



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320242-24

#### Development

Replace non-original uPVC windows throughout with timber sliding sash windows with slimline double glazing; change of use of five floors (hall-4th) from office to hotel with 9 no. bedrooms. Basement floor will remain as printshop.

#### Location

No. 6 Mount Street Lower, Dublin 2

#### Planning Authority

Dublin City Council South

#### Planning Authority Reg. Ref.

3644/24

#### Applicant(s)

Tagmoor Limited

#### Type of Application

Planning permission

#### Planning Authority Decision

Split decision to grant and refuse permission

#### Type of Appeal

First party against refusal

#### Appellant(s)

Tagmoor Limited

#### Date of Site Inspection

30<sup>th</sup> October 2024

#### Inspector

Sarah O'Mahony

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## **1.0 Site Location and Description**

- 1.1. The 0.01ha site comprises a five storey over basement, terraced, Georgian style, red brick structure. It has two bays with a pair of windows on each floor and a round headed door on the ground floor. The basement is accessed externally via a staircase from the public footpath at the front.
- 1.2. The building is situated on the southern side of Mount St. Lower/R118 Regional Road, 45m southeast of Merrion Square. The adjoining structure to the east comprises The Leinster hotel which is a recently constructed 6-storey structure while to the west there lies a matching red brick 5 storey over basement structure, there is a commercial premises on the ground floor and unknown uses in the remaining floors.
- 1.3. The building on the appeal site is vacant except for the basement which contains a print shop which is not affected by the proposed development and does not form part of the site. The basement is accessed independently from the front façade on Mount Street Lower.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for development which comprises the following:
  - Change the use of 370m<sup>2</sup> of floorspace across five floors (ground floor and four above) from office to hotel providing 9no. bedrooms associated with the adjacent existing hotel.
  - Replace windows from uPVC to traditional timber sliding sash, and
  - Minor internal alterations to accommodate new bedrooms including a revised floorplan and ensuites.
  - Access will remain from the front door to Mount Street Lower with no proposal to provide access from the site directly to the adjacent hotel.

## 3.0 Planning Authority Decision

### 3.1. Decision

A notification of decision was issued by Dublin City Council on 28<sup>th</sup> June 2024 which split the decision as follows:

- Planning permission granted for the external fenestration works.
- Planning permission refused to change the use from office to hotel for the following reason:

*“The development, by itself and by the precedent for which a grant of permission for it would set, would be contrary to the stated provisions of the City Development Plan 2022-2028 where the core principles of the Dublin Housing Strategy and Policy QHSN38 are to encourage the establishment of sustainable residential communities by ensuring a wide variety of housing typologies and tenures is provided throughout the city in accordance with the Housing Need Demand Assessment (HNDA). The HNDA recognises a high demand for long term residential rental properties such as apartments in Dublin City where the emerging trend shows an increase of rental demand for this type of residential accommodation. It is considered that the proposed change of use to hotel could contribute to a lack of variety of uses in the vicinity. As such the proposal is contrary to Policy SC3, Policy QHSN7 and Section 15.14.1 of the 2022-2028 Dublin City Development Plan which seeks to promote a mixed-use land policy in the city centre including the provision of high quality, sustainable residential development. The proposed development would set an undesirable precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.”*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The Planners report recommendation to refuse permission is consistent with the notification of decision which issued.

- The report highlights competing objectives to support both tourism and residential development together with the need to ensure a vibrant city centre with a mix of land uses is achievable. It considered the site to be appropriate for residential uses and states that the Applicant did not adequately demonstrate that there is not an overconcentration of hotels and aparthotels in that vicinity of the site.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

### 3.2.2. Other Technical Reports

- Drainage Division: No objection subject to adherence to Codes of Practice.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland: Report states that the site is situated within the Luas Cross City catchment area and therefore a Section 49 Supplementary Financial Contribution should be applied if there is no relevant exemption.

## 4.0 Planning History

The following relates to the adjoining hotel business at 7/8 Mount Street Lower, referred to as The Leinster, which proposes to operate the proposed bedrooms:

- Reg. Ref. 3513/18: Planning permission granted for demolition of the existing building, in use as a licensed premises with roof garden and night club, while retaining part of the Victorian shop front and the construction of a 5 storey over basement with setback top floor building (seven stories in total). The new building (with a total floor area of 2936 sqm) will be used as a boutique hotel containing a reception area with bar at ground floor, a total of 52 guest bedrooms on levels 1-4 a roof-top licensed restaurant and a basement containing a function room, meeting room, staff facilities, storage and plant rooms. The proposed development will also contain services and all other ancillary works to service the hotel.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the Development Plan). The site is situated on lands zoned Z8 'Georgian Conservation Areas' which has a zoning objective *to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*. Section 14.7.8 sets out permissible uses for this zone and includes bed and breakfast, hostel (tourist) and hotel amongst other uses including residential. It states:

*"Where residential levels are low, it is the aim to encourage more residential use in the area, to include support for sub-division and universal access that do not impact negatively on the architectural character and setting of the area"*

- 5.1.2. The site is also situated within a conservation area as identified on the zoning maps by red hatching. I note however that the conservation areas are separate and distinct to Architectural Conservation Areas (ACAs). The Plan states that they do not have a statutory basis in the same manner as ACAs but are recognised as areas with conservation merit which warrant protection. Policy BHA9 therefore applies which seeks to protect the special interest and character of conservation areas. The full text of BHA9 is attached. It states:

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

- 5.1.3. Policy SC3 is set out in Chapter 4 of the Development Plan regarding Shape and Structure of the City and it 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.

5.1.4. Chapter 5 sets out a framework to ensure the provision of Quality Housing and Sustainable Housing in the city. The following policies are relevant:

- Policy QHSN7 seeks to resist and reverse the loss of residential use on upper floors of the city.
- Policy QHSN38 seeks to provide a mix of housing types, tenures and sizes.

5.1.5. Chapter 6: City and Enterprise is of relevance. This chapter recognises that Dublin is an international city and gateway to the European Union for many businesses. The city region contributes significantly to Ireland's economy and is a major economic driver for the country. Policies and objectives of specific relevance from this chapter are listed below and the full text is attached:

- Policy CEE8 'The City Centre' seeks to support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre.
- Policy CEE26 'Tourism in Dublin', seeks to promote tourism as a key economic pillar of the city's economy.
- Policy CEE28 'Visitor Accommodation' seeks to consider applications for additional hotel, tourist hostel and aparthotel development.
- Objective CEE01 Study on the Supply and Demand for Hotels, Aparthotels and Hostels
- Section 6.5.6 states that *tourism is a central pillar of the city's economy* and:

*With regard to the provision of hotel accommodation in the capital, prior to the Covid-19 pandemic, Dublin City was experiencing hotel occupancy rates which was amongst the highest occupancy rates reported for comparable destinations. As a result, towards the end of the last Development Plan period, the city saw numerous applications for the development of new hotels and for the expansion of existing hotels in the city.*

*While such development is to be welcomed in that it provides for much needed additional accommodation for tourists visiting the city, it will be important to avoid the overconcentration of hotel development in areas of the*

*city which currently have high levels of existing hotel, aparthotel and student accommodation development or in areas where significant number of planning applications have been made for new or expanded hotel and aparthotel development.*

*Avoiding an overconcentration of hotel development in certain areas of the city centre is particularly important in the context of wider objectives to create a rich and vibrant range of uses in the city centre. As a result, the Council will consider applications for additional hotel and aparthotel development having regard to the existing and proposed mix of uses associated in the vicinity of any such proposed development.*

- 5.1.6. Chapter 15 sets out development management standards and Section 15.14.1 refers to hotel and aparthotel. The full text of Section 15.14.1 is attached however I note that it seeks to ensure a balance is achieved between the requirement to provide for adequate levels of visitor accommodation and other uses in the city such as residential, social, cultural and economic uses. It states *there will be a general presumption against an overconcentration of hotels and aparthotels and*

*“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,”*

## **5.2. Natural Heritage Designations**

- 5.2.1. The site is situated 400m west of the Grand Canal proposed Natural Heritage Area (pNHA).
- 5.2.2. The site is also situated 2.2km west of the South Dublin Bay Special Area of Conservation and proposed Natural Heritage Area as well as 2.3km west of the South Dublin Bay and River Tolka Estuary Special Protection Area.



### **5.3. EIA Screening**

- 5.3.1. See EIA Pre-Screening Form 1 in Appendix 1. The development is not a class of development requiring mandatory or sub-threshold EIA and therefore there is no EIA Screening requirement.

## **6.0 The Appeal**

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

- Insufficient weight given to tourism benefits. The country's biggest tourist attractions are in the city centre and therefore tourist accommodation should be nearby. Clustering similar land uses is normal in cities. Examples provided from other major European cities.
- Overconcentration is not relevant in Mount Street Lower. The Planning Authority did not carry out an assessment of existing hotels and the Applicant contends that there is an undersupply of bed spaces in the city centre.
- Residential use is not viable in older buildings due to fire safety and conservation requirements. This is a bigger preventative to residential uses than an overconcentration of hotels. Encouraging residential use should not prevent other development.
- The layout of the building makes any conversion to residential use difficult with one shared staircase and two rooms per floor. No space for kitchens, bathrooms, parking and waste management for each unit. There is no private open space or potential to provide it and all the windows face north. Provision of universal access would be preventative due loss of historic fabric.
- The reason for refusal is not site specific.
- Hotel uses contribute to the economy and create employment as well as generating footfall for nearby businesses etc.
- 80-90% of existing land use on Mount St Lower is in office use and therefore changing the use to a hotel supports variety. It does not contribute to the lack of variety of uses as stated in the refusal reason.

- Refusing one use and thereby retaining a vacant unused building will not lead to increased residential use.

## **6.2. Planning Authority Response**

- No response received.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. The proposed development comprises replacing uPVC windows with timber sliding sash frames but retaining the same opening and locations etc. Some limited internal alterations are proposed to change the layout to provide a 9no. ensuite bedrooms and some associated servicing e.g. a laundry store. Lastly, permission is sought to change the use of the building (but not the ground floor) from office to hotel use.
- 7.1.2. The building is situated in a Conservation Area but is not a protected structure.
- 7.1.3. In my opinion, the proposed replacement windows are a positive aspect to the proposal which would improve the visual amenity of both the site and its surrounding area.
- 7.1.4. Regarding the internal changes, it is proposed to provide one larger suite on the ground floor and 2no. bedrooms to each of the remaining floors. Each floor above ground floor currently comprises two large rooms with a connecting door. It is proposed to replace each interconnecting door with a partition wall and to install an en-suite which requires additional internal partitions. One internal partition will also be removed from the third floor.
- 7.1.5. The overall proportions of the rooms will be retained as well as some historical fabric such as mouldings and the locations of doors from the stairwell.
- 7.1.6. I consider the proposed physical changes to be acceptable as they are internal, do not affect the character of the building and are reversible.
- 7.1.7. Therefore, having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected

the site, and having regard to relevant local/regional/national policies and guidance, I consider that there are two main issues in this appeal as follows:

- Principle and precedent
- Overconcentration of hotel development

## **7.2. Principle and Precedent**

7.2.1. The Z8 zoning permits hotel uses amongst others, but also seeks to encourage more residential uses. I note in this regard that the proposed hotel use would be an extension of the adjacent business and not an introduction of an entirely new land use to the street. I therefore consider that the principle of development is acceptable subject to ensuring it does not negatively impact the provision of any residential development or detract from the vibrancy and vitality of the area.

7.2.2. The reason for refusal states:

*the proposed change of use to hotel could contribute to a lack of variety of uses in the vicinity. As such the proposal is contrary to Policy SC3, Policy QHSN7 and Section 15.14.1 of the 2022-2028 Dublin City Development Plan which seeks to promote a mixed-use land policy in the city centre including the provision of high quality, sustainable residential development.*

7.2.3. For clarity, Policy SC3 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. While Policy QHSN7 seeks to resist and reverse the loss of residential use on upper floors of the city.

7.2.4. I note the intent of these policies is to provide additional residential units in the city centre during the current and recent climate where the state is experiencing a housing crisis, as well as providing a more varied mix of land uses to ensure vibrancy and vitality of the city centre at all times of the day.

7.2.5. I also note however Section 6.5.6 of the Development Plan which states that the Council will consider applications for additional hotel and aparthotel development having regard to the existing and proposed mix of uses associated in the vicinity of any such proposed development.

- 7.2.6. The vast majority of Mount Street Lower is currently in use for offices or similar service based commercial purposes. Noting again the existing hotel use on the street, I consider the provision of additional hotel bedspaces would not introduce a new use but would represent a change in the overall mix in the area by slightly lowering the quantum of office space and increasing hotel use. I therefore disagree with the Planning Authority, and I consider that the development complies with Policy SC3.
- 7.2.7. The site is not currently in residential use meaning there would be no net loss in residential units. I therefore consider that Policy QHSN7 is not applicable in this circumstance.
- 7.2.8. Regarding residential development, in my opinion any potential future provision of same is not impinged by this proposal, as the use of the site as a hotel does not preclude its future development for residential purposes, if permission was sought. I also believe that it does not detract from the area by making it a less desirable place to reside and therefore do not agree with the Planning Authority that permitting a hotel use would set an undesirable precedent.
- 7.2.9. I consider that there are policies in the Development Plan supporting the provision of hotels and tourism facilities in the city centre such as CEE8, CEE26 and CEE28, just as there are policies which support residential development such as QHSN7 and QHSN38 and SC3. Policy SC3 does favour residential development in the diversification of land uses and variety of land use mix, however it does not preclude any other use. In my opinion, the Planning Authority's assessment does not qualify why housing policies take precedence over the economic development of the area, particularly when the provision of residential development is not impacted and nor is there any net loss of existing units
- 7.2.10. The reason for refusal also refers to the Dublin Housing Strategy, the Housing Need Demand Assessment and Policy QSHN38 which relates to housing mix. However, I note again that the proposal does not remove any residential units from the current offering and there is nothing preventing any future conversion to residential use. I therefore consider these aspects are irrelevant.
- 7.2.11. In conclusion, I consider that the proposed development would not contravene the policies stated in refusal reason and would not set a precedent to discourage or

preclude residential development. The proposed development would comply with other policies which support the provision of tourism related uses in the city centre such as CEE8, CEE26 and CEE28.

### **7.3. Overconcentration of Hotel Development**

- 7.3.1. The refusal reason states there is an overconcentration of hotel development in this area of the city centre however the Applicant argues that there is not.
- 7.3.2. There is no definition, threshold or parameters set out in the Development Plan as to what constitutes overconcentration of hotel uses in the city centre. Objective CEE01 and Section 15.14.1 of the Development Plan state that the Planning Authority will undertake a study on the supply and demand for tourism related accommodation however I am not aware of the existence of such a report and it is not referenced in the Planners Report. Section 15.14.1 goes on to state that in the absence of the study, such planning applications will be dealt with on a case-by-case basis.
- 7.3.3. The Planning Authority report states: 'The Planning Authority has concerns in relation to the expansion of hotel use along this city block' however I note Section 15.14.1 also states that in circumstances where the Planning Authority deems there to be an overconcentration, the Applicant will be requested to submit a justification report. The Planning Authority did not request this of the Applicant and the report does not qualify how it reached a conclusion that there is an overconcentration in this area over another.
- 7.3.4. In the absence of published data, I note the Appeal identifies hotels on Mount Street Lower and around Merrion Square based on a study of google maps. I have carried out a similar desktop study and note Mount Street Lower has two hotels while the full block between Mount Street Lower and Mount Street Upper has three. I am not aware of any hotels which face onto Merrion Square. When the search is widened to a 1km radius, I identified 38 hotels on google maps, however I note there are areas with higher concentrations such as around Dublin Castle or Temple Bar where the figure is doubled.
- 7.3.5. It is my opinion therefore that there is not an overconcentration of hotels in this area of the city centre.

## **8.0 AA Screening**

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The site is not situated within or adjacent to any European Site. The subject site is located 2.2km west of the South Dublin Bay Special Area of Conservation and 2.3km west of the South Dublin Bay and River Tolka Estuary Special Protection Area.
- 8.3. The proposed development is set out previously in this report in more detail but in summary comprises replacing the existing windows with more sympathetic materials and changing the use from office to hotel.
- 8.4. 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 appreciable effect on a European Site. The reason for this conclusion is as follows:
- 8.5. The small scale and internal nature of the proposed development in a serviced urban area, distance from European sites and urban nature of intervening habitats, absence of ecological pathways to any European sites
- 8.6. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

## **9.0 Recommendation**

I recommend that planning permission be granted, subject to conditions, for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

Having regard to the location and character of the site and surrounding area in a serviced urban area together with the provisions of the Dublin City Development Plan 2022-2028 including Policies SC3, CEE8, CEE26 and CEE28, Sections 6.5.6 and 15.14.1 as well as the 'Z8' zoning objective for the area, as well as the maintenance of an appropriate mix of land uses on Mount Street Lower with no net loss of residential uses, it is considered that, subject to compliance with the

conditions set out below, the scale and nature of the development is acceptable. The development would comply with local design guidance and would not seriously injure the visual amenity of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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>The building, with the exception of the basement, shall be used as a hotel to provide 9no. bedrooms operated in conjunction with the adjacent hotel.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The Developer shall comply with the requirements set out in the Codes of Practice for the Drainage Division, the Transport Planning Division and the Noise and Air Pollution of Dublin City Council.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
4.	<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>

5.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City (St. Stephens 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>
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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.

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Sarah O'Mahony  
Planning Inspector

26<sup>th</sup> November 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	320242-24			
<b>Proposed Development Summary</b>	Replace non-original uPVC windows throughout with timber sliding sash windows with slimline double glazing; change of use of five floors (hall-4th) from office to hotel with 9 no. bedrooms. Basement floor will remain as printshop.			
<b>Development Address</b>	No. 6 Mount Street Lower, Dublin 2			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>		X – The change of use is not a project however the alterations to fenestration is.	
	<b>No</b>		No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>				
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>	X	N/A		No EIAR or Preliminary Examination required
<b>Yes</b>				

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	
<b>Yes</b>		

**Inspector:** \_\_\_\_\_**Date:** 26<sup>th</sup> November 2024