my site visit works to fixtures, fittings and services were ongoing.
- 1.1.3. The ground floor of each of the buildings is connected to form a lounge & bar, with bar, dining, kitchen and storage space at basement. Above ground floor access from the street is available through No. 18 Duke Street and No. 8 Duke Lane.
- 1.1.4. The site is within the Grafton Street and Environs Architectural Conservation Area (ACA). No. 17 Duke Street which adjoins to the east is also a Protected Structure.

2.0 Proposed Development

- 2.1.1. The application is for Retention permission generally for:
 - Change of use from retail office to hotel with 17 no. hotel bedrooms at first, second, third, and fourth floors;
 - Alterations including provision of bathrooms, relocation of internal partitions, upgrading fire resistance of doors and floors, repair of sash windows, and internal modifications.
- 2.1.2. The application included a Conservation Method Statement (dated 26/03/2024) and Photographic Report (dated 06/03/2024), as well as architectural drawings.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued a notification to refuse permission for 2 no. reasons, summarised as follows:

- Reason 1: The works to be retained do not respect the early historic fabric and special interest of the interior of the Protected Structures, resulting in causing serious injury to their special architectural character and legibility. The works materially affected the Protected Structures and contravene Policies BHA2 and BHA7 of the Dublin City Council Development Plan 2022-2028;
- Reason 2: The development would be contrary to the Development Plan which encourages the establishment of sustainable residential communities by ensuring a wide variety of housing typologies and tenures in accordance with the Housing Need Demand Assessment. The change of use could contribute to a lack of variety of uses in the vicinity. The proposal does not represent the best use of upper floors of this partially vacant city centre site.

3.2. Planning Authority Reports

3.2.1. Planning report: The report recommended refusal and made the following main points:

- Location: Site is in an ACA, Conservation Area, and includes Protected Structures;
- Land use: Report set out relevant policy context. It stated the Development Plan acknowledges the tourism industry and states the City has seen numerous applications for new hotel development. It is important to avoid overconcentration of hotels and create a range of uses in the city centre. Residential development is a key objective for the city centre. Policy SC3 promotes a mixed-use land policy in the city centre including residential development, and the conversion of old office buildings and over the shop spaces to residential;

- Housing: Housing strategy and Housing Needs Demand Assessment (HNDA) note strong housing demand. Policy QHSN38 seeks mixed-use sustainable residential communities containing a variety of unit types, sizes and tenures;
- Hotel use: Development Plan seeks to balance levels of visitor accommodation and other uses such as residential. There is a need to find an acceptable balance between competing objectives for adequate levels of visitor accommodation and a mixed-use city including an increased focus on residential development in the city centre;
- Concentration of hotels: There is a presumption against overconcentration of hotels. Where the Planning Authority deems there is an overconcentration, applicants will be required to submit a justification report. The applicant has not submitted such a report. Planning Authority has serious concerns regarding the proposed retention of change of use to hotel. Applicant has not adequately demonstrated there is not an overconcentration of hotel use. The change of use is not in accordance with Development Plan policy and does not represent the best use of upper floors of this vacant city centre site;
- Protected Structures: All of the works have been carried out without the benefit of planning permission. The approach is unacceptable and does not comply with Policy BHA2 and BHA7 of the City Development Plan 2022-2028;
- Conservation: Conservation Officer report determined the works have compromised the historic plan form and caused serious injury to the special architectural character and legibility of the Protected Structure. Applicant has not explained why these works were undertaken without permission;
- Conclusion: Issues raised in the assessment of a previous application on the site have not been addressed, including the concentration of hotels.

Other Technical Reports

3.2.2. Conservation Officer: Report recommended refusal for 1 no. reason. I note the following points:

- Report stated that the Conservation Officer report for a previous application on the site (Reg. Ref. 4782/23) assessed a proposal for the same works and recommended refusal. The report on the subject application stated that it

stands over the findings of the previous report which found the previously proposed works would not respect the historic plan form, hierarchy of spaces, architectural detail, fixtures & fittings, or materials resulting in serious injury to the special architectural character and legibility, and were found to contravene Policies BHA2 (a), (b), (e), (f) and (g). Report stated that it was regrettable the development had already been carried out without planning permission;

- Report stated the Conservation Officer inspected the building and reviewed the application materials, and determined the works to the upper floors compromised the historic plan form and caused serious injury to the special architectural character and legibility of the Protected Structure. Report described the development as unauthorised;
- The report stated that due to the new finishes the Conservation Officer could not determine how interventions for services and fire safety may have compromised or injured concealed historic fabric to the structures.

3.2.3. Transportation Planning Division: Report made points in relation to cycle parking and storage, works to the basement, rear access, bin storage and construction management. Report stated no objection subject to conditions relating to cycle parking, construction management, costs and codes of practice.

3.2.4. Environmental Health Officer, Air Quality Monitoring & Noise Control Unit: Report stated further information was required for a final determination to be made. Report stated conditions should apply if permission is granted. The recommended conditions related to construction management, operational noise, and plant noise.

3.2.5. Engineering Department Drainage Division: No objection subject to standard conditions.

3.3. Prescribed Bodies

3.3.1. Transport Infrastructure Ireland: Submission stated no observation with the exception of requirements for the attachment of Section 49 standard conditions.

3.4. Third Party Observations

3.4.1. None.

4.0 Relevant Planning History

4.1. Subject site

4.1.1. Reg. Ref. 3450/24: Application for Permission and Retention Permission Granted at 18/19 Duke Street (Protected Structure) and No.8 Duke Lane Upper by the Planning Authority in July 2024 for development at basement and ground floor comprising:

- (a) Retention: Change of use from travel agency/retail to licensed bar/public house/restaurant; General alterations including: relocation of internal partitions, installation of building services, upgrading of fire resistance of doors & floors, with internal modifications and associated site works;
- (b) Permission: Replacement of 3 no previously existing fascia signs of 300mm high letters with new signs of 300mm high brass lettering 2mm thick on pins; erection of a new sign of 400mm and 200 high brass lettering 2mm-thick on pins (total size) 1850 x 600mm high, approximately 3200mm from ground); Provision of 4 no. gold logos on shop windows.

4.1.2. Reg. Ref. 4782/23: Planning permission refused by the Planning Authority in January 2024 at 18/19 Duke Street and No.8 Duke Lane Upper for:

- Change of use from travel agency/retail to licensed bar/public house/restaurant (basement & ground floor);
- 17 no. of hotel bedrooms at floors 1st to 4th, general alterations including the following - provision of bathrooms, relocation of internal partitions, installation of building services, upgrading of fire resistance of doors and floors, repair of sliding sash windows with internal modifications and associated site works.

That application included an Architectural Design Statement & Heritage Impact Assessment. The report set out information on the then surviving interior.

4.1.3. The Appeal refers to earlier planning applications at the site, including Reg. Refs. 5702/04, 1762/02, 2056/97 & 0977/93 which I include for completeness having regard to the nature of the development and the points raised in the appeal in relation to details of the works to the Protected Structures and when they occurred:

4.1.4. Reg. Ref. 5702/04: Planning Permission Granted by the Planning Authority in 2005 at 18 & 19 Duke Street & 8 Duke Lane Upper for retention of shopfront signage and associated shopfront lighting to previously approved shopfront Reg. Ref. 1762/02.

4.1.5. Reg. Ref. 1762/02: Planning permission Granted by the Planning Authority in 2002 at 18/19 Duke St, and 8 Duke Ln Up for modification of Reg. Ref. (2056/97):

- Change of use from an extension of existing licensed premises at No.2 Duke Lane Upper as bar/restaurant on basement, ground and first floors (public dancing in part of basement) with ancillary offices, kitchens, customer toilets and staff facilities on upper floors: to retail use on the basement and ground floors and with office use on the first, second and third floors;
- Refurbishment of existing shopfront at 18 Duke Street and new shopfronts to 19 Duke Street and 8 Duke Lane Upper;
- Modifications to front/rear facades to internal layout of No.8 Duke Ln Up only.

4.1.6. Reg. Ref. 2056/97 (ABP Ref. PL29S.104896): Planning Permission Granted by the Board in 1998 for:

- Extend licensed restaurant/bar at 2 Royal Hibernian Way, into 18/19 Duke St. to change use from No. 18, ground floor Art Gallery & vacant storage in basement & upper floors, and in No. 19 from retail in basement & ground with offices on upper floors, to licensed restaurant/bar in basement, ground, & first floor of both buildings & ancillary offices & staff facilities on 2nd & 3rd floor;
- Demolish returns at rear of both houses and single storey record shop at No. 8 Duke Lane and replace by new 4-storey over basement link building containing access & circulation staircases, customer toilets & kitchens, with new doorway on Duke Lane, refurbish existing houses and provide new shop fronts to Nos. 18 and 19 Duke Street and new elevation to 8 Duke Lane.

4.1.7. Reg. Ref. 0977/93: Planning Permission Granted by Planning Authority in 1993 at No. 19 Duke St. for change of use from shop to restaurant on ground floor, ancillary storage & toilets in basement, revised elevations including new shopfront & fire door.

4.2. **Nearby sites:**

4.2.1. None.

5.0 Policy Context

5.1. National guidelines and strategies

Climate Action Plan 2024.

Architectural Heritage Protection Guidelines for Planning Authorities 2011, incl. Sections 7.11 'Using Appropriate Materials and Methods'; 8.2 'Alterations to Walls and Other Structural Elements'; 11.2 'Elements of the Interior', and 11.4 'Fixtures and Fittings'.

5.2. Development Plan

- 5.2.1. The site is zoned 'Z5 City Centre' in the Dublin City Development Plan 2022-2028. I note the following Development Plan policies and objectives in particular:
- 5.2.2. Policy SC3 'Mixed Use Development': *"To promote a mixed-use land use policy in the city centre, including the provision of high quality, sustainable residential development, and facilitating the conversion of both old office buildings and over shop spaces to residential"*.
- 5.2.3. Policy QHSN38 'Housing and Apartment Mix' and Policy QHSN7 'Upper Floors' which seeks: *"To resist and where the opportunity arises, to reverse the loss of residential use on upper floors and actively support proposals that retain or bring upper floors into residential use in order to revitalise the social and physical fabric of the city through measures such as the Living City Initiative. Dublin City Council will actively engage with property owners and other stakeholders at a national level to investigate other alternative measures in addition to the Living City Initiative to expedite bringing upper floors into residential use, and will be actioned by the City Recovery Task Force and its successor"*.
- 5.2.4. Policy BHA2 'Development of Protected Structures' states:
- *"That development will conserve and enhance protected structures and their curtilage and will:*
 - (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection*

Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.

(b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

(c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.

(d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.

(c) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.

(d) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.

(g) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.

(e) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.

(f) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.

(g) Have regard to ecological considerations for example, protection of species such as bats.”

5.2.5. I note Policy BHA7 ‘Architectural Conservation Areas’ and Section 15.15.2.2 ‘Conservation Areas’.

5.2.6. Policy CEE28 'Visitor Accommodation' seeks:

- *"To consider applications for additional hotel, tourist hostel and aparthotel development having regard to:*
 - *the existing character of the area in which the development is proposed including local amenities and facilities;*
 - *the existing and proposed mix of uses (including existing levels of visitor accommodation i.e. existing and permitted hotel, aparthotel, Bed and Breakfast, short-term letting and student accommodation uses) in the vicinity of any proposed development;*
 - *the existing and proposed type of existing visitor accommodation i.e. Hotel Classification/Rating, Hostel Accommodation, Family Accommodation, Alternative Accommodation etc., in the vicinity of any proposed development;*
 - *the impact of additional visitor accommodation on the wider objective to provide a rich and vibrant range of uses in the city centre including residential, social, cultural and economic functions;*
 - *the need to prevent an unacceptable intensification of activity, particularly in predominantly residential areas;*
 - *the opportunity presented to provide high quality, designed for purpose spaces that can generate activity at street level and accommodate evening and night-time activities – see also Chapter 12, Objective CUO38."*

5.2.7. Section 15.14.1 'Hotels and Aparthotels': *"In all instances, where the planning authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment providing a justification that the development will not undermine the principles of achieving a balanced pattern of development in the area, and demonstrating that the proposed development fully complies with the criteria set out in Policy CEE28 and in Section 15.14.1.1 and 15.14.1.2 below".*

5.2.8. I note Sections 14.7.5 'City Centre Zone Z5' and 15.14.1.1 'Hotel Development'.

5.3. Natural Heritage Designations

- 5.3.1. South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC are approximately 3.1km to the east.

6.0 Environmental Impact Assessment screening

- 6.1.1. The proposed development has been subject to preliminary examination for environment impact assessment (See Form 1 & 2 Appendix 1 of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, I consider that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger requirement for EIA screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of First-Party Appeal

- 7.1.1. A first-party appeal was received, the main points of which are summarised as follows:
- Refusal reason 1. Applicant concerned Planning Authority did not adequately take account of the full planning history over the last 20 years comprising significant interventions supervised by the DCC Conservation Section;
 - Appeal sets out planning history of No. 18 & 19 Duke Street from 1997. It states the previous application (4782/23) was poorly prepared and thus was not appealed;
 - Appeal states permission 5702/04 (which preceded refused application 4782/23) represents the extent of works permitted to the original building fabric, structure, layout, and materials. It states the works, Conservation Method Statements and Specifications were completed in accordance with the above planning permission and with DCC Conservation office approval;
 - Subject application was accompanied by a Conservation Method Statement setting out the planning history since 2000. This was ignored by the Planning Authority conservation section;

- The plan form of the original chimney stack is not lost. The form in the lobby entrance to each floor is as it has been since the 2002/2004 permission;
- The Planning Authority planner report did not reference planning history beyond recent history and ignored historic planning permissions for works to the protected structures including strengthening of floors and wiring. These were supervised by DCC. The Conservation Officer conclusions cannot be accepted;
- The reason for refusal does not accord with facts on the ground. The original building was gutted internally and rebuilt with strengthened floors and sanitary services for commercial modern office which continued for 20 years. An extension on Duke Lane was constructed. All the original fabric was concealed behind dry lining. This was not taken into account by the Conservation Section;
- Regarding refusal reason 2; the Development Plan vision is for urban neighbourhoods in the city, not isolated residential spread through the city's commercial heart. It is not evident Z5 lands are identified as key to resolving a house crisis or capable of accommodating sustainable urban neighbourhoods. The majority of Z5 buildings are not suitable for long term residential use;
- Development Plan acknowledges the importance of tourism. Avoiding overconcentration of hotels is important only in the context of achieving the wider objectives of a range of uses in the city centre. There is not an overconcentration of tourist accommodation in the city centre which is where a concentration of hotels would be found. There is an under-provision in the Z5 commercial core where the majority of tourist attractions occur and where there is a high demand for business and conference accommodation;
- There is no specific policy or objective or combination thereof that would indicate the site is more suitable for residential than commercial development;
- The permitted use of the upper floors since refurbishment in 2002/2004 was office use. There would be no loss of residential use to guest house use;
- The proposed use of the upper floors for guest house accommodation would not conflict with any Development Plan provisions and is an appropriate use above street levels commercial premises in the core of the city centre;

- Planning Authority assessment was inadequate. The proposal is entirely consistent with the Development Plan. DCC has granted permission for hotel and change of use developments. There is inconsistency in decision making Appeal refers to a separate case as precedent (ABP Ref. ABP-317636-23).

7.1.2. Appendix 1 of the Appeal sets out a review of Development Plan policy.

7.2. Planning Authority Response

7.2.1. None.

7.3. Observations

7.3.1. None.

8.0 Assessment

8.1.1. Having regard to the foregoing; having examined the application, appeal, Planning Authority reports, and all other documentation on file including all of the submissions received in relation to the appeal; and having inspected the area within and around the site; and having regard to relevant local, regional and national policies, objectives and guidance, I consider the main issues in this appeal are as follows:

- Refusal reason 1;
- Refusal reason 2;
- Related matters raised in the course of the appeal.

8.2. Refusal reason 1

8.2.1. The site is zoned 'Z5 City Centre' where the land use zoning objective is: *"To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity"*. 'Guesthouse' and 'Hotel' use are Permissible Uses in the Z5 area. I am satisfied the proposed development is acceptable in principle subject to the considerations below.

8.2.2. Nos. 18 and 19 Duke Street are Protected Structures (Ref. Nos. 2397 and 2398). They are on the National Inventory of Architectural Heritage (Ref. Nos. 50100042

and 50100041) and are recorded as being of Regional importance. The site is located within the Grafton Street and Environs ACA. A red hatch Conservation Area extends along Duke Street including the front of No. 18 & 19. I note the Grafton Street and Environs Area of Special Planning Control extends along part of Duke Street in front of Nos. 18 and 19 but does not include them in its defined area.

- 8.2.3. I have reviewed the appeal and application Conservation Method Statement, Photographic Report and architectural drawings. I have had regard to the planning history and Planning Authority internal reports including the Planning Authority Conservation Officer report.
- 8.2.4. I would summarise the appellant's primary concern in this regard is that the Planning Authority did not take full account of the planning history and extent of works to the Protected Structures in the preceding c.25 years.

Nature and extent of works to be retained

- 8.2.5. The application and appeal set out information on the works to be retained as part of this application, and on earlier works to the Protected Structures. Alongside the description of development, the Conservation Method Statement sets out broad information on works undertaken on the Protected Structures over the preceding c.25 years, and seeks to differentiate the works proposed for retention from works carried out at earlier dates. In broad terms it sets out the following:

- The report refers to older works to the above-ground level interior which appear to include works the stairwell of No. 18, structural repairs to the suspended timber floors, and window openings;
- The report refers to works that are described as being of recent construction and to works that it does not indicate when they may have occurred. These works appear to include panelling, dry lining, floor finishes, plasterboard ceilings, openings between No. 18 and 19, and works to the chimney breast;
- Regarding the exterior, the report refers to works including to the roof, refacing of external walls, the rear extension (No. 8 Duke Lane), windows, as well as repair and replacement) and indicates that these are older in nature.

Some of the assessment is stated as being based on what the author has been informed of by others. The Photographic Report appears to show the Protected

Structures after the most recent works were largely completed. The Conservation Method Statement is dated after the Photographic Report. As such, the reports appear to largely be retrospective of the works which are to be retained.

- 8.2.6. Regarding the planning history, my review indicates previous internal works permitted to the Protected Structures above ground level included creation of offices, kitchens, toilets, and staff facilities; creation of a bar/restaurant at first floor; changes to circulation & stairs; and refurbishment.
- 8.2.7. Regarding the Planning Authority Conservation Officer report, it stated that it could not determine how interventions for services and fire safety may have compromised or injured historic fabric to the structures as these works are largely concealed identified. The Conservation Officer report also stated that the works set out in the application do not respect the historic plan form, hierarchy of spaces, architectural detail, fixtures & fittings, or materials.
- 8.2.8. I note the Architectural Heritage Protection Guidelines state that the plan-form of a building is one of its most important characteristics (Section 11.2 'Elements of the Interior'). It also states that all original architectural detailing should be respected (Section 8.2.1). It further states (Section 7.11) that only appropriate materials and methods should be used in works to a protected structure.

Assessment

- 8.2.9. Having regard to the foregoing, I do not consider the submitted information is sufficiently clear as to the nature and extent of the works proposed for retention, the conservation methodology employed, details of the conservation works undertaken, or the impact of the works to be retained on the Protected Structures.
- 8.2.10. From my site visit and from review of the submitted information I consider the subject works broadly comprise the erection of new partitions and removal of non-original partitions; creation of multiple new door openings in what appear to be original internal walls in Nos. 18 and 19 Duke Street (eg. 1st floor Bedroom No. 4 and into the stairwell; 2nd floor Bedroom No. 8 and into the corridor; 3rd floor Bedroom No. 13, and into the stairwell and into the corridor); changes to services including the electrical layout; changes to fixtures & fittings, and decoration throughout the upper floors. Accordingly, I consider the development to be retained has at minimum detrimentally impacted the plan form and original internal walls Protected Structures. I do not

consider sufficient information has been provided as to the full nature, extent and impact of the works undertaken in terms of architectural details, fixtures, fittings and materials, or the impact of those on the original buildings.

- 8.2.11. I consider the application and appeal provide minimal detail which respond to the points made in the Conservation Officer report. Some information on services and fire safety upgrading are set out on the submitted plans, but little is provided as to how this was undertaken or how it has impacted the historic fabric. The appeal states the historic plan form is not lost and that many details were previously concealed, however it provides minimal information regarding the hierarchy of spaces, architectural details, fixtures, fittings or materials, or information required to demonstrate due regard was had to the requirements of Policy BHA2. As set out above, in these regards the report appears to be retrospective to the works.
- 8.2.12. Regarding the previous refusal on the site (Reg. Ref. 4782/23), the Conservation Officer report stated the subject application is generally as per the previous application. I have compared the two applications. The previous application also included for 17 no. hotels bedrooms above ground floor. The proposed layout was, broadly speaking, as per the current proposal; in this regard I note some differences in the internal layout of rooms (eg. the position of en-suites in Bedrooms 6 and 7 at 2nd floor, and Bedrooms 11, 12, 14 at 3rd floor). As part of that application an Architectural Design Statement & Heritage Impact Assessment as well as architectural drawings were submitted. That application set out some information as to the then surviving interior and included a photograph of the interior. No Conservation Method Statement was provided. I do not consider the applicant has satisfactorily resolved the previous reasons for refusal.

Conclusion

- 8.2.13. Having considered the information submitted, overall I do not consider it provides sufficient detail as to the nature and extent of the works undertaken to which the application for retention relates; the conservation methodology and practice employed in those works; whether the historic fabric and special interest of the interior was appropriately respected; or whether important elements of the Protected Structures were retained, as required by Development Plan Policy BHA2. I also consider the application has not demonstrated the development respected the plan

form and layout, original building fabric including internal walls, and impacts of architectural details, fixtures, fittings and materials.

8.2.14. I note the appellant's points that the Planning Authority Conservation Officer report did not take full account of the extent of works previously undertaken at the site, however I consider that insufficient information in this regard has been submitted.

8.2.15. In summary I consider the applicant has not demonstrated compliance with the requirements of the Development Plan, including Policy BHA2, or that retention permission should be granted. I also do not consider the applicant has satisfactorily resolved the issues raised in the previous reason for refusal on the site.

8.3. Refusal reason 2

8.3.1. Regarding the second refusal reason, I consider the core issue is the balance of uses in the area, particularly in terms of dwellings and hotels.

8.3.2. The stated last known use of the upper floors was office and not residential, and as such the development of a hotel or guest house would not have displaced existing or previous residential uses. I note the Planning Authority states no objection to the proposed use in principle, including it being located in the Protected Structures.

8.3.3. Development Plan Section 15.14.1 'Hotels and Aparthotels' states that in all instances where the planning authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment providing a justification that the development will not undermine the principles of achieving a balanced pattern of development in the area.

8.3.4. The Planning Authority planner report stated serious concerns in this regard and stated the Applicant had not adequately demonstrated there is not an overconcentration of hotel uses in the area, including by submission of a report in this regard. Further information on the application was not requested. Whilst commentary in this regard is submitted with the appeal, limited additional information in this regard in response to the planning authority points is provided to the Board.

8.3.5. Development Plan Policy CEE28 requires consideration of applications for additional hotel development having regard to, amongst other things, the character of the area

including local amenities and facilities; the mix of uses including existing levels and type of visitor accommodation; and the impact of additional visitor accommodation. Section 14.7.5 'City Centre Zone Z5' states that it may not be appropriate to allow an over concentration of hotel uses in an area. Section 15.14.1 'Hotels and Aparthotels' states there will be a general presumption against an overconcentration of hotels and aparthotels.

- 8.3.6. As stated by the Appellant, the city centre has the highest concentration of hotels and visitor accommodation in the city. My review found 5 no. hotels within approximately 250m walk of the site. I am not aware of visitor accommodation along Duke Street or Duke Lane. The area is within the city centre, is mixed use and primarily commercial. Overall, the appellant has provided minimal information in this regard either with the application or appeal.
- 8.3.7. In addition, the second refusal reason also stated development was contrary to Policy SC3 'Mixed Use Development', which promotes the conversion of old office buildings to residential in the city centre, and to Policy QHSN7 'Upper Floors' which supports the bringing of upper floors in the city into residential use. Whilst I note the commentary set out by the applicant in the application and appeal, I do not consider that sufficient information responding to these Development Plan provisions has been submitted, particularly in relation to the mix of uses in the area.
- 8.3.8. I consider the applicant has not satisfactorily addressed the requirements of the Development Plan in this regard, particularly in relation to Policies CEE28 'Visitor Accommodation', SC3 'Mixed Use Development', QHSN7 'Upper Floors', and Section 15.14.1 'Hotels and Aparthotels'. Accordingly, I consider permission should not be granted having regard to the known concentration of hotels and visitor accommodation in the area; the previous office use on the site; and the stated Development Plan objectives to support the development of residential uses; to convert old office buildings to residential use, and in relation to levels of visitor accommodation in the area. The Board may be minded to seek further submissions from the appellant in this regard, to include a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment and a justification that the development does not undermine the principles of achieving a balanced pattern of development in the area. In absence of such information I consider permission for retention should not be forthcoming.

8.4. Related matters raised in the course of the appeal

Conservation Areas

- 8.4.1. Refusal reason 1 also stated the development contravened Development Plan Policy BHA7 'Architectural Conservation Areas'. The site is within the Grafton Street and Environs ACA and 'red hatch' Conservation Area extending along Duke Street. I have reviewed the Grafton Street and Environs ACA Written Statement.
- 8.4.2. No works to the exterior of the buildings were proposed as part of this application, and none are clearly shown in the submitted drawings. Works to the ground floor exterior were permitted as part of the most recent permission on the site (Reg. Ref. 3450/24). Works to the upper floor windows were proposed as part of the recent refused application on the site (Reg. Ref. 4782/23, repair of windows), however such works were not proposed for retention as part of the subject case.
- 8.4.3. The Planning Authority Conservation Officer report did not recommend refusal on grounds of Policy BHA7 'Architectural Conservation Areas'.
- 8.4.4. I consider these matters including the potential impact of the development on the ACA are worthy of clarification by the appellant, however whilst the development may have impacted the ACA visually, having regard to the nature of development proposed for retention I do not consider refusal on these grounds is warranted. Should the Board be minded to grant permission it may also be minded to seek further submissions from the applicant in this regard.

Hotel development

- 8.4.5. The development description refers to retention of change of use to hotel, whilst the appeal describes the use for retention as guest house.
- 8.4.6. The Development Plan defines a hotel as a building, or part thereof, where sleeping accommodation, meals and other refreshments and entertainment, conference facilities, etc, are available to residents and non-residents, and where there is a minimum of twenty rooms en-suite. The Development Plan defines a guesthouse as a building, or part thereof, where sleeping accommodation, meals and other refreshments are available generally to residents only and which has a minimum of five rooms and no more than nineteen room.

- 8.4.7. The submitted plans indicate the above-ground floors are comprised of bedrooms, storage and circulation. No reception, laundry, dining or meal preparation areas are shown. I note the ground and basement levels comprise lounge, bar, dining, storage and kitchen space, and that these floors are accessible from those above.
- 8.4.8. Whilst I do not consider these matters warrant refusal, I consider that further clarity from the appellant as to the nature of the proposed use and its relationship to the ground floor and basement element of the subject buildings is warranted should the Board be minded to grant permission for the proposed development.

9.0 Appropriate Assessment screening

- 9.1.1. I have considered the hotel development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located 3.1km west of the South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC as the nearest European Sites. The proposed development comprises the change of use to hotel and related alterations generally as set out in Section 2.0 of my report. No nature conservation concerns were raised in the planning appeal. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows: the modest nature of the works; the location-distance from nearest European site and lack of connections; and the location of development within buildings in a serviced city centre area. I conclude, 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 (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Water Framework Directive

- 10.1.1. I have assessed the proposed development of retention of change of use to hotel and related works and have considered the objectives set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status, and prevent

deterioration. Having considered the nature, scale and location of the project, I am satisfied it can be excluded from further assessment because there is no conceivable risk to any water bodies either qualitatively or quantitatively or otherwise jeopardise any water body in reaching its WFD objectives.

11.0 Recommendation

11.1.1. I recommend permission be **Refused**, for the reasons and consideration below.

12.0 Reasons and Considerations

1. Having regard to the nature and extent of the works to the Protected Structures at Nos. 18 and 19 Duke Street Upper which are the subject of this application, it is considered that the applicant has not demonstrated that the development to be retained respected the plan form, original building fabric including internal walls, and surviving architectural details of the Protected Structures, or that sufficient regard was had to Policy BHA2 of the Dublin City Development Plan 2022-2028.

2. Having regard to the nature and location of the proposed hotel use, it is considered that the applicant has not appropriately addressed the stated provisions of Policies CEE28 'Visitor Accommodation', SC3 'Mixed Use Development', QHSN7 'Upper Floors', and Section 15.14.1 'Hotels and Aparthotels' of the Dublin City Development Plan in relation to the mix of uses in the area including the objectives to support the development of residential uses; to convert old office buildings to residential use, and in relation to levels of visitor accommodation in the area.

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

Dan Aspell
Inspector
27th May 2025

APPENDIX 1

Form 1: EIA Pre-Screening

Case Reference	ABP-319920-25
Proposed Development Summary	Retention of change of use from retail office to hotel with 17 bedrooms and all associated site works.
Development Address	18/19 Duke Street & 8 Duke Lane Upper, Dublin 2.
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	
<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.	
<input type="checkbox"/> No, No further action required.	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1.	Proceed to Q3
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	No Screening required.
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	EIA is Mandatory. No Screening Required.
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	Class 10(b)(iv) Urban development. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** __ 16th May 2025__

Form 2: EIA Preliminary Examination

Case Reference	ABP-319920-25
Proposed Development Summary	Retention of change of use from retail office to hotel with 17 bedrooms and all associated site works.
Development Address	18/19 Duke Street & 8 Duke Lane Upper, Dublin 2.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development	Proposed development comprises change of use and alterations to a hotel in an urban area. The development has a modest footprint, comes forward as a standalone project, requires minimal demolition works, does not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health or is vulnerable to climate change.
Location of development	The development is located in a city centre area within existing buildings. The receiving location is not particularly environmentally sensitive and is removed from sensitive natural habitats, designated sites and identified landscapes of significance in the City Development Plan. The site is of historic and cultural significance being within Protected Structures, and within areas of archaeological interest, an Architectural Conservation Area, and a Conservation Area, however given the scale and nature of development there will be no significant environmental effects arising.
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: 16th May 2025
 DP/ADP: _____ Date: _____