



An
Bord
Pleanála

Inspector's Report ABP-321007-24

Development	Demolition of buildings and construction of 3-7 storey aparthotel, together with all ancillary works.
Location	Site at Thomas Street, including 144 Thomas Street (the site is bounded by 143 Thomas Street and Marshalsea Lane to the east and Numbers 151-156 Thomas Street to the west), Dublin 8.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4029/24
Applicant(s)	Welthomas Property Ltd.
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Welthomas Property Ltd.
Observer(s)	Cllr. M. Devine & TD A. O'Snodaigh
Date of Site Inspection	5 th June 2025
Inspector	Dan Aspell

1.0 Site Location and Description

- 1.1.1. The site is located on Thomas Street, Dublin 8. The stated area is 0.1872ha. The site mainly comprises a surface level car park on the northern side of the street. Vehicular access is from Thomas Street. There is an electricity substation within the site. The site boundaries to the north, south and east comprise a mixture of stone and brick walls; the site boundary to the west comprises the side wall of 'The Masonry' building.
- 1.1.2. A vacant site is adjacent to the east. The Robert Emmet Close residential development and the Digital Depot / Digital Hub are to the north. The Masonry building is adjacent to the west. Thomas Street is to the south.
- 1.1.3. There are no Protected Structures within or adjacent the site. The site is not within an Architectural Conservation Area. There are a number of Protected Structures as well as the Thomas Street & Environs Architectural Conservation Area across Thomas Street to the south.
- 1.1.4. The Masonry building is a 3-, 4-, and 5-storey building. The adjacent Robert Emmet Close residential buildings are 3-storeys. The adjacent Digital Depot / Digital Hub are 3-storey equivalent. The nearest buildings to the east are a mix of 1-, 3-, and 4-storeys. The buildings across Thomas St. are a mix of 3- and 4-storeys.

2.0 Proposed Development

- 2.1.1. The development proposed at application stage generally comprised a 3-7 storey over basement aparthotel as follows:
 - demolition of all existing buildings including existing boundary wall and gates along Thomas Street;
 - new vehicular access from Thomas Street to basement level;
 - basement level comprising cycle parking; staff changing rooms/showers; service yard; plant; storage; refuse; guest gym; kitchen and attenuation tank;
 - ground level comprising reception; café, electricity sub-station and switchroom. First to fifth floor to comprise aparthotel rooms (93 no. self-contained/self-catering units). Sixth floor level to comprise a public bar / event space.

- 2.1.2. A large number of documents were submitted with the application. These included architectural, engineering and landscape drawings; Accommodation Concentration Report; Archaeological Survey; verified photomontages; Townscape & Visual Impact Assessment; Civil Engineering Infrastructure; Planning Design Report; and Traffic & Transport Assessment.
- 2.1.3. The appeal includes a revised proposal. The primary changes are the omission of one floor, reducing the overall height to 4- and 5-storeys with a 6th storey setback. The revised proposal also includes a reduction in the footprint of the basement, omission of basement vehicular access, and alterations to the ground floor layout.
- 2.1.4. The appeal comprised a planning letter, 2 no. architectural drawings, and photomontages.

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 form, scale and mass do not provide an appropriate transition in scale or have due regard the existing and surrounding urban morphology. Proposal is overly dominant, would appear overbearing and incongruous on the streetscape. Proposal would also have a negative impact on the archaeological and built heritage along Thomas Street;
 - Reason 2: Applicant did not submit Basement Impact Assessment. Site is within a Zone of Archaeological Constraint for a number of structures on the Record of Monuments and Places and would therefore requires removal of any archaeological deposits from the site. Proposal is contrary to Development Plan Section 15.15.1.4 'Basements' and Policy BHA26.2 which place a presumption against basement development in the medieval core and known medieval sites.

3.2. Planning Authority Reports

3.2.1. Planning report: Report recommended refusal. I note the following points:

- Land use: Report stated the proposed aparthotel, café, bar/event space are permissible in the Z5 zone;
- Aparthotel uses: The submitted 'Accommodation Concentration Report' demonstrates there is a concentration of tourist accommodation to the east of the site. The site is not adjoined by similar developments. The nearest site is c.350m away with a mix of uses intervening. Planner report does not consider the proposal would result in an overconcentration of short let type accommodation in this location along Thomas Street;
- Heritage: Planner report stated the site is immediately opposite the ACA boundary and that the Conservation Officer indicated the westward extension of the ACA toward James Street is a priority addition to the ACAs in the Development Plan and that the site forms part of that ACA boundary extension;
- Visual impact: The submitted LVIA shows the proposed building is not in keeping with the scale of adjoining buildings and that it would be visually dominant and discordant, and does not respond to the prevailing character. The fenestration is incongruous and larger façade voids present an overbearing elevation that is out of scale and out of character with the context. Proposal would not enhance the character of the area;
- Design: The Archaeology Section report states the large solid building and uniform frontage is not sympathetic to the historic scale and urban grain of the setting. Development of this prominent vacant site is welcome however the proposal has not had sufficient regard to the historic streetscape;
- Residential amenity: Proposal will avoid overlooking. Impacts on neighbouring natural light are acceptable. Proposal may prejudice the future development of Marshalsea Lane above ground floor level;
- Basement: No basement impact assessment is submitted. Site is in the Zone of Archaeological Constraint for Recorded Monuments DU018-020 (Historic City) and DU018-020338- (Dwelling), which are on the Record of Monuments

and Places (RMP) and subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. Basement construction would require removal of any archaeology present. A justification of exceptional circumstances has not been provided;

- Transportation: The matters raised by Transportation Planning could be dealt with by condition;
- Conservation: An Architectural Heritage Impact Assessment (AHIA) was not submitted. Conservation Officer stated concern that sufficient regard was not given to the historic environs of the Liberties. Without an AHIA the design does not respond appropriately or sympathetically to the environment in its scale, bulk, height and massing particularly along the Thomas St. elevation;
- Archaeology: Report sets out details of the proposal in relation to its location in a Zone of Archaeological Constraint; the archaeological potential of the area; the lack of clarity as to whether the existing historic boundary wall along Marshalsea Lane will be demolished; the extinction of Crocker's Lane; and the lack of detail regarding and the design relationship to Marshalsea Lane; the prominence of the site in the 'Dubline'; and the industrial heritage of the Liberties; and that the design is inadequate in its response;
- Drainage: Due to the lack of information, including a basement impact assessment assessing impacts on the surrounding environment and structures, it is not possible to state whether satisfactory surface water management proposals can be provided.

Other Technical Reports

- 3.2.2. Conservation Officer: Report recommended refusal on grounds that the articulation, scale, bulk, height, design and elevation treatment to Thomas Street would cause serious injury to the Thomas Street & Environs ACA and the adjacent red-hatch conservation area.
- 3.2.3. Archaeology Section: Report recommended refusal for 5 no. reasons. In summary the reasons referred to:

- Undue impact of height, massing, design and materials on the historic scale and grain of Thomas Street, an important tourist thoroughfare on the 'Dubline', and on the character of the Liberties;
- Extinguishment of a medieval laneway (Crockers Lane) and failure to address the guiding principles of the SDRA in relation to Marshalsea Lane;
- Demolition of surviving section of the Marshalsea wall which is an historically important remnant of the city heritage;
- Construction of a large basement within an archaeologically sensitive area of the medieval city;
- The absence of archaeological testing and failure to consult with the planning authority Archaeologist in relation to the application.

3.2.4. Drainage Division: Report recommended further information in relation to surface water management and for a Basement Impact Assessment. Report stated that due to the lack of information it was not possible to state that satisfactory proposals for the management of surface water can be provided, and that permission should be withheld until information is approved. The applicant was advised to consult with the Section prior to the submission of revised plans.

3.2.5. Transportation Planning Division: Report recommended further information in relation to service access, measures to mitigate potential obstruction of cycle and bus lanes on Thomas St.; details of cycle access arrangements to a basement level; and demonstration of access in accordance with electricity supplier requirements.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. During the planning application stage five observers made submission to the planning authority. These were Niamh O'Beirne, Damien Kaye; Kieran Doyle O'Brien; Cllr. Darragh Moriarty, and Cllr. Máire Devine & TD Aengus O'Snodaigh. The issues raised related to impact on the community; character; the need for housing; the need for community spaces; overconcentration of visitor / transitory

accommodation; impact on streetscape; impact on Marshalsea wall; proposed height, scale, façade, bulk, massing, and finishes; impact on residential amenity; operational and construction access; and traffic management.

4.0 Planning History

4.1. Subject site

- 4.1.1. Reg. Ref. 2903/19: Planning permission granted by the Planning Authority in 2019 for: (i) removal of existing faux shopfront to unoccupied site on to Thomas Street; (ii) partial removal of front boundary wall to Thomas Street; (iii) partial demolition of walls associated with previously existing building on site; (iv) construction of single storey ESB substation; (v) construction of new boundary wall and vehicular entrance gate to Thomas Street. Permission was for a temporary permission of 5 no. years.
- 4.1.2. Reg. Ref. 4205/18: Planning permission refused by the Planning Authority in 2018 for: (i) Removal of temporary shopfront fronting onto Thomas Street; (ii) Construction of single-storey ESB substation (37 sq.m); and (iii) All ancillary works necessary to facilitate the development. The refusal reason referenced, amongst other things, visual obtrusion in the streetscape; response to building plot widths, architectural form, materials and detailing of existing buildings; and complementing the scale, architectural quality and the degree of uniformity in the townscape.

4.2. Nearby sites:

- 4.2.1. None.

5.0 Policy Context

5.1. National guidelines and strategies

Climate Action Plan 2024.

National Biodiversity Action Plan 2023, including its Objectives and Targets.

Architectural Heritage Protection Guidelines 2011.

Urban Development and Building Height Guidelines 2018.

5.2. Development Plan

- 5.2.1. The site is zoned 'Z5 City Centre' in the Dublin City Development Plan 2022-2028, 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*". I note the following Development Plan policies and objectives in particular.
- 5.2.2. Regarding architectural heritage, Policy BHA7 'Architectural Conservation Areas', and Sections 15.15.2.2 'Conservation Areas', 15.15.2.1 'Architectural Conservation Areas', and 11.5.2 'Architectural Conservation Area';
- 5.2.3. Regarding the Liberties, 'SDRA 15 – Liberties and Newmarket Square' (Section 13.17 of the Development Plan including Figure 13-18 'SDRA 15 Liberties and Newmarket Square');
- 5.2.4. Regarding basement development, Sections 15.15.1.4 'Basements' and 15.18.4 'Basement'. Table 15-1 'Thresholds for Planning Applications' states that a Basement Impact Assessment is required for all developments with a basement. Appendix 9 'Basement Development Guidance';
- 5.2.5. Regarding surface water, Policy Si25 'Surface Water Management';
- 5.2.6. Regarding archaeology, and Policy BHA26 'Archaeological Heritage' and Figure 11-1 'The Evolution of Dublin', and Sections 11.5.5 'Archaeological Heritage' and 15.15 'Built Heritage and Archaeology';
- 5.2.7. Regarding building height, Policy SC16 and Appendix 3, including Table 3;
- 5.2.8. Regarding aparthotel use, Policy CEE28; Sections 15.14.1 'Hotels and Aparthotels' and 15.14.1.1 'Hotel Development'; and Objective CEE01.
- 5.2.9. I have also reviewed the document 'Thomas Street & Environs Architectural Conservation Area (ACA) Adopted 07-09-2009' which is a standalone document.

5.3. Liberties Local Area Plan 2009

- 5.3.1. The Liberties Local Area Plan expired in 2020.

5.4. Natural Heritage Designations

- 5.4.1. South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are approximately 4.6km to the east.

6.0 Environmental Impact Assessment screening

- 6.1.1. The proposed aparthotel 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 on behalf of the applicant, the main points of which I summarise as follows:

- Refusal reason 1 related to height and massing, and refusal reason 2 related to archaeology. These are points of detail which should have been dealt with by further information;
- Regarding refusal reason 1, the proposed height and massing are appropriate and will not result in any negative impacts. Without prejudice to the first party position, revised proposals are submitted which present a 4-storey and 5-storey plus 1-storey setback proposal;
- Regarding refusal reason 2, a revised basement and ground floor is submitted which provides for a setback from the site boundaries. This will allow for preservation of historic, including the Marshalsea wall, and reinstatement of part of Crocker's Lane. A condition for archaeological testing is proposed;
- Regarding refusal reason 1, the Planner Report acknowledged the Development Plan states 6-8 storeys is a benchmark. The Planner Report failed to acknowledge Building Height Guidelines Paragraph 1.10 that promotes

at least 6-storeys in the canal ring. The application as submitted is consistent with the Development Plan, national guidelines and the character of the area;

- The City Archaeologist report referenced a Dublin Civic Trust report ('Thomas Street: Improving the Public Face of an Historic City Centre Street' 2012). The report indicates a 5-storey development for the subject site, with further height achievable with setbacks. This exceeds the 4-storey element of the proposal;
- The planning context of the above study was 2012 which predates the current 2022-2028 Development Plan which abandoned previous building height maxima. Appeal states that if the referenced study was prepared in the existing policy context it would afford greater flexibility in terms of height and massing;
- The Development Plan and Building Height Guidelines performance-based development management criteria are to be applied. The detailed Townscape & Visual Impact Assessment (TVIA) outlines the historic evolution of the area; the relevant policy context including Appendix 3 of the Development Plan; townscape character; views; and visual impact;
- The Planner and Conservation Officer reports were concerned with the proposal as shown from Viewpoints 3, 5 and 6 in relation to the height being in keeping with the scale of adjoining buildings. The appeal states this appears to be the basis for Refusal reason 1. The TVIA considers these views as 'significant positive' and 'moderately positive'. As such the Planning Authority assessment is at variance with the TVIA. The appeal adds that these views are short-range views, and that observers' perspectives change as they move past buildings as illustrated by TVIA View 2 and 7;
- Appeal considers the Planner Report does not afford sufficient regard to national policy on compact growth. Increased scale and height, and related juxtapositions between new higher density development and older, smaller, lower density developments are an unavoidable outcome of compact growth;
- Appeal states that all of the development management criteria in Development Plan Table 3 Appendix 3 regarding density and height and are addressed in the application;

- The proposal responds to the scale of neighbouring developments, specifically the eastern part of the site where the adjacent building is 3-storeys and the proposal is 4-storeys;
- Thomas St. is medieval in origin, but evolved due to strong industrial influence in the 18th to 20th centuries, followed by decline and then plan-led regeneration;
- Appeal includes a street elevation which it states contradicts the Planning Authority assertion that Thomas St. is defined by narrow burgage plots. Appeal states that while those plots remain in places there are also much larger plots and diverse buildings from different centuries, with different fenestration, character, street frontage. The proposed fenestration is similar and takes its lead form nearby Georgian facades;
- Regarding refusal reason 2, the substantive issues relate to: the principle of basement development and impact on archaeological heritage; potential impact on the historic Marshalsea wall; and potential impact on historic laneways;
- Regarding the principle of basement provision, a blanket ban on basements in the medieval core is unnecessary as there are precedents the City Council and Board permitted in these locations. The Archaeological Impact Statement states that impacts on archaeology are likely and that mitigation measures for testing and excavation will be necessary. This could have been conditioned. Appeal refers to a case where the Board took this approach;
- The letter refers to a separate report by Judith Carroll & Co., Archaeological Consultants, in relation to the Marshalsea wall and historic laneways.

7.1.2. The report from Judith Carroll & Co. makes the following points in relation to refusal reason no. 2:

- The report recommends that an archaeological condition for preservation in-situ or by record is reasonable and necessary;
- The Marshalsea wall at the northern end of the site is a common/shared boundary wall and is to be retained in its entirety. To ensure its protection the appeal includes a revised basement and ground floor layout which will also preserve the historic Croker's/Crocker's Lane adjacent to the south of the wall. Any archaeological remains will remain in situ;

- The report includes a mitigation plan comprising construction management proposals, photographic record, trial testing, and monitoring. The report notes that opening up the historic lane is restricted by 3rd party lands either end;
- Marshalsea Lane to the east of the site is outside the site boundary. The southern section of the boundary wall of this lane is a shared/common boundary with the appeal site. The report reiterates mitigation in the submitted AIS comprising a survey of the wall; prior-to-commencement report to the National Monument Service; and archaeological investigation of the wall base;
- Report states opportunities to enliven the historic Marshalsea Lane are limited as the applicant does not control the land and it is not publicly accessible.

7.1.3. The appeal also includes computer generated images and revised basement and ground floor architectural plans.

7.2. **Planning Authority Response**

7.2.1. The Planning Authority response requested the Board uphold the decision to refuse, and that if permission is granted to attach Section 48 conditions.

7.3. **Observations**

7.3.1. An Observation from Cllr. M. Devine & TD A. O'Snodaigh was received, summarised as follows:

- Welcomes development of vacant plot, but homes would be more appropriate;
- Observation aims to make the development more sympathetic to the area;
- Appeal has not altered proposals. Proposal is unsuitable in an ACA;
- Proposed building fails to have due regard to surrounding urban morphology;
- Proposal is contrary to City Development Plan;
- Mass, scale and height is not in keeping with streetscape;
- Proposal is generic, modular and inharmonious with historic streetscape;
- Façade presents as a solid wall to the beauty of adjoining protected structures;

- The oversaturation of visitor accommodation is detrimental to intangible cultural heritage of the Liberties.

7.4. Further Responses

7.4.1. 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, including aparthotel use.

8.2. Refusal reason 1

8.2.1. The site is zoned 'Z5 City Centre' in the Dublin City Development Plan 2022-2028. 'Hotel' use is a 'Permissible Use' in this zone. The Development Plan states that the land use definition of hotel includes aparthotel. I am satisfied the proposed aparthotel development including its ancillary uses is acceptable in principle subject to the considerations below.

Form, scale and massing

8.2.2. Overall, I broadly concur with the Planning Authority that the proposed form, scale and massing do not provide an appropriate transition in scale within the area, would be overly dominant, and would appear overbearing and incongruous, in particular the 6/7 storey element. I set out details of my considerations below.

8.2.3. As noted, there are no Protected Structures within or adjacent the site. The site is not within an ACA, however the Thomas Street & Environs ACA is across the road. A Development Plan 'red-hatch' conservation area extends along the front of the

site. I note that the 'Masonry' building is on the National Inventory of Architectural Heritage (Reg. No. 50080330) and has a Regional rating.

- 8.2.4. Regarding scale and massing, the plot width of the site as it addresses Thomas St. is approximately 38m, putting the site amongst the largest sites on the street. The proposal as submitted to the Planning Authority ranged from 4- to 6-storeys with a 7th storey set-back along Thomas Street. The eastern and northern elevations would be 4 storeys. The western elevation would also be 4- to 6-storeys with a 7th storey setback.
- 8.2.5. Buildings in the area range from 1-storey adjacent the site to 5-storeys (4-storey with 5th storey set-back). I would characterise the prevailing height in the area as 3-4 storeys. Plot widths also vary, with the majority being approximately 7m, however a number are considerably wider (eg. 17m, 19m, 25m and even 40m adjacent the site to the west). This is the case on both sides of the street. As such, I consider the plot size and scale of buildings vary considerably along this section of Thomas Street.
- 8.2.6. I note that some of the buildings in the immediate area combine larger plot widths with greater height. No. 54-83 St. James's Gate, approximately 50m across the road from the site to the south-west, has a height of 4-storeys with a 5th storey setback and a plot width of approximately 25m. Emmet House, approximately 25m to the east, has a height of 4-storeys with a 5th storey setback and a plot width of approximately 17m. The 'Masonry' building, adjacent to the west, has a larger plot width (approx. 40m) and is 3-, 4- and 5-storey mansard-roofed building.
- 8.2.7. As such whilst I consider that the scale and massing of existing buildings in the area varies considerably and that a number of the larger scale buildings are historical buildings (eg. No. 54-83 St. Jame's Gate which is a Protected Structure), I also consider that the building proposed at application is significantly larger in terms of mass and scale, in particular the 6/7-storey elements along Thomas Street, including having regard to its relationship to the adjacent 'Masonry' building.
- 8.2.8. I address building height in the context of the detailed provisions of the Development Plan in a separate section of my report below.
- 8.2.9. Regarding form, I consider that the majority of buildings in the area along Thomas Street are generally rectilinear, with planar facades and parapet walls at roof level. One exception to this is the adjacent 'Masonry' building which has a mansard style

roof and elevated portion located centrally in the façade. Whilst I consider that elements of the overall form of the proposed block are sympathetic to the broader street, conversely there is a symmetry and more modest size to building elevations along the street which the proposal lacks. As such I do not consider the proposed form is sympathetic to the prevailing form and size of buildings in the area.

Streetscape, elevations and urban grain

- 8.2.10. Regarding impact on the streetscape and relationship to existing elevations, I note the Planning Authority Archaeology Section points in this regard. I also note the Planner Report points regarding the solid-to-void profile of elevations in the area, and the larger voids in the proposed elevation.
- 8.2.11. Buildings in the immediate area along Thomas Street typically date between c.1700 and the early 1900s, and as such show a range of British period styles. I consider buildings in the immediate area are characterised by vertical emphasis, minimal ornamentation, and parapet walls. One exception to this is the adjacent 'Masonry' building, which offers a more stylised elevation. Whilst adjacent, I do not consider it is typical of buildings on the street in style and design terms. The proposed building and contextual elevations (eg. Drawing THS-PLA-Z1-ZZ-DR-A-04000 & Drawing THS-PLA-Z1-ZZ-DR-A-04004) illustrate the variety of buildings and elevations on this side of Thomas Street. I note in particular the similarities of the proposed elevation and fenestration to Emmet House to the east. I also note the contemporary elevation of No. 157 Thomas Street to the west. I acknowledge that the proposed void sizes are larger, however this is typical of contemporary buildings. Overall I consider the minimalist design, simplified elevations, subtle articulation, as well as the proposed fenestration and solid to void arrangement broadly complement the prevailing styles of historic buildings on the street, and strike a reasonable balance between being sympathetic to the character of the area yet contemporary in style.
- 8.2.12. Regarding urban grain, as with the plot width, I consider there is some variation in this regard along this side of the street, although less than in relation to plot width. I would characterise the established grain as being predominantly 2-bays wide, however there are a number of 3- bay wide elevations, including immediately east of the site (No. 142 and No. 141 Thomas Street). The ground floor elevations of the majority of buildings along this part of the street correspond in width to the floors

above, that is, being either 2- or 3-bays equivalent. I am satisfied the proposed Thomas St. elevation generally follows suit in this regard, with the elevation split into 5 no. 2-bay wide elevation sections and 1 no. 3-bay wide element. The ground floor elevation is similarly articulated. I consider that this approach is comparable to Emmet House to the east. I acknowledge that the urban grain varies more significantly across the road. Including within the ACA, with the majority also being 2-bays wide, but some being considerably larger. Overall I consider the proposal is reasonably compatible with the established urban grain in this regard.

Thomas Street & Environs ACA

- 8.2.13. The site is outside the Thomas Street & Environs ACA. I note the site is also outside the Thomas Street & Environs ACA Study area boundary ('Thomas Street & Environs Architectural Conservation Area (ACA) Adopted 07-09-2009'). In both cases the site is opposite the ACA, which extends to include the buildings on the opposite side of Thomas Street from the site. The Planning Authority Decision and Planner Report did not reference specific Policies or Sections of the Development Plan the proposal was considered to be contrary to.
- 8.2.14. Policy BHA7 states that development within or affecting an ACA "*must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area, and its setting, wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA*". For the reasons set out above, I am satisfied the proposal would not contribute positively to the character of the area on account of its scale, form and massing, in particular the 6/7 storey element, and the impact of the proposal on the visual amenities, design and character of the area.
- 8.2.15. In addition, a 'red hatch' conservation area also extends along Thomas Street along the front of the site. As referenced above, the site has been cleared and previous faux shopfronts removed. Development Plan Section 15.15.2.2 'Conservation Areas' states that all planning applications for development in Conservation Areas shall respect the existing setting and character of the area, and be cognisant and/or complementary to the existing scale, building height and massing of the surrounding context, and positively contribute to the existing streetscape. Having regard to the

foregoing I am not satisfied that these requirements in relation to scale, massing and streetscape have been achieved.

- 8.2.16. Development Plan Section 15.15.2.1 'Architectural Conservation Areas' states that larger scale applications within or immediately adjacent an ACA will need to provide an assessment, carried out by a suitably qualified conservation professional, of the impact of the development on the ACA the streetscape and the buildings in the immediate vicinity and demonstrate that there will be no material adverse impact arising. It states that such an assessment should be accompanied by appropriate drawings, imagery and photomontages of the site and the surrounding context to assist the planning authority in assessing the impacts of the development. Whilst a Planning Design Statement from the applicant's architect was submitted, I do not consider that this requirement was met within the submitted application or appeal.
- 8.2.17. I note that the Conservation Officer states the area is to be designated as an ACA in the future. Development Plan Section 11.5.2 'Architectural Conservation Area' refers to 'Priority Architectural Conservation Areas' and 'Priority ACA projects' refers to 'James's Street/Thomas Street (west end)' as an area to be identified as an ACA over the Development Plan period. No map indicating the extent of the area is provided. I have given the Conservation Officer report and these provisions of the Development Plan due regard, however the site is not currently within an ACA.
- 8.2.18. Overall, I consider the 4-storey element is acceptable in terms of scale, form, massing, and streetscape. However I concur generally with the Planning Authority that the scale, massing and form of the elevation overall, in particular the transition of the 6/7 storey element is, on balance, excessive having regard to the buildings in the area. I consider the proposal as submitted at application stage does not contribute positively to the character and distinctives of the Thomas Street & Environs ACA, and would not meet the requirements of Policy BHA7 of the Development Plan. I also consider this aspect of the development would not respect the setting and character of the area, or be cognisant and/or complementary of the existing scale, building height and massing of its context, or positively contribute to the streetscape, in particular with regard to its relationship to the adjacent 'Masonry' building.

Building height

- 8.2.19. I have assessed the development against the requirements of the Development Plan, including Policy SC16 Building Height Locations, Policy SC17 Building Height, and Appendix 3.
- 8.2.20. The planning application Planning Report and Townscape and Visual Impact Assessment set out considerations of the proposed height, including in relation to the Building Height Guidelines and the Development Plan, including Appendix 3. I also note the submitted Planning Design Report from the applicant's architect and the verified photomontages submitted.
- 8.2.21. In relation to building heights in the area, I consider heights in the immediate area range from 1 to 5 storeys. I would characterise the prevailing height in the immediate area as generally 3- to 4-storeys. The subject site comprises a surface car park. The proposed height ranges from 4 to 6 storeys, with a 7th storey setback.
- 8.2.22. The Development Plan states that the Building Height Guidelines note that general building heights of at least three to four storeys, coupled with appropriate density in locations outside what is defined as city centre must be supported in principle at development plan level. The guidance also states that within the canal ring it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights. Appendix 3 states that as a general rule buildings of between 5 and 8 storeys, including family apartments and duplexes, are promoted in the key areas identified. Of these, it states that in relation to the 'City Centre and within the Canal Ring (inner suburbs)', a default position of 6 storeys will be promoted within the canal ring subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities.
- 8.2.23. Based on the foregoing, I consider the proposed height of 4 to 6/7 storeys is in principle acceptable, subject to the considerations below.

Dublin City Development Plan, including Appendix 3:

- 8.2.24. Development plan Policy SC16 recognises the predominantly low-rise character of Dublin City alongside the potential and need for increased height in appropriate locations including locations as identified in development plan Appendix 3. Section 15.5.4 of the plan states that Appendix 3 identifies the height strategy for the city and

the criteria in which all higher buildings should be assessed. Appendix 3 states the performance criteria to be used in assessing urban schemes of enhanced density and scale are set out in Table 3 of Appendix 3. The table sets out 7 no. objectives and 30 no. performance criteria; I have reviewed the proposal against each criterion, as follows:

Table 1: Assessment of proposed development against development plan Appendix 3 criteria.	
1. To promote development with a sense of place and character	I consider the proposed design, elevational style and materials would fit reasonably well within the mixed character, design, periods, and materials of existing buildings and other features in the area. However, I consider that the proposed form, scale and massing of the block, in particular the 6/7 storey element is excessive and would conflict with the established sense of place and character of the area as set out above.
2. To provide appropriate legibility	There is a reasonably clear building line along this side of Thomas Street, which the proposal broadly aligns with. The building would be c.1-2 storeys taller than the tallest neighbouring buildings. Based on the design, height, positioning and location whilst the proposal will aid in identifying the area as a contemporary block, I consider that the scale, massing and form of the proposed design is not appropriate having regard to the historic nature of heritage buildings in the area, as set out above.
3. To provide appropriate continuity and enclosure of streets and spaces	The aparthotel addresses the street and is broadly aligned with the neighbouring buildings and would create an appropriate relationship to the street in this regard. I consider the proposal strikes an appropriate balance between providing for vehicular access and amenity space alongside appropriate continuity and enclosure.
4. To provide well connected, high quality and active public and communal spaces	An outdoor seating area and amenity spaces for occupants are proposed adjacent the cafe. No public spaces are proposed, which I am satisfied is appropriate given the proposed nature and use and the site, and its central location. I am satisfied with the proposal in this regard.
5. To provide high quality, attractive and useable private spaces	The proposed outdoor seating area for the aparthotel will be adjacent the cafe. It is well screened by existing and proposed buildings. I consider this space and the proposed amenity spaces are appropriate for an aparthotel, are of a sufficient quality, and are sufficiently attractive and useable.
6. To promote mix of use and diversity of activities	The aparthotel incorporates a cafe and a public bar / event space. I am satisfied this is appropriate for the proposed use, including having regard

	to requirements for evening and nighttime activities in aparthotels (Objective CUO39) of the Development Plan.
7. To ensure high quality and environmentally sustainable buildings	The internal areas of the proposed building generally meet all relevant local and national planning requirements. Detailed assessment reports are submitted in this regard. Overall I am satisfied the proposed building will be of a sufficiently high quality and in line with environmental sustainability planning requirements.
8. To secure sustainable density, intensity at locations of high accessibility	Whilst I do not consider density measurements are directly relevant to the proposed aparthotel, I am satisfied the site coverage and plot ratio figure proposed are acceptable for the area, and align with relevant local and national requirements in this regard.
9. To protect historic environments from insensitive development	There are a number of Protected Structures in the vicinity, and the Thomas Street and Environs ACA is across the road. Part of the site is within the notification zones of 2 no. protected monuments, which the submitted AIS states may be impacted by the proposal. The Planning Authority Conservation Officer report stated that the site is within a planned future ACA. The information submitted considers and assesses the proposal in the context of these structures and features. I consider the proposed form, scale and massing of the Thomas Street elevation, in particular the 6/7 storey element, has not had due regard to the historic environment, and I am not satisfied the development will protect the historic environment.
10. To ensure appropriate management and maintenance	An operational management plan, an operational waste management plan, and an outline operational management plan are submitted. I am satisfied with proposal in this regard.

8.2.25. Overall, having regard to the provisions of the development plan, including Policy SC16 and Appendix 3, whilst the proposal is within the height range stated by the Development Plan for the area, having particular regard to the local prevailing context and to the heritage considerations, I am not satisfied the proposal provides for the reasonable protection of established character and heritage of the area.

8.2.26. In relation to the Building Height Guidelines, including SPPR 3, and taking account of the wider strategic and national policy parameters set out in the National Planning Framework and the Guidelines, having regard to the proposed height, form and scale as set out above, I do not consider that permission should be approved.

- 8.2.27. Regarding visual impact, I have reviewed the Townscape and Visual Impact Assessment and verified photomontages. The site is near to an ACA, adjacent a red-hatch conservation area, and near to Protected Structures. I consider the proposed block would be a substantial and locally prominent in the area. Having regard to the submitted information including photomontages and computer-generated images, I consider the height, scale, massing and visual impact of the proposal would not be acceptable or consistent with the policy objectives for the area. I note the planning authority recommended refusal in this regard.
- 8.2.28. Regarding design, as set out above I am generally satisfied with the proposed design in relation to style, architecture, elevations and materials, with the exception of the scale, massing and form of the proposal.
- 8.2.29. Regarding residential amenity, I note that the Planning Authority raised no concerns in this regard. I note the location of dwellings immediately to the north. The proposal is 4-storeys at maximum along the northern boundary, and set back from the adjacent dwellings. Given the foregoing and the central location of the site, overall I am satisfied the proposed development would not have an unacceptable detrimental impact on dwellings in the vicinity.
- 8.2.30. In the interests of completeness I note the appellant's points regarding building heights and a study referenced in the City Archaeologist report (*'Thomas Street: Improving the Public Face of an Historic City Centre Street'* 2012, Dublin Civic Trust). That report indicates a 5-storey development for the subject site. I consider that the referenced report, whilst prepared significantly before the current Development Plan, was utilised to inform appropriate building form and design in the context of Thomas Street's *heritage*. As such I do not consider it follows as the appellant states that the same study prepared under the current building height policy context would advise for further height. In any event I note this is a report prepared by the Civic Trust and does not form part of the Development Plan, however I have had due regard to the City Archaeologist report.
- 8.2.31. Regarding plot ratio and site coverage, Development Plan Table 2 'Indicative Plot Ratio and Site Coverage' gives indicative plot ratio and site coverage ranges for areas in the City. I consider that the 'central area' category applies to the site. The 'central area' range is given as 2.5-3.0 for plot ratio and 60%-90% site coverage. The

applicant indicates the proposed plot ratio and site coverage figures are 2.8 and 63%, which is within the stated ranges in the Development Plan.

Archaeology and Built Heritage

- 8.2.32. Refusal reason 1 also stated that the proposal would have a negative impact on the archaeological and built heritage along Thomas Street, however the specific features considered to be impacted are not referenced. I note refusal reason 2 also dealt with archaeology in relation to the proposed basement.
- 8.2.33. The Planner Report and Archaeologist Report refer to a number of items in this regard. These include: extinguishment of the medieval Crockers Lane; a lack of clarity as to whether the existing historic boundary wall along Marshalsea Lane will be demolished; a failure to address the guiding principles of the SDRA in relation to Marshalsea Lane; and a lack of detail regarding the design relationship to Marshalsea wall and whether the surviving section of the Marshalsea wall would be demolished. The Planner Report stated that the proposal may prejudice the future development of Marshalsea Lane above ground floor level.
- 8.2.34. For the purposes of clarity I set out below details of the various heritage features referenced within and around the site:
- The submitted Archaeological Impact Statement (AIS) indicated that Crocker's Lane (also known as Croker's Lane) and Marshalsea Lane (also known as Mass or Mash Lane) were historical lanes in the area. The AIS (Figure 11) indicates Marshalsea Lane ran north-south from Thomas Street past the eastern boundary of the site, and that Crocker's Lane ran east-west through the northern extent of the site. I note that lanes corresponding to the above are indicated in the AIS on 'Roque's' map dated to 1756;
 - The site is within the area of interest of 4 no. Recorded Monuments; of these, the site is immediately adjacent 2 no. (DU018-020999 (Inn); DU018-020977 (House)), as well as being within RMP DU018-020 'Historic City'. The submitted AIS discusses these features at length;
 - Regarding the site today, in relation to Marshalsea Lane, the AIS states Marshalsea Lane is now disused and closed at its Thomas St. end. The AIS refers to a partial upstanding brick and stone wall east of the development site

which faces onto Marshalsea Lane, and states that it is possible some of the fabric of earlier structures is contained in the walls, and that the site could possibly be considered to relate to RMP DU-018-020977. In relation to Croker's Lane, the AIS provides minimal commentary in relation to the structures alongside Croker's Lane;

- I am satisfied the relevant sections of the historical laneways are evident and remain open to the air, however I note their degraded and incomplete nature, particularly to the north of the site where Marshalsea Lane has been fully developed over. I note too the referenced sections of the historical lanes are not accessible to the public. Marshalsea Lane is walled at both ends and is outside the site. Croker's Lane is walled at its eastern end within the site, and is fenced off at its western end adjacent the neighbouring site (which is within the blue line area of the application). The referenced section of Croker's Lane currently forms part of a private car park whilst Marshalsea Lane forms part of an adjacent site.

8.2.35. I comment below on relevant provisions of the Development Plan in these regards:

- Policy BHA7 'Architectural Conservation Areas' requires that *"development within or affecting an ACA must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area, and its setting, wherever possible"*. It also states that *"development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA"*. As set out above, the site is outside the Thomas Street & Environs ACA. The Development Plan expresses an intention to designate an ACA to the west of the existing ACA. No maps are provided however the Conservation Officer report states the site is within this area. Whilst I have given due regard to the factors, in any event the site is not within an ACA;
- The site is within 'SDRA 15 – Liberties and Newmarket Square' (Section 13.17 of the Development Plan. That section of the Development Plan states that, in relation to urban structure, the guiding principles for SDRA 15 seeks to *"recognise the importance of the historical spine of the Liberties and its medieval street network"* and to *"identify permeability interventions to augment*

this network and also to restore historic laneways, where appropriate". Map Figure 13-18 'SDRA 15 Liberties and Newmarket Square' identifies 'permeability interventions' and 'greening, cycling and pedestrian corridors' but does not include either for Croker's Lane or Marshalsea Lane, although the subject site is identified as a 'Key Opportunity Site'. Accordingly, it is not clear to me that the Development Plan provides for the future development of Marshalsea Lane as referenced in the Planning Authority Planner Report, or indeed requires the preservation or reinstatement of the remaining elements of Croker's Lane;

- As an aside, I note the Development Plan land use zoning maps indicate 'Marshal Lane' to the east as running to the boundary of the site from Oliver Bond Street. The land use zoning is arranged such that the lands north of that point are shown as white lands, despite their running through residential development, generally following the historical alignment of Marshalsea Lane. This is not the case for the historic route of Marshalsea Lane to the south, that is, past the subject site, or for the historic route of Croker's Lane to the west through the subject site, both of which are zoned;
- Policy BHA26 seeks to protect and preserve Monuments and Places listed on the statutory Record of Monuments and Places (RMP), and seeks the preservation in situ, or where this is not possible or appropriate, as a minimum, preservation by record.

8.2.36. Regarding impacts on these features, the submitted AIS recommends mitigation. The recommended measures do not include retention of the historical lanes, but include on-site trial testing and preparation of a prior-to-commencement report for the National Monument Service. In relation to the wall along the eastern boundary, the report recommends recording of the wall remains, and investigation of the wall base below ground level once safety measures are in place.

8.2.37. Regarding the impact of the proposed development on these features, on balance, I do not consider sufficient provisions exist in the Development Plan to warrant refusal of the development on these grounds, in particular in relation to the proposed development as it relates to the historical lanes in the area. I conclude as follows:

- The former Marshalsea Lane is outside the application boundary, however I consider the submitted drawings indicate the eastern extent of the development could impact the walls associated with the former Lane. The submitted AIS stated the wall may incorporate materials associated with RMP DU-18-020977 ('house of indeterminate date'). Mitigation in this regard is set out. The archaeology report submitted with the appeal is from a different archaeologist and reiterates the proposed mitigation comprising a survey and investigation of the base. I am satisfied with the proposal in this regard;
- Regarding the former Croker's Lane, the proposed basement and vehicular access would extend significantly within the area of the former Lane, however the historical route of the former lane would in large part remain open, and I consider that at surface level the proposed arrangement would be little difference to the existing. Given the degraded and fragmented nature of the former lane I do not consider there is sufficient policy basis in the Development Plan to refuse the proposal in this regard or to warrant its alteration;
- For clarity I note that documents on file refer variously to Marshalsea Lane, Marshalsea wall, and the wall along Marshalsea Lane. For clarity, the wall adjacent the site to the north is sometimes referred to as Marshalsea wall. I am satisfied that this wall would not be significantly impacted by the proposed development, either as submitted to the Planning Authority or on appeal. The documents on file also refer to the wall adjacent the site along Marshalsea Lane, to the east of the site. I have discussed this matter above.

8.2.38. Overall in relation to archaeology and built heritage as raised in refusal reason 1, I am satisfied that the proposed approach complies broadly with Development Plan Policies BHA7 and BHA26. I consider that outstanding matters in relation to archaeology and built heritage as stated in the first reason for refusal could be satisfactorily addressed by condition as recommended in the submitted AIS.

Refusal reason 1 – Summary

8.2.39. In summary, I broadly concur with the Planning Authority that the proposed form, scale and massing as proposed at application stage would not provide an appropriate transition in scale within the area, in particular the 6/7 storey element, and would not contribute positively to the character and distinctives of the Thomas

Street & Environs ACA, and would not meet the requirements of Policy BHA7 of the Development Plan. I consider that the proposal as submitted to the Planning Authority should be refused.

Revised proposal

- 8.2.40. Regarding the form, scale and massing of the revised proposal submitted with the appeal, I have reviewed the drawings and photomontages submitted. In short, the revised proposal reduces the height of the 6/7 storey element to 5/6 storeys. Whilst the proposal would remain a sizeable building, I consider the greater uniformity in the Thomas Street elevation and lesser transition in scale significantly moderates the impact arising in terms of scale, massing and form. In terms of number of storeys, in broad terms, half the front elevation would be 4 storeys, and the tallest element of the revised proposal would be only 1 no. storey taller than some nearby buildings, for example the tallest part of the Masonry building, and No. 54-83 St. James's Gate across the road. I note the elevation detailing in this regard, in particular the extent of glazing use within the top storey, and the corner glazing elements at 5th floor which I consider further reduce the scale, massing and form. In broad terms I consider the revised proposal is generally acceptable in these regards.
- 8.2.41. I also consider that the greater horizontal emphasis of the revised proposal in terms of its scale, massing and form, coupled with the elevational and streetscape articulation which provides a degree of vertical articulation appropriately complements the character and heritage of the area, including the Thomas Street and Environs ACA across the road.
- 8.2.42. I have also reviewed the revised proposal in light of the requirements of the building height provisions of the Development Plan, including Policy SC16 Building Height Locations, Policy SC17 Building Height, and Appendix 3. I note in particular the provisions of Appendix 3, and the 'City Centre and within the Canal Ring (inner suburbs)' area. I have reviewed the revised height against Table 3 of Appendix 3, including the 7 no. objectives and 30 no. performance criteria. I have also had regard to the Building Height Guidelines, including SPPR 3. I am satisfied the revised proposal would promote development with a sense of place and character (Criterion 1); would provide appropriate legibility (Criterion 2); and would protect historic

environments from insensitive development (Criterion 9). As such I consider that the revised height of 4 to 5/6 storeys is acceptable for the reasons set out above.

- 8.2.43. Regarding the impact of the revised proposal on archaeology and built heritage in the area, the appeal includes a revised basement and ground floor which provides for a setback from the site boundaries. This will allow for greater protection for heritage features, including the Marshalsea Lane wall, and the historic route of Crocker's Lane within the site which is now to be finished in grass. The appeal proposes a condition for archaeological testing. Having regard to the foregoing, including to the keeping free of historic lane routes free from development, and to the retention and assessment of potential archaeological and heritage structures adjacent these Lanes, I am satisfied the revised proposal is acceptable in these regards, subject to conditions as proposed.
- 8.2.44. The response from the Planning Authority made no reference to the revised proposal in the above regards.
- 8.2.45. Overall, in relation to the revised proposal submitted to the Board as part of the appeal I am satisfied that the revisions made and information submitted largely address the reasons set out in Reason No. 1, and as such I am satisfied that permission should not be refused in these regards.

8.3. Refusal reason 2

- 8.3.1. Refusal reason 2 related to the impact of the proposed basement on the archaeology of the area, and stated that the proposal was contrary to Development Plan which places a presumption against basement development in the medieval core and known medieval sites.
- 8.3.2. The site is within a recorded Zone of Archaeological Interest for a number of structures on the Record of Monuments and Places (RMP), including DU018-020 (Historic City); DU018-020999 (Inn); DU018-020977 (House); and DU018-020338- (Dwelling); and DU018-020570 (Habitation site). as well as being within RMP DU018-020 'Historic City'. The applicant did not submit a Basement Impact Assessment.
- 8.3.3. Policy BHA26 'Archaeological Heritage' seeks to protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way

of re-use of standing buildings, the construction of light buildings, low impact foundation design, or the omission of basements, except in exceptional circumstances, in the Monuments and Places listed on the statutory RMP. Section 15.15.1.4 'Basements' states that new basement development in the medieval core and known medieval sites shall be avoided. Approved basements may be rescinded where undue damage to in situ archaeological deposits will occur as a result.

- 8.3.4. The refusal reason stated that the site is within a Zone of Archaeological Interest for a number of structures on the Record of Monuments and Places and would therefore require the removal of any archaeological deposits from the site, and that as such the proposal was contrary to Section 15.15.1.4 'Basements' and Policy BHA26 of the Development Plan which place a presumption against basement development in the medieval core and known medieval sites.
- 8.3.5. I consider the wording of the Development Plan in this regard is reasonably clear and significantly restricts the scope for development of basements within this part of the City, in particular within the zones of archaeological interest associated with Recorded Monuments. The subject site is within or partially within a number of such Recorded Monuments. The basement proposed would be a single level but is substantial in area and would occupy the majority of the site area (that is, approximately 1,400sqm). Whilst I note that the applicant states that other basements have been permitted within the City Centre, I do not consider the applicant has demonstrated exceptional circumstances as required by the current Development Plan.
- 8.3.6. In addition, the application did not include a Basement Impact Assessment. The Development Plan (Section 15.18.4 'Basement') states it is a policy of the City Council that a Basement Impact Assessment be submitted with all applications that include a basement. Table 15-1 'Thresholds for Planning Applications' states that a Basement Impact Assessment is required for all developments with a basement. Appendix 9 'Basement Development Guidance' Section 1.0 also states it is a policy of the City Council that a Basement Impact Assessment be submitted with all applications that include a basement. The Development Plan states the purpose of the Basement Impact Assessment is to identify potential impacts, short and long term; to inform whether a proposed basement is acceptable; and to identify whether appropriate mitigating measures can be incorporated.

- 8.3.7. The basement is to include delivery access & delivery yard; cycle parking; surface water attenuation & surface water infrastructure; plant; kitchen; storage; bin stores; linen collection / delivery; as well as a gym and equipment store. I consider these features are central to the development, and as such I do not consider that the basement can be omitted by condition.
- 8.3.8. Having regard to the foregoing, including the location of the site within the Zones of Archaeological Interest for a number of structures on the Record of Monuments and Places, including RMP DU018-020 'Historic City', I consider that permission should be refused in this regard. I note that the submitted Archaeological Impact Statement recommended conditions in this regard, however I consider that the proposed development did not address the impact of the proposed basement as required by the Development Plan.

Revised proposal

- 8.3.9. The appeal addresses the second reason for refusal. It critiques aspects of the Development Plan in this regard and states that the existing policy amounts to a blanket ban on basements. Whilst I acknowledge the restrictive nature of the policy, I do not consider it amounts to a blanket ban.
- 8.3.10. A revised basement and access layout is submitted as part of the appeal. It reduces the footprint of the proposed basement to approximately 1,200sqm. Vehicular access to basement is omitted, however a number of ancillary features integral to the aparthotel development would remain at basement, including kitchen; loading; storage; staff changing; guest gym; plant and surface water attenuation.
- 8.3.11. No Basement Impact Assessment is submitted with the appeal. The appeal does not set out whether exceptional circumstances apply and does not fully address the requirements of Policy BHA26 or Section 15.15.1.4 'Basements'.
- 8.3.12. I do not consider the appeal adequately addresses the matters raised by the Planning Authority in their reason for refusal or the requirements of the Development Plan in this regard. I do not consider that this matter can be resolved by condition or that permission should be granted for the revised proposal in this regard. I note again that the submitted Archaeological Impact Statement and appeal recommended conditions in this regard, however I consider that the proposed development did not address the impact of the proposed basement as required by the Development Plan.

8.4. Related matters raised in the course of the appeal

Aparthotel use

- 8.4.1. I note the Observers to the appeal refer to an oversaturation of visitor accommodation in the Liberties which they consider is detrimental to intangible cultural heritage of the area. I also note third-party observers on the application referenced an overconcentration of visitor / transitory accommodation in the area. The Planner Report took into account the information submitted by the applicant and concluded that the proposal would not result in an overconcentration of short let type accommodation at this location at Thomas Street.
- 8.4.2. Development plan Policy CEE28 states that aparthotel development will be considered having regard to a number of criteria. I note too the provisions of Sections 15.14.1 'Hotels and Aparthotels' and 15.14.1.1 'Hotel Development' of the Development Plan. I am satisfied the applicant's 'Accommodation Concentration Report' sets out the information required by the Development Plan, including in terms of land uses in the area; level of visitor accommodation within 1km; and existing / proposed accommodation. The report concluded that there is a shortage of such accommodation; that accommodation demand is strong; and that the proposal will improve the profile of the area.
- 8.4.3. I note that analysis of tourism accommodation supply is yet to be prepared by the City Council (Development Plan Objective CEE01) and that the Council provides limited quantifiable parameters to guide assessment of overconcentration.
- 8.4.4. Having regard to the foregoing; the submitted information on visitor accommodation supply and demand; visitor accommodation in the area; the mixed-use and commercial character of the area; the central location in the City; and the relevant development plan provisions, I am generally satisfied the proposal would not give rise to an overconcentration of such facilities in the area; would not undermine the principles of achieving a balanced pattern of development in the area, or the objective to provide a rich and vibrant range of uses in the city centre, or the need to prevent an unacceptable intensification of activity. As such I consider the proposal complies with the criteria set out in Policy CEE28, and Sections 15.14.1 'Hotels and Aparthotels' and 15.14.1.1 'Hotel Development' of the development plan, and is acceptable in these regards.

Surface water

- 8.4.5. The Drainage Division report recommended further information in relation to surface water management proposals, and for a Basement Impact Assessment. The Drainage Division report also stated that due to the lack of information it was not possible to state that satisfactory proposals for management of surface water can be provided, and that the applicant should consult with the Section prior to the submission of revised plans. The report stated that permission should be withheld until information is approved.
- 8.4.6. No Basement Impact Assessment was submitted with the application. The application included a 'Civil Engineering Infrastructure Report' and engineering drawings from the applicant's engineer. These set out a surface water management plan. The report did not include a basement impact assessment and as such I do not consider that it fully addresses the matters raised by the Drainage Division. I note details of the adjacent Uisce Eireann network are set out in Appendix 4 of the report.
- 8.4.7. Surface water attenuation & surface water infrastructure are proposed at basement. I consider that the application did not fully address the matters raised by the Planning Authority in this regard. As set out above, I also consider the application did not address the requirements of the Development Plan in relation to the basement. As such I consider that the applicant has not demonstrated whether the proposal could address surface water matters in the absence of a basement in line with Development Plan requirements. Given the extent of redesign that would be involved I do not consider that these matters could be addressed by condition.
- 8.4.8. Regarding the revised proposal submitted as part of the appeal, I note the reduced extent of the basement proposed and the revised layout. However, surface water infrastructure including attenuation tanks at basement form part of the revised proposal. As such I do not consider that the matters raised in the course of the application in this regard have been satisfactorily addressed within the appeal. I do not consider these matters can be reasonably addressed by condition.

Transportation

- 8.4.9. The Transportation Planning Division report recommended further information in relation to service access; measures to mitigate potential obstruction of cycle and

bus lanes on Thomas St.; details of cycle access arrangements to a basement level; and demonstration of access in accordance with electricity supplier requirements.

- 8.4.10. The Planner Report stated these matters could be dealt with by condition. I consider however that as the service access indicated in the application was to basement level, and given the foregoing in relation to basement development in this location, including cycle parking at basement, I consider that significant redesign may be required in this regard and I am not satisfied that these matters can be addressed by condition. As such I do not consider that permission for the development proposed in the application should be forthcoming in this regard.
- 8.4.11. Regarding the revised proposal submitted as part of the appeal, it omits vehicular access to the basement and also the originally proposed cycle parking at basement. Service access is revised to the rear of the development at ground floor, with internal pedestrian access only to basement. Cycle parking at ground level is proposed, however minimal detail as to design and the sufficiency of provision is provided. I consider that these matters can be addressed by Condition should the Board be minded to grant permission for the revised proposal.

9.0 Appropriate Assessment screening

- 9.1.1. Refer to Appendix 2 of this report. 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 Sites including the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required. This determination is based on the nature of the proposed works and the location and distance from nearest European site and lack of connections

10.0 Water Framework Directive

- 10.1.1. I have assessed the proposed development of an aparthotel 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 set out below.

12.0 Reasons and Considerations

Having regard to basement proposed at application stage and as revised on appeal; to the location of the site is within the Zones of Archaeological Interest of a number of sites on the Record of Monuments and Places including RMP DU018-020 'Historic City'; and to the lack of a Basement Impact Assessment submitted as part of the application or appeal; it is considered that the proposed development would be contrary to Section 15.15.1.4 'Basements' and Policy BHA26 of the Dublin City Development Plan which seeks to protect archaeological material in situ including through the omission of basements except in exceptional circumstances.

Accordingly, the proposed development is considered contrary to the Development Plan and to the proper planning and sustainable development of the area.

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

Dan Aspell
Inspector
13th June 2025

APPENDIX 1

Form 1: EIA Pre-Screening

Case Reference	ABP-321007-24
Proposed Development Summary	Demolition of buildings and construction of 3-7 storey aparthotel.
Development Address	Site at Thomas Street.
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. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	
Class 10(b)(iii).	
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: __ 3rd June 2025__

Form 2: EIA Preliminary Examination

Case Reference	ABP-321007-24
Proposed Development Summary	Demolition of buildings and construction of 3-7 storey aparthotel.
Development Address	Site at Thomas Street.
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 an aparthotel in an urban area. The proposed 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, or significant risk of pollution or nuisance. The development, by virtue of its scale and 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 central city location on brownfield land. 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 within the Liberties area of historic and cultural significance and near an Architectural Conservation Area and sites of archaeological interest, however given the scale and nature of development and mitigation proposed 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:** _3rd June 2025_____
DP/ADP: _____ **Date:** _____

APPENDIX 2

Screening for Appropriate Assessment - Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project		Demolition of buildings and construction of 3-7 storey aparthotel.		
Brief description of development site characteristics and potential impact mechanisms		Site measures approx. 0.1872ha and comprises brownfield land in use as a car park. Site is approx. 4.6km west of South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA.		
Screening report		Yes		
Natura Impact Statement		No		
Relevant submissions		Planning Authority screening		
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connection	Consider further in screening Y/N
The submitted Appropriate Assessment screening report from Altamar Marine & Environmental Consultancy identifies a large number of European Sites within a 15km zone of influence. It concludes that no significant effects are likely due to the size and scale of the site and lack of hydrogeological connections. I identify the following Sites on grounds the source-pathway-receptor model. The following European Sites were also considered and discounted in the submitted Appropriate Assessment screening report				
South Dublin Bay SAC (000210)	https://www.npws.ie/protected-sites/sac/000210	4.6km	No feasible connection	No
South Dublin Bay and River Tolka Estuary SPA (004024)	https://www.npws.ie/protected-sites/spa/004024	4.6km	No feasible connection	No
Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites				
AA Screening matrix				
Site name Qualifying interests		Possibility of significant effects (alone) in view of the conservation objectives of the site*		
		Impacts	Effects	
South Dublin Bay SAC (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] The Conservation Objective for the SAC is to maintain the favourable conservation conditions of the identified Qualifying Interests.		No direct, indirect, ex situ or in combination impacts.	No significant effects likely.	
No		Likelihood of significant effects from proposed development (alone): No		
No		If No, is there likelihood of significant effects occurring in combination with other plans or projects? No		
No		Possibility of significant effects (alone) in view of the conservation objectives of the site No		
		Impacts	Effects	
South Dublin Bay and River Tolka Estuary SPA (004024)		No direct, indirect, ex situ or in combination impacts.	No significant effects likely.	

Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999] The Conservation Objectives for the SPA are to maintain and restore the favourable conservation conditions of the identified Qualifying Interests.		
No	Likelihood of significant effects from proposed development (alone): No	
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		
I conclude that the proposed development would not result in likely significant effects on European site(s) including the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.		