



An
Bord
Pleanála

Inspector's Report

ABP-321543-24

Development

Permission for demolition of building, the construction of a new hotel extension building and all ancillary works.

Location

Hospitality House, 16-20 Cumberland Street South, Dublin 2, D02 Y097 and Alex Hotel, 41-47 Fenian Street, Dublin 2, D02 H678.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

4018/24

Applicant(s)

Persian Properties Unlimited

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

First Party v Condition 5(a) & 5(b)

Appellant(s)

As above

Observer(s)

Philip O'Reilly

Date of Site Inspection

25th February 2025

Inspector

Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located in Dublin south inner city on a site that fronts onto both Fenian Street and Cumberland Street South in Dublin 2. The subject site comprises of two existing buildings, the Alex Hotel, on Fenian Street, and Hospitality House, situated to the immediate north of the Alex Hotel, and facing onto Cumberland Street South, with the overall site area is 3226 m². (0.319 ha).
- 1.2. An access lane onto Cumberland Street South separates the two existing buildings. The access lane provides vehicular and delivery access to both buildings and also has access onto Boyne Street, to the north of the appeal site. The access lane, off both Cumberland Street South and Boyne Street, falls in level from the public road.
- 1.3. The Alex Hotel is a 6-storey building comprising of hotel lobby, reception, café, restaurant and conference room at ground floor level, with further conference facilities at lower ground level, and the guest bedrooms above ground floor level.
- 1.4. Hospitality House is a 4-storey building currently in office use. The ground floor level of Hospitality House is raised above the street level on Cumberland Street South and is accessed by external steps from the street. The ground floor front elevation of Hospitality House is recessed from the public footpath.
- 1.5. The neighbouring site to the immediate east comprises of a red brick office development (Cumberland Place). The height of this office building is 8-storeys facing towards Boyne Street and 7-storeys high adjacent to Fenian Street.
- 1.6. Fenian Street is characterised by a mix of uses including office, entertainment and residential, and the building heights are generally four to seven storeys, with newer buildings, such as Cumberland Place, 8 storeys high.
- 1.7. Cumberland Street South is also characterised by a mix of uses including medical, education, office and residential. There are established 3-storey residential terraced houses (no. 12 – no. 15 Cumberland Street South) situated to the immediate north of the appeal site. The amenity space serving these residential units is situated to the rear of these houses adjoining the northern boundary of the appeal site.
- 1.8. Boyne Street, situated to the north of the appeal site, is primarily a residential street comprising of a 3-storey uniformed redbrick terrace. The residential properties have red-brick façade on ground and first floor level and a pebble dash façade at second

floor level. The terrace of houses includes many original features including granite window cills, redbrick chimney stacks, and cast-iron downpipes. No. 41 – no. 42 Boyne Street is situated to the immediate north of the appeal site.

2.0 Proposed Development

2.1. Planning permission is sought for the following development.

- Demolition of the existing 'Hospitality House' building (c. 3059 m²)
- Construction of new hotel extension building (c. 9530 m²) with a maximum height of 33.3 metres, comprising of 8-storey over ground floor level hotel extension.
- Refurbishment of ground and lower ground levels of the existing Alex Hotel building (c. 1169 m²), along Fenian Street.

2.2. The proposed hotel extension is 9-storeys high to the south and graduates to 5-storeys adjacent to the northern boundary.

2.3. The proposed hotel facilities at ground floor level will include restaurant and breakfast area with associated kitchen, conference rooms, small garden area (95 sq. m.), hotel lobby and reception, and linking corridor to existing hotel.

2.4. The proposed facilities at lower ground floor level will include Spa/Wellness centre, staff facilities, bicycle store, bin store, storage and plant facilities.

2.5. The upper floors, 1 to 8, includes 150 bedrooms and associated ancillary rooms and upper planted areas.

2.6. Table 1 below sets out the hotel bedrooms proposed on each floor.

Table 1: Hotel bedroom type per floor					
Floor Level	Standard Bedrooms	Accessible Bedrooms	Suite Bedrooms	Balcony Suite Bedrooms	Penthouse Bedrooms
First	23	3	1	0	0
Second	23	3	1	0	0
Third	23	1	1	0	0
Fourth	14	1	4	0	0

Fifth	13	0	4	0	0
Sixth	11	0	5	0	0
Seventh	9	0	4	0	0
Eight	0	0	0	4	2
Total	116	8	20	4	2

- 2.7. The 9-storey elevation facing onto Cumberland Street South is finished primarily in white brick with window openings. The proposed 5-storey elevation, onto Cumberland Street South, is finished in red brick with a symmetrical pattern of windows punctuating the elevations. The eighth floor is setback from the front elevation.
- 2.8. The proposed southern elevation is entirely 9-storey in height, with the eighth floor set back. The southern elevation is primarily finished in white brick with a symmetrical pattern of windows punctuating the elevations. The proposed north facing elevation, towards Boyne Street, is finished primarily in red brick and similarly with a symmetrical pattern of windows punctuating the elevations. The proposed east facing gable elevation is entirely finished in red brick.
- 2.9. The roof levels will be finished as sedum roof comprising of a green roof.
- 2.10. The existing vehicular access off Boyne Street to the rear of the Hospitality House and the Alex Hotel will be maintained providing future and continued service access to the hotel. The proposal includes no car parking provision.
- 2.11. The application is accompanied by the following documentation:
- Planning & Design Statement
 - Verified Views & Photomontage Report
 - Demolition Justification & Embodied Carbon Report
 - Hotel Concentration & Justification Report
 - AA Screening report
 - Part L Compliance Report
 - Overheating TM52 Analysis report

- Daylight Sunlight & Overshadowing Report
- Operational Waste Management plan
- Engineering Services Report
- Site Specific Flood Risk Assessment
- Surface Water Management Plan
- Basement Impact Assessment
- Outline Construction and Environmental Management Plan
- Construction and Demolition Waste Management Plan
- Workplace Travel Plan
- Services and Operational Management Plan

2.12. The applicant's response to further information did not include any amendments to the proposed development. The PA did not consider the response to the further information as significant as such revised statutory notices were not required on receipt of the further information.

3.0 Planning Authority Decision

The Planning Authority decided to grant permission subject to 17 no. conditions. The following conditions are noteworthy.

- Condition 5(a) requires the permanent omission of the second floor of the proposed development thus reducing the height of the development. The maximum height of the scheme shall not exceed 27.5m.
- Condition 5(b) requires that the ground floor shall be amended to provide level access from Cumberland Street South.

3.1. Planning Authority Reports

3.1.1. The Planning Officer's report dated 3rd September 2024, notes the following.

- Inadequately demonstrated that the existing building is not capable of being refurbished to meet modern day standards.

- Need to include more mixed uses.
- Proposal needs to address the performance criteria set out in Table 3 of Appendix 3 of the DCDP.
- The expanse of the northern elevation gives rise to overlooking and loss of privacy.

The Planning Officer's report recommends that the following be addressed by way of further information; (1) justification that the building is not capable of being refurbished to meet modern day standards. (2) provide an appropriate mixed-use scheme. (3) Reduce overall height by 1-storey to address visual impact concerns. (4) Revised proposals to reduce overlooking and privacy issues. (5) Revised proposals to address monolithic nature of southern and northern elevations. (6) Drainage details. (7) Clarify the number of bedrooms in the existing hotel.

- 3.1.2. The Planning Officer's second report dated 26th November 2024 assesses the further information received. Engineering Department (Drainage Division) reviewed item 6. The PA, having regard to the FI submitted, recommends that permission be granted, subject to conditions.

In relation to FI **Item 1**, the PA report notes the Demolition Justification Report and considers that on balance the demolition option provides a more efficient use of an inner-city site and provides better results in terms of Whole Life Carbon over a period of 50 years. The PA accepts the applicant's justification for demolition.

In relation to FI **Item 2**, the applicant submits that two mix-use schemes were investigated but considered to be of compromised design and due to the loss of hotel bedrooms less economically viable. The PA notes and accepts that the proposed development relates to a hotel extension and that planning permission was previously granted on the site for a hotel (L.A. Ref. 3606/18).

The PA notes in relation to **Item 3**, that concerns in respect of height, scale and density were not addressed. Recommended that if planning permission is granted that the entire development is reduced by one floor, thus reducing the height to a maximum of height of 27.5 m.

In respect of **Item 4**, the PA considers that the proposed anodised aluminium mesh panels to reduce overlooking are acceptable.

In relation to **Item 5**, the PA notes the applicant's approach to provide alterations to the northern elevation including mesh panels and extruded surrounds will reduce overlooking and add visual interest. The PA considers this approach acceptable.

The PA considers that the applicant has satisfactorily addressed the concerns in relation to **Item 6**.

In respect of **Item 7**, the applicant clarified that the existing hotel has 103 bedrooms.

3.1.3. **Other Technical Reports**

Environmental Health Office: Proposal is acceptable, subject to conditions, including noise mitigation measures and air pollution mitigation measures for the operation phase.

Engineering Dept. (Drainage Division): Additional information sought due to the lack adequate information and satisfactory proposals for the management of basement impacts. The **second report** confirms no objections to the proposed development subject to compliance with conditions.

Archaeology Section: Recommends a condition, to any permission, requiring an archaeological assessment to be carried out on site.

Transportation Planning Division: No objections to the proposed development subject to conditions, (1) demolition management plan shall be submitted to the PA providing details on traffic management, hours of working, noise and dust management and off-site disposal of demolition waste. (2) Construction management plan shall be submitted to the PA. (3) A minimum of 44 no. staff cycle parking spaces shall be provided, including 1 no. cargo bike parking space. (4) Measures in relation to Workplace Travel Plan shall be implemented. (5) All costs incurred by DCC, including any repairs to the public road and services necessary, shall be at the expense of the developer.

3.2. **Prescribed Bodies**

- 3.2.1. **TII:** Recommends a condition, to any grant of permission, for a Section 49 Supplementary Development Contribution, as the proposed development falls within the Luas Cross City Development Contribution Scheme.

3.2.2. **Department of Housing, Local Government and Heritage:** Proposed development has the potential to disturb the roosting habitat of a population of bat species listed under Annex IV of the EU Habitats Directive, and also potential to disturb nesting birds (Swifts) protected under s. 22 of the Wildlife Act 1976. These potential impacts could occur due to major structural changes to the existing building. The following conditions, to mitigate potential impacts, are recommended.

- Bat and Swift survey shall be carried out during the active seasons.
- Any destruction of Bat and Swift nests must be done under licence from DHLGH by a suitably qualified ecologist.
- Any species found at the site the developers are required to forward information in relation to proposed mitigation methods to be employed.

3.3. **Third Party Observations**

3.3.1. A total of 12 no. observations received during the course of the planning application. The issues raised can be summarised as follows:

- Out of character with Boyne St.
- Loss of privacy and blocking of sunlight.
- Concerns of construction impacts on the structural integrity of existing houses, and also dust generation during construction.
- Concerns in relation to construction operating hours on residential amenities.
- Limited car parking in the area.
- Restricted access for heavy vehicles.
- Developer liaison should be appointed.
- Demolition of a structurally sound building is not sustainable.
- Retention of building is more appropriate.
- Concern with height.
- Cumberland House should not set a precedent.
- Overconcentration of hotels in vicinity.

- Existing building is in character with the local area.
- Adverse impacts on the adjacent Z2 Residential Conservation Area.

4.0 Planning History

4.1. Subject Site

Planning Authority Reg. Ref. 3606/18; ABP 302797-18

The proposed development for demolition of existing office building (3,059 sq. m.) and development of 8-storey 158 no. bedroom hotel including basement with a gross floor area of 7,458 sq. m. PA granted permission (24th September 2018) subject to 17 no. conditions. The Board granted permission (5th March 2019) subject to 15 no. conditions following a third-party appeal. The Board's reasons and considerations for granting permission as follows;

"Having regard to the city centre location of the development, the pattern of development in the area, the provisions of the Dublin City Development Plan 2016-2022 and to the nature, scale, layout and design of the proposed development, it is considered that the proposed development would provide for an appropriate form of development which is likely to assist in the achievement of the wider objectives of the Development Plan. It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or other amenities of the area or of adjoining residential property, would be acceptable in terms of impact on architectural and cultural heritage of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area".

4.2. Adjoining Site to the East

Planning Authority Reg. Ref. 3336/19

The proposed development for 1 no. additional floor of office space to the permitted six storey over lower ground level and basement level building, resulting in a seven storey over lower ground level and basement level building. Proposal also includes provision of a roof terrace of c. 172 sq. m. and pergola and reconfiguration of the permitted photovoltaic panels and modifications to the services, green roofs and

plant area at roof level. PA granted permission (25th September 2019) subject to 13 no. conditions.

5.0 Policy Context

5.1. Dublin City Development Plan, 2022 – 2028.

- 5.1.1. The subject site is zoned 'Z5 City Centre'. The stated objective for such lands is: *"to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity."*
- 5.1.2. Section 14.7.5 of the Development Plan states that: *"the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development" and that the strategy is: "to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night. As a balance, and in recognition of the growing residential communities in the city centre, adequate noise reduction measures must be incorporated into development, especially mixed-use development."*
- 5.1.3. This section of the Development Plan also states that: "a general mix of uses, e.g. retail, commercial, residential, will be desirable throughout the area and active, vibrant ground floor uses promoted" and that: "in the interests of promoting a mixed-use city, it may not be appropriate to allow mono office use on Z5 zoned lands".
- 5.1.4. Chapter 4 'Shape and Structure of the City' includes guidance on urban density, increased height, landmark / tall buildings, urban design and architecture. In terms of urban density Chapter 4 recognises that RSES and Dublin MASP promotes greater densification and more intensive forms of development along strategic public transport corridors. Greater height at appropriate locations will be considered. Fig. 4:1: proves a map Key Views and Prospects.
- 5.1.5. The following policies are relevant to the proposed development.
 - Policy SC11 – Compact Growth
 - Policy SC13 – Green Infrastructure
 - Policy SC16 – Building Height Locations

- Policy SC17 – Building Height
- Policy SC19 – High Quality Architecture
- Policy SC20 – Urban Design
- Policy SC21 – Architectural Design
- Policy SC22 – Historical Architectural Character

5.1.6. Chapter 6 ‘City Economy and Enterprise’ refers to guidance on hotels, and this includes the avoidance of overconcentration of hotel development in areas of the city which currently have high levels of existing hotels given the wider objectives to create a rich and vibrant range of uses in the city centre. The following policy is relevant to the proposed development.

- Policy CCE28 – Visitor Accommodation

5.1.7. Chapter 11 ‘Built Heritage and Archaeology’. In accordance with Figure 11-2 ‘Dublin’s Historic Core’, the appeal site is located within the Georgian Core (Z8). The appeal site is also located within a designated area of Record of Monuments and Places (RMP). The following policy is relevant to the proposed development.

- Policy BHA26 – Archaeological Heritage

5.1.8. Chapter 14 ‘Land-use Zoning’ as outlined above refers to the Z5 land use zoning objective, the subject of the appeal site, and the general role of the zone in land use terms. Chapter 14 also includes guidance in respect of Transitional Zone Areas (section 14.6), is relevant in respect of the proposed development given that the appeal site adjoins a land use ‘Residential Neighbourhoods (Conservation Areas)’ situated to the immediate north. This guidance specifically notes that it is important to avoid abrupt transitions in scale and land-use between zones and in cases abutting residential areas the predominantly mixed-use developments will pay particular attention to scale, density and design of development proposals, and to landscaping and screening proposals

5.1.9. Chapter 15 ‘Development Management Standards’ includes guidance on hotel development. S. 15.14.1 advises it is a requirement to ensure a balance is achieved between providing for adequate levels of visitor accommodation and other uses in the city such as residential, social, cultural and economic uses. The plan advises

'there will be a general presumption against an overconcentration of hotels and aparthotels'. In cases where the Council considers there is overconcentration of hotel uses in the city the applicant will be required to demonstrate that the proposed development fully complies with Policy CEE28. The Plan also advises on operational management including access and servicing.

- 5.1.10. Section 15, 15.2.2 'Conservation Areas' sets out guidance for all planning applications for development in Z2 (Residential Conservation Area) and Z8 (Georgian Conservation Area) which are both adjacent to the appeal site.
- 5.1.11. Appendix 3 'Height Strategy' recognises the role that height plays in the achievement of compact cities and refers to key factors that will determine height will be *'the impact on adjacent residential amenities, the proportions of the building in relation to the street, the creation of appropriate enclosure and surveillance, the provision of active ground floor uses and a legible, permeable and sustainable layout'*. The strategy includes guidance on plot ratio and site coverage and advises that the default height within the city within the canal ring is 6 storeys. In relation to more intensive development abutting lower intensity development, the Plan advises *'where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities'*, and further that proposals for increased height in the city centre sensitive areas must demonstrate that they have no impact on these sensitive environments.
- 5.1.12. Heights greater than 6-storeys within the Canal Ring will be considered on a case-by-case basis subject to the performance criteria set out in Table 3. Table 3 sets out the performance criteria in assessing proposals for enhanced height, density and scale.
- 5.1.13. Appendix 9 'Basement Development Guidance' sets out general guidance regarding basement developments, and in particular information to be contained in a Basement Impact Assessment.
- 5.1.14. Appendix 16 'Sunlight and Daylight' provides guidance to applicants carrying out daylight and sunlight assessments with the aim to offer clarity on the required technical approach, such that a standardised methodology and set of metrics are used by applicants completing daylight and sunlight assessments.

5.2. Regional

5.2.1. Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES), 2019.

The RSES supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the region. It advocates sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development.

5.3. National

- Project Ireland 2040 - National Planning Framework (NPF), 2018-2040.
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018).
- Climate Action Plan, 2024.
- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010).

5.4. Natural Heritage Designations

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) c. 2.3 km southwest
- South Dublin Bay SAC (Site Code 000210) c. 2.5 km southeast
- North Dublin Bay SAC (Site 000206) c. 4.9 km northeast
- North Bull Island SPA (Site Code 004006) c. 4.9 km northeast

6.0 EIA Screening

- 6.1. (See Form 1 and Form 2 attached). Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or an EIA determination therefore is not required.

7.0 The Appeal

7.1. Grounds of Appeal

This is a first-party appeal against Condition 5(a) and Condition 5(b). The grounds of appeal may be summarised as follows.

Condition 5(a)

General

- Omission of 2nd floor would result in loss of 27 bedrooms (18%), challenging the economic viability of hotel.
- Proposed development is lower than similar building, no. 1 Cumberland Place (LA Ref. 3336.19), which has a roof level of 34.06AOD and parapet height of 34.66mAOD.
- No adverse impact on its surroundings and the height makes a positive contribution to the area.

Precedents

- Buildings in the immediate area extend to heights over the typical 4, 5, 6 storey height. This includes Cumberland Place, Trinity Biomedical Building, the Google building in the docklands, the Sidings in Grand Canal Quay and the Treasury Building on Grand Canal Street.
- Planning permission recently granted for a 9-storey building (229 bed hotel) on the former Clery's warehouse building, D.1. The building extends to a height of c. 35.3m.
- Further recent permission 2915/20 (ABP Ref. 309466) for a 9-storey (247 bed hotel) on Bride St., D. 1. The building extends to a height of c. 42.6m
- A further recent permission includes 3609/20 (ABP Ref. 309215) for a 9-storey (142 bed hotel) on Capel St. The building extends to a height of c. 33.1m.

Building Height and Justification

- Building and site sections illustrates the 7th and 8th floor step back when viewed from the street.
- Two top floors are glazed and appear to fade into the sky when viewed from Boyne Street.
- The northern façade of the extension, steps up gradually from 3/4 storeys to the parapet level of the main red brick volume at 7th floor level, as viewed from the central area of the housing amenity space.
- The proposed heights are consistent with that permitted hotel (LA Ref. 3606/18) and maintains light falling on the adjoining amenity space consistent with BRE BR209.
- The 7th floor parapet level is over a meter below the level of the adjacent dark brown brick building (Cumberland Place 'X' HQ Building).
- The height of the proposed building (c. 34.6m) ties in with the overall height of the adjacent building Cumberland Place at c. 34.6m (LA Ref. 3595/16).
- The reduction of one floor would not have a noticeable visual effect on the surrounds of light falling on the amenity space behind.

Materials – Scale & Massing

- The variety of materials to all facades dilutes overall scale and massing.
- The main material will be bright and warm and will lighten the mass and reflect daylight. This includes reflecting daylight into the raised courtyard between existing hotel and extension.
- Sense of lightness from the brick façade is enhanced by the extruded aluminium surrounds to the double and single height picture windows.
- Proposed 4-storey red brick elevation matches adjoining housing on Cumberland Street South. 5th floor is stepped back reducing overall scale of the building.
- Proposed facades reflect brick colour and window rhythm of Georgian streetscapes.

- Tall picture windows to 6 storey north elevation help balance the scale of this façade, reducing overlooking and adding interest.
- Recessed windows (blind windows) add visual interest.
- The raised brick pattern and recessed lines dilute the volume of the 3 & 4 storey red brick elevation
- The warm light brick wraps around the corner from the western side of the extension, meeting the glazed curtain wall to the rear, and breaking up the mass of the proposal.
- The materials and architectural expression of the building create a positive contribution to the location and how it is viewed from the street.
- Proposal offers a distinctive design adding visual interest and is respectful to its location adjacent to a conservation area.

Daylight, Sunlight and Shadowing

- METEC Consulting Engineers carried out daylight and sunlight analysis, accessing daylight and access to sunlight to the rear of properties, 12-15 Cumberland St. South, and 41 & 42 Boyne St, and the potential impacts proposed development would have on sunlight access to the existing amenity space.
- The conclusion of the study submits compliance with BRE BR209.

Condition 5(b)

- A key element of the design proposal is to ensure the ground floor of the proposed hotel matches that of the existing hotel. Same level access is required to provide easy connections between all spaces at ground floor level.
- Conference rooms and new restaurant are accessed from the main hotel reception area only.
- The exit point onto Cumberland Street South is an emergency exit only and will not be a point of access. Steps are provided from the emergency exit onto Cumberland Street South to provide for different levels.
- All access will be from the main hotel onto Fenian St.

- Dropping the level of the hotel would be disruptive to the floor plans at ground and lower ground level with the loss of a number of rooms.
- Cumberland Street South slopes downwards from Fenian Street to Boyne Street.
- Drawing 23071-OPP-XX-00-DR-A-9215-S4-P01 illustrates connection between existing hotel and proposed new extension at ground floor level which is on the same level +5.3m AOD.
- Drawing 23071-OPP-XX-00-DR-A-9214-S4-P01 illustrates connection between existing hotel and proposed new extension on lower ground floor level which is on the same level allowing easy movement between all areas.
- Drawing 23071-OPP-XX-ZZ-DR-A-9225-S4-P02 - illustrates the south and west elevations and the slope on Cumberland Street South from Fenian Street down to Boyne Street and illustrates that the ground floor of the hotel is raised to keep levels the same within the hotel.

7.2. Planning Authority Response

- None

7.3. Observations

One observation was received. The issues raised in the observation are summarised as follows.

- Proposal too high given significant residential component in the surrounding area.
- Observer supports PA condition 5(a) and 5(b).
- Ground floor amendment is reasonable providing more activity to Cumberland Street South.

Building Height

- Height is seriously in excess of all neighbouring buildings. Proposal is 9-storey plus roof level equipment making it equivalent to 10-storeys

- Out of character with Boyne St. and Cumberland Street South.
- 7 storey limit is reasonable and consistent with other buildings in the locality and given proximity to Merrion Square.
- Economic viability not a planning issue.
- Excessive overshadowing / overlooking causing adverse impacts on neighbouring residential amenities
- Demolition of the existing structure on the site is unsustainable.
- Access onto Cumberland Street South needs to be maintained to enhance the Street.
- There is an elevated level on Cumberland Street South resulting in an actual building height of 10-storeys. The argument of the parapet height is irrelevant
- The building setbacks are of little relevance and detriment to the overall height and bulk.
- All photomontages illustrate the impacts that the proposal is significantly in excess of neighbouring building heights.

Precedents

- Trinity Biomedical Building is located some distance from the proposed development
- Google building is in excess 1 km from the site and not relevant to Cumberland Street South.
- Treasury building stands on its own grounds and has significant historic context and is remote from Cumberland Street South.
- The Cleary's example is some distance from the appeal site and a different context.

Sunlight, Daylight and Shadowing

- The sunlight and daylight study took part at a time when shadowing will be a minimum. It is evident that shadowing will be severe.

8.0 Assessment

The Board will note that this appeal is a first party appeal v Condition 5(a) and 5(b), however a submission to the PA from the prescribed body, Department of Housing Local Government and Heritage, relating to ecology was not addressed during the course of the planning application, therefore I have carried out a de-novo assessment of the proposed development.

Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Principle of Development
- Building Height Justification
- Impact on adjoining Residential Amenities to the north
- Condition 5(a)
- Condition 5(b)
- Ecology – New Issue
- Other Matters

8.1. Principle of Development

Zoning

- 8.1.1. In accordance with the DCDP, 2022 – 2028, the land use zoning objective on the appeal site is 'Z5 City Centre' with the objective to '*consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*'. Hotel uses are 'permissible uses' within the zone and, accordingly, I am satisfied that the proposed development is consistent in principle with the current Development Plan zoning provisions.

Concentration of Hotel Uses

- 8.1.2. The DCDP, 2022 – 2028, notes the importance of avoiding an overconcentration of hotel development in areas of the city which currently have high levels of existing

hotels or where significant number of planning applications have been made for significant number of new or expanded hotel developments. The avoidance of over concentration of hotel developments is important in the context of wider objectives to create a rich and vibrant range of uses in the city centre.

- 8.1.3. Compliance with DCDP policy objective CEE28 'Visitor Accommodation' is relevant in this case. Policy CEE28 outlines criteria for the assessment of hotel proposals, much of which concerns the effect of proposals on the existing and proposed mix of uses/activities in the area, the character of the area, the impact of a hotel activity on existing residential uses and the impact of additional visitor accommodation on the wider objective to provide a range of uses in the city centre.
- 8.1.4. Section 15.14.1 of the Plan outlines that where the planning authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment providing a justification that the development will not undermine the principles of achieving a balanced pattern of development in the area, and demonstrating that the proposed development fully complies with the criteria set out in Policy CEE28 and in Section 15.14.1.1.
- 8.1.5. The submitted 'Hotel Concentration and Justification Repot', which accompanied the application, identifies a total of 71 short stay properties within 1 km radius of the proposed development, and a much smaller concentration of such properties within 500m of the subject site.
- 8.1.6. I noted from my site assessment that Fenian Street has a mix of uses including office, entertainment and residential, and Cumberland Street South is also characterised by a mix of uses including medical, education, office and residential.
- 8.1.7. There is not a significant concentration of hotel or other short-term accommodation facilities in the immediate surrounding area, and I do not consider that the proposal would result in a significant intensification of such uses or that it would undermine wider objectives to promote a vibrant mix of uses.
- 8.1.8. I would therefore accept the findings of the 'Hotel Concentration and Justification Repot' which demonstrate that within the immediate environs of the appeal site, there is no significant clustering of short-stay visitor accommodation, and such an

over-proliferation of hotels in the immediate vicinity of the subject site would not be applicable.

- 8.1.9. On this basis I would consider that the principle of the proposed hotel use is consistent with policy objective CEE28 'Visitor Accommodation' and Section 15.14.1.1 of the DCDP, 2022 – 2028.

Demolition

- 8.1.10. The proposed development includes the demolition of the 4-storey Hospitality House (c. 3059 m²)
- 8.1.11. The NPF's National Policy Objective (NPO) 54 seeks to "reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emission reductions".
- 8.1.12. The DCDP, 2022 – 2028, addresses climate change through mitigation and adaptation, and one of the main strategic areas to be addressed is mitigation in the built environment. In this regard policy objectives CA6 and CA7 of the DCDP, 2022 – 2028, encourage the reuse and repurpose of existing buildings for integration within proposed developments.
- 8.1.13. Section 15.7.1 of the DCDP, 2022 – 2024, requires that instances where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition are not possible.
- 8.1.14. The submitted Demolition Justification Report includes two scenarios. The first scenario considers the partial demolition and extension of the existing building to accommodate the hotel use. The second scenario involves the full demolition of the existing to accommodate a new build.
- 8.1.15. The Report includes an architectural, structural engineering, mechanical and electrical justifications for the demolition of the existing building. The Report notes that the existing building does save on embodied carbon when compared to a new build scenario. However, the existing buildings operational carbon output is higher when compared to the new build scenario. The Report concludes that the carbon impacts of demolition for the proposed development will be negligible as significant

works are required to improve the buildings operational performance, resulting in increased embodied carbon.

- 8.1.16. I would consider, on the basis of the information available, that the new construction on the appeal site provides better results in terms of whole life carbon and therefore would be a positive outcome in terms of mitigating climate change, as such I would consider the demolition of the subject building is consistent with the objectives of DCDP, 2022 – 2028.

8.2. **Building Height Justification**

Introduction

- 8.2.1. A key strategy in the DCDP, 2022 – 2028, is the achievement of compact growth (policy objective SC11) in alignment with Metropolitan Area Strategic Plan, through the consolidation and intensification, particularly on public transport corridors. In this regard there is a requirement to consider greater height in appropriate locations.
- 8.2.2. Chapter 4 of the DCDP advises that key considerations for greater height proposals will include the prevailing height, potential impacts such as overshadowing and overlooking, impacts on sensitive areas in the city including the Georgian quarter. Further it is the strategic approach in the DCDP, is to ensure that there is a design led approach to optimising height.
- 8.2.3. Appendix 3 of the DCDP sets out the height strategy for the city and this includes the identification of locations for greater heights in accordance with SPPR 1 of the Building Height Guidelines, 2018. The appeal site is located in the area '*City Centre and within the Canal Ring*' and this area is identified as an area generally suitable and appropriate for accommodating a more intensive form of development, including increased height.
- 8.2.4. Appendix 3 advises that a default position of 6-storeys will be promoted in the city centre and within the canal ring, subject to site specific characteristics. However, where a development abuts a lower density development, appropriate transition of scale and separation distances are required to protect adjoining amenities. Heights greater than 6-storeys within the canal ring will be considered on a case-by-case basis subject to a detailed set of performance-based criteria for the assessment of

proposals of enhanced scale and height so as to ensure the protection of the natural and heritage assets of the city set out in Table 3 of Appendix 3.

- 8.2.5. The overall height of the proposed development is 9-storeys, however adjacent to the existing residential development along Cumberland Street South the first five storeys are flush with the street edge and the top four storeys are stepped back.
- 8.2.6. Condition 5(a) of the PA notification to grant permission reduced the development to an 8-storey building. The PA in attaching condition 5(a) had concerns in relation to the overall height, visual impact and relationship with the established residential development.
- 8.2.7. In accordance with the submitted drawings the height of the proposed development facing onto Cumberland Street South is 30.375 metres¹ above ground level, and this compares to a maximum permitted height of 26.8m in accordance with PA Ref. 3606/18.
- 8.2.8. The indicative plot ratio in the Central Area is 2.5 – 3.0, as contained in the DCDP. The proposed development plot ratio is 4.8. However, I note that the DCDP allows a degree of flexibility whereby it is recognised that a higher plot ratio may be appropriate in certain circumstances including adjoining public transport corridors or to facilitate complete redevelopment of areas in need of urban renewal. In relation to site coverage the indicative site coverage for the Central Area is 60%-90%, and the proposed development has a site coverage of 85.8%.
- 8.2.9. The specific nature of the qualitative assessment is considered below under Table 3 of Appendix 3.

Compliance with Table 3, Appendix 3

- 8.2.10. In Table 2 below I have included an Appendix 3 assessment in relation to height of the proposed development.

Table 2: *Examination of the Proposed Development against the Performance Criteria for Assessing Proposals for Enhanced Height, Density and Scale as provided for under Table 3, Section 4, Appendix 3 of the Development Plan.*

	Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale
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¹ Drawing no. 23071-OPP-XX-ZZ-DR-A-9225-S4-P01

1.	<i>To promote development with a sense of place and character</i>	<p>The immediate context of the appeal site is defined by a mix of building heights, including newly constructed 6, 7 and 8 storeys commercial and residential on Fenian Street and 3-storey residential development on Cumberland Street South.</p> <p>The proposed development on Cumberland Street South graduates from a 9-storey building to 5-storey building. However, the scale of the transition from the established 3-storey development to the immediate north to the proposed development is abrupt given the existing context on Cumberland Street South. I have noted above that the height of the proposed hotel extension (30.375 m) is an increase of that permitted on the site (26.8m). Appendix 3, DCDP, advises specifically in respect of the city centre within the canal ring in relation to more intensive development abutting lower intensity development that appropriate transition of scale and separation distances must be provided in order to protect existing amenities.</p> <p>It is evident from the submitted photomontages² that the impacts of the proposed development are more significant on the immediate built environment relative to views from the wider city.</p> <p>I would acknowledge that the proposed photomontage viewpoints 4 to 8 inclusive indicate no visual impact from the proposed development. Based on my site assessment I would agree with this conclusion.</p> <p>Proposed viewpoint no. 1 illustrates the view from Fenian Street of the proposed development and the difference in scale from the proposed development to the established character is visible, particularly in relation to the 3-storey existing development to the immediate north of the proposal.</p> <p>Proposed viewpoint no. 2 illustrates the scale of the proposed transition in the context of the existing 3-storey residential development on Cumberland Street South. The scale of this impact is also emphasised by the submitted aerial C.G.I. looking at the proposal from the north. The scale of the transition from the existing 3-storey development to the proposed development is abrupt in terms of impacts on the established character of the area and advice in Appendix 3 regarding transition noted above.</p> <p>The proposed viewpoint no. 3 illustrates the scale of the proposed development in relation to existing residential properties on Boyne Street. The rear gardens of these residential properties face directly towards the proposed development. Concerns in respect of transition and impact on established amenities are considered further under Objectives 3 and 9 below and under section 8.3 of this report.</p>
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² Dated 17th June 2024 and 23rd October 2024

		<p>The proposed materials, including the white brick façade, with window openings on the western and southern elevations will add character to Cumberland Street South. The light brick elevation finishes onto Cumberland Street South will reflect daylight which is positive attribute for this narrow city street.</p> <p>The proposed design approach also adds variety and interest and the response to additional information request (item no. 5) addresses monolithic concerns raised by the PA.</p> <p>The setting back of the seventh and eighth floor enhances the form and allows for transition in scale at upper levels.</p> <p>Conclusion: For the reasons set out above I have concerns in relation to the scale of the transition from the proposed development to the existing 3-storey development on Cumberland South Street and the impact on established amenities. I am not satisfied that the proposed development is consistent with Objective 1 of Table 3.</p>
2.	<i>To provide appropriate legibility</i>	<p>The proposed development would enhance and strengthen street activity onto Fenian Street given the proposal relates to hotel intensification which would reflect and reinforce the role and function of the street and enhance permeability.</p> <p>DCDP, 2022 – 2028, advocates the creation of a rich and vibrant range of uses in the city centre, and the avoidance of an overconcentration of hotel development in certain areas of the city centre and will consider applications for additional hotel development having regard to the existing and proposed mix of uses associated in the vicinity of any such proposed development. Cumberland Street South has an established mix of uses that includes medical, education, office and residential. Having regard to the character and established mix of uses on Cumberland Street South I would consider that the proposed development would positively contribute to the function of the street.</p> <p>Conclusion: For these reasons I am satisfied that the proposed development is consistent with Objective 2 of Table 3.</p>
3.	<i>To provide appropriate continuity and enclosure of streets and spaces</i>	<p>S. 14.6 of DCDP specifically notes that it is important to avoid abrupt transitions in scale and land-use between zones and in cases abutting residential areas the predominantly mixed-use developments will pay particular attention to scale, density and design of development proposals, and to landscaping and screening proposals</p> <p>The proposed height onto Cumberland Street South is greater than the surrounding built environment and would be visually prominent and overbearing relative to the existing amenity space associated with the residential properties to the north with potential adverse visual impacts and would</p>

		<p>dominate the character of the street. This issue is considered further in section 8.3 of this report.</p> <p>The west facing elevation onto Cumberland Street South would generate passive surveillance and contains sufficient windows to generate animation and visual interest.</p> <p>Conclusion: For reasons outlined above I am not satisfied that the proposed development is consistent with Objective 3 of Table 3.</p>
4.	<i>To provide well connected, high quality and active public and communal spaces</i>	<p>The hotel provides amenity space for guests with the inclusion of a garden area (95 m²), off the restaurant at ground floor level. The hotel development also provides a number of blue roofs which will provide a visual amenity for guests.</p> <p>The hotel provides a small street garden facing onto Cumberland South Street which will help with integration, and enhance, the public realm, and the relationship with the proposed development and the public domain.</p> <p>Conclusion: I am satisfied that the proposed development is consistent with Objective 4 of Table 3.</p>
5.	<i>To provide high quality, attractive and useable private spaces</i>	<p>Similar to Objective 4 above the proposed development provides amenity space for guests, primarily at ground floor level.</p> <p>The hotel facilities at ground floor level provide publically accessible facilities such as café and restaurant which will generate activity at street level throughout the day and night, onto Fenian Street and this approach is consistent with section 15.14.1 of the DCDP.</p> <p>The proposed hotel layout ensures that bedrooms receive reasonable amounts of daylight and primarily overlook internal courtyards or public streets.</p> <p>Conclusion: I am satisfied that the proposed development is consistent with Objective 5 of Table 3.</p>
6.	<i>To promote mix of use and diversity of activities</i>	<p>The proposed development is a single use development located on a city centre site zoned Z5 'mixed use development'.</p> <p>The proposed development does not include multiples uses however the development of the site as a hotel would contribute to the mixed-use character of both Fenian Street and Cumberland Street South and therefore promotes a diversity of activities in the immediate area of the appeal site.</p> <p>Furthermore, as referred to above the hotel facilities at ground floor level provide publically accessible café and restaurant uses which will generate activity throughout the day and night.</p>

		<p>Conclusion: I am satisfied that the proposed development is consistent with Objective 6 of Table 3.</p>
7.	<p><i>To ensure high quality and environmentally sustainable buildings</i></p>	<p>The proposed materials are varied and high quality and include a mix of colours comprising of light brick on the southern and western elevations. Red-brick finish is proposed on the north and east elevations and partially on the western elevation.</p> <p>The design proposal includes anodised aluminium windows decorating the elevations in places, and the 7th and 8th floors will be glazed with framing fins. This design approach will provide visual interest.</p> <p>The western elevation facing onto Cumberland Street South is a bright brick intends to reflect daylight onto the street, which is a welcome approach given the narrow street and the presence of medium height buildings along Cumberland Street South, which results in daytime shadowing.</p> <p>The accompanying 'Part L Compliance Report' indicates that the proposed hotel extension and development would be designed to be consistent with Part L. The Compliance Report outlines that the development will be compliant with 'Nearly Zero Energy Buildings' and will achieve a BER rating of A2.</p> <p>The CO₂ emission rate from the proposed building and the calculated primary energy consumption rate of the proposed building is less than that of the reference building used in the Part L assessment.</p> <p>The accompanying 'Daylight, Sunlight and Shadow Assessment' concludes that the proposed development will ensure compliance with BRE 209.</p> <p>Conclusion: I am satisfied that the proposed development is one that can be considered consistent with Objective 7 of Table 3.</p>
8.	<p><i>To secure sustainable density, intensity at locations of high accessibility</i></p>	<p>This inner-city appeal site is highly accessible to a variety of public transport options, including the nearby Pearse Dart station, and benefits from a location that is proximate to a variety of land uses, amenities and residential opportunities that would be considered appropriate for the Z5 city centre location.</p> <p>Conclusion: I am satisfied that the proposed development is one that can be considered consistent with Objective 8 of Table 3.</p>
9.	<p><i>To protect historic environments from insensitive development</i></p>	<p>The proposed development is adjacent to no. 12 – 15 Cumberland Street South, which is zoned Z2 'Residential Neighbourhood' (Conservation Area), and also situated on</p>

		<p>the opposite side of the street from an established area Zoned Z8 (Georgian Conservation Area).</p> <p>The proposed development is greater in height and scale than the established urban character relative to the adjacent Z2 and Z8 zonings on Cumberland Street South. The height of the proposal (30.375 m) also extends above that previously permitted on the site (26.8m). I have assessed the area for potential visual impacts in respect of adjacent conservation areas under Objective 1 above. I have examined the impacts on established residential amenities in section 8.3 below. The proposed materials are high quality however the height of the proposed development would not be consistent with the character of the streetscape and would be overbearing relative to the conservation status.</p> <p>Conclusion: On the basis of the above considerations alongside the assessment under section 8.3 and 8.4 (condition no. 5(a)) below the proposed development is one that would not protect or sit respectfully with its established environment.</p>
10.	<i>To ensure appropriate management and maintenance</i>	<p>The application documentation includes an Operational Waste Management Plan (OWMP) to ensure that the management of waste during the operational phase of the proposed development is in accordance with relevant legislation and industry standards.</p> <p>The OWMP aims to ensure maximum recycling, reuse and recovery of waste with avoidance of landfill, wherever possible. I would consider that appropriate management plans are submitted to support the development.</p> <p>Conclusion: I am satisfied that any grant of permission could include conditions that would ensure that this proposed development is appropriately managed and maintained once operational.</p>

Conclusion

On balance I would acknowledge, on the basis of the considerations above, that many of the objectives in Table 3, Appendix 3 are satisfactorily addressed however the development as proposed would not satisfactorily address Objectives 1, 3 and 9 above, having regard to the excessive height in relation to the more sensitive built environment, in particular the areas zoned Z2 'Residential Neighbourhood' (Conservation Area) and Z8 'Georgian Conservation Areas' in the DCDP, 2022 – 2028.

8.3. **Impacts on Residential Amenities to the North**

- 8.3.1. No. 12 – 15 Cumberland Street South and No. 41 – no. 42 Boyne Street, which are zoned Z2 ‘Residential Neighbourhood’ (Conservation Area) in the DCDP, 2022 – 2028, are situated to the immediate north of the proposed development. The existing shared amenity space serving these residential properties is situated between the residential development and the proposed development. In addition, the existing houses have private amenity spaces at ground and first floor level to the rear of the houses.
- 8.3.2. Section 14.6 of the DCDP, 2022 – 2028, provides guidance in respect of transitional zone areas, and the following is relevant to the proposed development.

‘While zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties’.

I will assess the impact of the proposed development of the established residential amenities to the north, having regard to visual prominence and scale, overlooking and shadowing impacts.

Visual Provenience and Scale

- 8.3.3. The established communal amenity space associated with the residential properties adjoins the existing access lane off Boyne Street. The laneway is accessed from Boyne Street and adjoins the northeastern boundary and the northern boundary of the appeal site.
- 8.3.4. The existing northern elevation of the office building on the appeal site is set back approximately 13.6 metres from the northern boundary of the appeal site. The proposed development is set back 13.1 metres from the northern boundary, which is

the same as that permitted under LA Ref. 3606/18. The set back distances from the proposed northern elevation are therefore established in the permitted development.

- 8.3.5. The proposed development introduces a new block, adjacent to the residential properties to the north, adjacent to the north-eastern boundary of the appeal site. The introduction of this block creates a U-shaped layout to the proposed northern elevation, enclosing a planted roof area. The introduction of this block on the site would intensify development adjacent to the northern boundary however a similar scale block was permitted under L.A. Ref. 3606/18.
- 8.3.6. The northern gable elevation of the existing office building abuts the southern gable elevation of no. 15 Cumberland South Street. The width of this existing gable elevation on the appeal site is c. 15.4 metres and the height of the gable elevation is approximately c. 13.8 metres above ground level.
- 8.3.7. Whereas the proposed northern gable elevation has a maximum height of 18.2 metres, an increase from 13.4m in the permitted development, and the proposed gable elevation width is 17m, an increase from 14.4m in the permitted development. Table 3 below summarises the dimensions of the northern gable elevation as follows.

Table 3: Comparison of Northern Gable Elevations		
<u>Northern Gable Elevation</u>	<u>Height</u>	<u>Width</u>
Existing building	13.8m	15.4m
Permitted (3606/18)	13.4m	14.4m
Proposed (4018/24)	18.2m	17m

- 8.3.8. In addition to the above the proposal also includes a ground floor garden area which abuts the shared boundary with the residential properties. The garden area is off the proposed hotel restaurant. Should the Board be minded to grant permission I would recommend a condition restricting hours of use of this garden space in the interest of established residential amenities.
- 8.3.9. I would acknowledge that the permitted development (L.A. Ref 3606/18) has established the principle of intensification, however the amendments to the proposed north facing gable elevation, towards the existing residential development, would

have an adverse impact on established residential amenities in terms of its height, mass, scale and volume.

8.3.10. I therefore would have concerns with the scale of the proposed development, in particular adjacent to the more sensitive established residential development, which is situated to the immediate north of the proposed development.

8.3.11. Overlooking

Having regard to the intensification of development on the appeal site the proposal would introduce overlooking towards the established residential amenities to the immediate north, particularly arising from the introduction of the new block situated at the northeastern boundary.

8.3.12. In response to overlooking concerns (additional information item no. 4) the applicant includes a revised design proposal to the northern elevation with the insertion of anodised aluminium mesh panels, 900mm over floor level. The purpose of the amendment is to allow views from the bedrooms towards the city in the distance but not down to the amenity space below, providing greater privacy.

8.3.13. I would accept the proposed amendment would address overlooking concerns however the scale of the intensification and the proximity of windows would result in overlooking potentially adversely impacting of the residential amenities on the nearby properties to the immediate north of the appeal site.

8.3.14. Notwithstanding the above, I would note from my site assessment that much of the communal amenity space is currently overlooked from both the existing office building on the appeal site and the more intensive office building situated on the adjoining site to the immediate east of the appeal site. Therefore, I would consider that any overlooking arising from the proposed development would not be significant in the context of established developments.

8.3.15. Daylight, Sunlight and Shadowing

Having regard to the orientation of the amenity space associated with the residential properties to the immediate north of the proposed development a degree of overshadowing is already established.

- 8.3.16. I noted from my site assessment that the existing communal amenity space to the immediate north of the proposed development was completely overshadowed by the existing building on the appeal site, at 1:30pm on a bright sunny afternoon.
- 8.3.17. The proposed development adjacent to the northern boundary is 5-storeys in height, with a 6th floor, 7th floor and 8th floor set back in comparison to the existing building on the appeal site which is 3-storey above ground level with mansard roof. It is also worth noting that the permitted building on the appeal site (LA Re. 3606/18) did not provide for 6th and 7th floor setbacks.
- 8.3.18. The documentation on the file includes Daylight, Sunlight and Overshadowing Report prepared by metec Consulting Engineers. The scope of the report is to assess the impact, if any, that the proposed development would have on daylight access and sunlight access to the rear of nearby existing dwellings³. The report also assesses the impact that the proposed development would have on sunlight access to existing amenity space. The report states that the assessment was carried out using the methodology and quantifiable metrics as outlined in the BR 209 Guidance Document 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022).
- 8.3.19. The Daylight, Sunlight and Overshadowing Report demonstrates that the availability of Daylight to the rear of nearby existing dwellings (i.e. No.s 12-15 Cumberland Street South and 41 & 42 Boyne Street) will not be significantly affected. This is confirmed by the fact that the Vertical Sky Component (VSC) measured at the centre of the existing main windows is either greater than 27% or that the change in difference is less than 8% its former value, having regard to the VSC with the existing office building. Table 6 in the Report demonstrates that the daylight availability to the rear of these nearby residential properties is not adversely affected and the proposed development is therefore compliant with BR 209 (2022) Guidance⁴.

³ No.s 12 – 15 Cumberland Street South and 41 & 42 Boyne Street.

⁴ BR 209 Guidance Document 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022)

- 8.3.20. In relation to sunlight analysis the Report advises that the BR 209 Guideline recommends, where a living room window capable of receiving 25% of annual probable sunlight hours (including 5% of annual probable sunlight hours during the winter months) that the windows will be adequately sunlight throughout the year. The Report concludes that as none of the windows in the existing residential development that face the proposed development are living rooms, they do not need to be assessed in line with BR 209 Guidelines.
- 8.3.21. In accordance with BR 209 guidelines, it is recommended that an amenity space to appear adequately sunlight throughout the year it is required that at least half of the amenity space should receive at least two hours of sunlight on the March 21st. Table 8 of the Report includes the results of the amenity space sunlight analysis which confirms two hours of sunlight is achieved at least 50% of the amenity space from 11:45am to 1:45pm.
- 8.3.22. Appendix B of the Report includes Shadow Images for the proposed development, and it is evident that additional overshadowing occurs from the proposed development on March 21st at 1pm and 3pm. The overall impact of the proposed development in terms of shadowing is not significant.
- 8.3.23. The appeal submission includes a comparative sunlight analysis from the development granted under LA Ref. 3606/18 and the development granted under 4018/24, and currently before the Board. The comparative sunlight analysis compares sunlight on the March 21st at 10:30am, 11:30am and 12:30pm. The comparative analysis demonstrates no discernible difference in the shadow casting between both previous and current planning applications.
- 8.3.24. I would accept, on the basis of the information available, that the applicant has adequately demonstrated compliance with BR 209 Guidelines and the proposed development would not adversely impact on residential amenities in terms of loss of sunlight, daylight or overshadowing.
- 8.3.25. Conclusion: I would accept that the applicant has adequately addressed concerns in relation to overlooking and shadowing. However having regard to the proposed scale, the visual impact and prominence of the proposed development relative to that of the permitted development (P.A. Ref. 3606/18) is a concern in terms of height,

mass, scale and volume and potential for adverse impacts on established residential amenities.

8.4. Condition 5(a)

8.4.1. The PA grant of permission requires the omission of the entire second floor from the proposed development and limits the height of the proposed development to 27.5m.

8.4.2. Height / Visual Impact

I noted from my site assessment that the wider visual impact of the proposed development is not apparent. I observed from the submitted photomontage viewpoints 4, 5 and 6 that the proposed development would not be visible from these viewpoints owing to presence of the existing buildings in foreground impeding potential visual impact.

8.4.3. A mitigating factor is the falling levels on Cumberland Street South, relative to Fenian Street and Merrion Street Lower ensuring that buildings in the foreground, on higher ground, impede potential visual impacts. In the case of viewpoint 4 the existing Office development at Cumberland Place would screen any potential visual impact from Archer's Garage, on Fenian Street.

8.4.4. In the immediate vicinity of the appeal site the proposed development would have visual impacts from both Cumberland Street South and Boyne Street, and I have discussed this in detail above under Objectives 1 and 9, Table 3 of Appendix 3 in Table 2 above.

8.4.5. Section 15.15.2.2 of the DCDP provides guidance in respect of development in conservation areas and this includes, in summary,

- Respecting existing setting and character
- Cognisant / complementary to existing scale, building height and massing.
- Protect the amenities of surrounding properties and spaces
- Assess the visual impact of the proposal in the surrounding context.
- Ensure materials / finishes are in keeping with existing built environment
- Proposal positively contributes to the existing streetscape.

- 8.4.6. As noted in Table 2 of Section 8.2.10 above, Objectives 1 and 9, Table 3 of Appendix 3, the proposed development is greater in height and scale than its existing setting and character relative to the adjacent Z2 (Residential Conservation) and Z8 (Georgian Conservation Area) zonings on Cumberland Street South. The height of the proposal (30.375 m) also extends above that previously permitted on the site (26.8m).
- 8.4.7. I acknowledge the appellant argues that the proposed 9-storey development ties in with the existing office development, Cumberland Place, to the immediate east, however the scale of the proposed development on Cumberland Street South is out of character with the existing built environment notwithstanding the scale of the office development to the east of the appeal site. I have examined the impacts on established residential amenities in section 8.3 above with regard to height, mass, scale and volume. I accept that the proposed materials are high quality however the height of the proposed development would not be consistent with the character of the streetscape and its conservation status.
- 8.4.8. I would consider, based on a visual observation of the area, that the development, as proposed, would not be consistent with Section 15.15.2.2 of the DCDP, and would not adequately respect the existing setting and character of no. 12 – 15 Cumberland Street South and would not be complementary to existing scale, building height and massing.
- 8.4.9. On the basis of the above I would consider a reduction in height and scale of the proposed development as proposed by the PA in Condition 5(a) would address concerns outlined above.

8.4.10. Materials, Scale and Massing

I have considered materials in Table 2 of Section 8.2.10 above, under Objective 7, Table 3 of Appendix 3, and concluded that the proposed materials are varied and high quality, and as outlined above, would provide visual interest and dilute the scale of the proposed development. Further the eighth floor is stepped back from the main façade concealed behind a parapet helping to reduce the overall height of the building when viewed from the street.

- 8.4.11. The PA had concerns with the monolithic nature of the proposed northern elevation and requested a design solution to reduce the scale and massing of this elevation. In

response the applicant provides a revised design proposal to the north façade which includes areas of brick recess to break down the volume of the northern gable elevation.

8.4.12. Overall, I would consider that the overall design approach, in terms of materials and finishes, are acceptable, and would add visual interest, however the scale of the development remains a concern, as discussed above.

8.4.13. Precedents

I note that the appeal submission includes reference to a number of taller buildings generally found in this area of the city centre and that these buildings would represent precedents for the proposed development. This includes Cumberland Place, Trinity Biomedical Building, the Google building in the docklands, the Sidings in Grand Canal Quay and the Treasury Building on Grand Canal Street, and the permitted developments referred to in the appeal submission, on O'Connell Street, Capel Street and Bride Street in the city centre.

8.4.14. I have reviewed all of these building heights and their respective contexts, and although I accept that there is a variance in building heights in this part of the city centre, I would consider that the context of these sites would differ to that of the appeal site. The context of Cumberland Street South is a narrow street, facilitating single lane traffic, and the urban grain is tight, whereas the submitted precedents have greater space in their immediate vicinity to accommodate more intense scale and height.

8.4.15. Further I note from Appendix 3 and Chapter 4 of the DCDP, 2022 – 2028, that key factors in determining height will be impact on adjacent residential amenity, regard to the prevailing context of the location of the site and broader consideration must also be given to potential impacts such as overshadowing and overlooking.

8.4.16. The appeal site is more restricted than the sites of the submitted precedents, given the established built character in the immediate vicinity of the appeal site. Therefore, I would consider that the submitted precedents would not support a case for greater height and scale on the appeal site, than that permitted by the PA under the current application.

8.4.17. Conclusion: I consider on the basis of the above that the height of the proposed development would not be consistent with the character of the streetscape on Cumberland Street South and would be overbearing relative to the existing conservation status and established amenities. I have outlined above that the height of the development, as proposed, would not be consistent with the Objectives 1, 3 and 9, Table 3, Appendix 3 of the DCDP, and also, I have highlighted concerns in Section 8.3 above, with the proposed height and scale. I would acknowledge that there is an established precedent for development on the appeal site under L.A. Ref. 3606/18, as such I would consider a reduction in height and scale of the proposed development would address concerns highlighted above. On this basis I would support PA condition 5(a) should the Board be minded to grant permission

8.5. **Condition 5(b)**

- 8.5.1. Condition 5(b) requires that the ground floor level shall have a level access onto Cumberland Street South. The PA concerns relate to the development not using the change in levels to reduce the scale of the development along Cumberland Street South and to provide level access.
- 8.5.2. I would note that the design rationale for the Cumberland Street South elevation is primarily to maintain the same level as that of the existing hotel on Fenian Street and this will ensure a more efficient use of space at ground floor level for the hotel amenities. The appellant argues that dropping the level of the hotel would have a disruptive impact on the floor plans at ground and lower ground level with the loss of a number of rooms.
- 8.5.3. The existing building on Cumberland Street South 'Hospitality House' has a raised ground floor level in respect of the street level, and the existing ground floor level is accessed by external steps. Further I noted from my site assessment that access is set back from the public footpath.
- 8.5.4. The PA's main concern in relation to condition 5(b) relates to height rather than street activity. The combined effect of condition 5(a) and condition 5(b) would reduce the proposed height by at least one floor, effectively permitting an 8-storey building with lower levels than that proposed.

- 8.5.5. I have outlined above concerns in relation proposed height mainly in the context of the transition from established residential properties to the immediate north of the appeal site and the impacts on the conservation zones. On this basis I would support condition 5(b) should the Board be minded to grant permission.

8.6. Ecology – New Issues

- 8.6.1. The Board should note that in a submission received from the DHLGH (14th August 2024) to the PA the DHLGH consider the proposed development has the potential to disturb a roosting habitat of a population of bat species, listed under Annex IV of the EU Habitats Directive, and has the potential to disturb nesting birds (Swifts), protected under s. 22 of the Wildlife Act 1976. The submission considers that these potential impacts could occur due to major structural changes to the existing building.
- 8.6.2. DHLGH request a condition is attached to a grant of permission, to mitigate potential impacts, providing for the carrying out a survey of bats and swifts during active seasons, and any destruction of bat and swift nests must be done under licence from DHLGH by a suitably qualified ecologist.
- 8.6.3. The PA notification to grant permission did not include a condition to mitigate potential impacts, as requested by the DHLGH. Notwithstanding the request from the DHLGH to include a condition, should the Board be minded to grant permission, I would acknowledge that the DHLGH submission is not definitive on whether bat roosts or swift nests are present within the structure of the existing building proposed for demolition. The submission requests a survey. I would consider it appropriate to include a condition and as such I recommend a condition to the Board, ensuring that a bat and swift survey is undertaken prior to the commencement of development.
- 8.6.4. This is a new issue and while a condition is recommended in respect of a survey, the Board may wish to seek such a survey in advance of making a decision.

8.7. Other Matters

8.7.1. Economic viability

I note the appellants concerns that the omission of an entire floor from the proposed hotel development, resulting in the loss of 27 bedrooms would make the proposed development economically unviable. However, the Board, in their considerations, will have regard to wider issues such as the proper planning and sustainable development of the area rather than commercial viability of individual development projects.

8.7.2. Car Parking

The proposed development includes no car parking provision, and this is consistent with proposed hotel developments located in Zone 1 of the Dublin City Development Plan, 2022 – 2028. Therefore, I would consider that the car parking proposals are acceptable and consistent with the DCDP, 2022 – 2028.

9.0 AA Screening

9.1. Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, Section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

9.2. Background of the Application

The applicant has submitted a Screening for Appropriate Assessment (Stage 1) prepared by McCutcheon Halley (Chartered Planning Consultants) as part of the planning application.

9.3. The applicant's Stage 1 AA Screening Report provides information on and assesses the potential for the proposed development to impact on identified Designated European Sites. The report includes, in line with current best practice guidance, a desktop data review, details on the location and setting of the subject site, a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The sites identified include South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), South Dublin Bay SAC (Site Code 000210), North Dublin Bay SAC (Site 000206) and North Bull Island

SPA (Site Code 004006). The Report sets out the relevant qualifying interests, conservation objectives, and NPWS identified threats and pressures for each Designated European Site and includes an assessment of the likelihood of potential impacts on the Designated European Sites. The AA Screening Report also considers in-combination effects.

9.4. It is concluded within the AA Screening Report, following an examination, analysis and evaluation of best available information, that the proposed development poses no risk of likely significant effects on Natura 2000 sites either alone or in combination with other plans and projects, and therefore does not require progression to Stage 2 Appropriate Assessment. In reaching this conclusion, the authors of this AA Screening Report, have not taken into account mitigation measures or measures intended to avoid or reduce any impact on European sites and that an Appropriate Assessment is not required.

9.5. Having reviewed the documents, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

9.6. Screening for Appropriate Assessment- Test of likely significant effects

The proposed hotel extension and development is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

9.7. The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed hotel development. Surface / ground water pollution arising during the construction and operation of the proposed development could contain pollutants (foul water, silt, hydrocarbons and other chemicals) with potential to discharge into the sea. Foul water discharge from the proposed development will be treated at the Ringsend WWTP prior to discharge to Dublin Bay. Any increases in both hydraulic and organic loading may result in indirect impacts arising from the proposed development on Natura 2000 sites in Dublin Bay.

9.8. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

9.9. Brief description of the development

I have provided a description of the proposed development in Section 2 and detailed specifications of the proposal are contained within Section 5 of the Appropriate Assessment Screening Report and other planning documents provided by the applicant. In summary, the proposed development comprises the demolition of the existing Hospitality House building (c.3059 m²) and the construction of a new hotel extension (c. 9530 m²) with a maximum height of 33.375 metres.

9.10. The planning application documentation includes an Outline Construction and Environmental Management Plan (OCEMP). The OCEMP includes (section 4.1) details of measures to ensure that stormwater and wastewater runoff is managed and that there is no off-site environment impact caused by overland storm water flows. The OCEMP also outlines the appropriate methodology for storing harmful materials on site in connection with the construction works only, such as fuels / oils and other known hazardous substances.

9.11. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related - uncontrolled surface water/silt/ construction related pollution
- Effluent discharge – indirect / secondary impact of the discharge of additional volumes wastewater from Ringsend WWTP.
- Operational related – accidental leakage of petrol / diesel fuel may occur from delivery / service vehicles

9.12. Submissions and Observations

No submissions or observations were received in respect of the impact of the proposed development on a Natura 2000 Site.

9.13. European Sites

The development site is not located in or immediately adjacent to a European site. The closest European site is South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), 2.3km southwest of the proposed development. There are no ecological pathways from the development site to any of the Natura 2000 sites below.

9.14. A summary of European Sites that occur within 5 km/ within a possible zone of influence of the proposed development is presented in the table below.

Table 4. Summary Table of European Sites within a possible zone of influence of the proposed development.				
European Site	List of Qualifying Interest / Special Conservation Interest	Distance from proposed development	Connections	Considered further in screening
South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)	<ul style="list-style-type: none"> • 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] 	2.3km	No	No

South Dublin Bay SAC (Site Code 000210)	<ul style="list-style-type: none"> • 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] 	2.5km	No	No
North Dublin Bay SAC (Site Code 000206)	<ul style="list-style-type: none"> • 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] • Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] • Mediterranean salt meadows (Juncetalia maritimi) [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • Petalophyllum ralfsii (Petalwort) [1395] 	4.9km	No	No
North Bull Island SPA (Site Code 004006)	<ul style="list-style-type: none"> • Light-bellied Brent Goose (Branta bernicla hrota) [A046] • Shelduck (Tadorna tadorna) [A048] • Teal (Anas crecca) [A052] • Pintail (Anas acuta) [A054] • Shoveler (Anas clypeata) [A056] 	4.9km	No	No

	<ul style="list-style-type: none"> • Oystercatcher (Haematopus ostralegus) [A130] • Golden Plover (Pluvialis apricaria) [A140] • Grey Plover (Pluvialis squatarola) [A141] • Knot (Calidris canutus) [A143] • Sanderling (Calidris alba) [A144] • Dunlin (Calidris alpina) [A149] • Black-tailed Godwit (Limosa limosa) [A156] • Bar-tailed Godwit (Limosa lapponica) [A157] • Curlew (Numenius arquata) [A160] • Redshank (Tringa totanus) [A162] • Turnstone (Arenaria interpres) [A169] • Black-headed Gull (Chroicocephalus ridibundus) [A179] • Wetland and Waterbirds [A999] 			
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9.14.1. Identification of likely effects

9.14.2. I acknowledge that emissions to surface water arising during the site clearance and construction stage could contain pollutants from suspended solids, run-off from wet cement surfaces, and leakages/spillages from hydrocarbons. Such contaminated water could potentially discharge to local drains and watercourses and ultimately to Dublin Bay via the River Liffey, although there is no direct flow path linking the appeal site to the Liffey. During the operational stage, there will be run-off to the local drainage system with potential for leakage of petrol/diesel from vehicles. Such pollutants have the potential to affect water-related qualifying interests in all four Natura 2000 sites.

9.14.3. I have noted above that the application documentation incorporates a range of construction management measures which aim to protect the surrounding

watercourses and drainage system from any such emissions. These measures will address the potential for suspended solids, concrete run-off, and accidental spills and leaks.

9.14.4. The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC or SPA. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.

9.14.5. In relation to any increases in hydraulic overloading from the proposed development on the Ringsend WWTP, and subsequent impacts on Natura 2000 sites, I would note that an increase in PE associated with the proposed development would be negligible in respect of the design capacity of the Ringsend WWTP. I am satisfied that no significant impacts to the European Sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development.

9.15. In-combination effects

No plans or projects exist that could have the potential to act in-combination with the proposed development and there are no residual effects. I conclude that the proposed development would therefore have no likely significant effect in combination with other plans and projects on the qualifying features of any European sites. No further assessment is required for the project.

9.16. Mitigation measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

9.17. Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.

9.18. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites, namely:

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) c. 2.3 km southwest

- South Dublin Bay cSAC (Site Code 000210) c. 2.5 km southeast
- North Dublin Bay SAC (Site 000206) c. 4.9 km northeast
- North Bull Island SPA (Site Code 004006) c. 4.9 km northeast

or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

9.19. This determination is based on:

- The nature and scale of the proposed development and the location of the site on developed serviced lands.
- The separation distance between the subject site and the European sites and the absence of a direct hydrological connection between the sites.
- The incorporation of best-practice construction management, surface water management, and operational design measures.
- The existing and planned capacity of the Ringsend WWTP in the short-term to facilitate future development.

10.0 Recommendation

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

11.0 Reasons and Considerations

Having regard to the city centre location of the proposed development, the pattern of development in the area, the provisions of the Dublin City Development Plan 2022 – 2028, and to the nature, scale, layout and design of the proposed development, it is considered that the proposed development would provide for an appropriate form of development which is likely to assist in the achievement of the wider objectives of the Development Plan. It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or other amenities of the area or of adjoining residential property, would be

acceptable in terms of impact on built heritage of the area and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 31st day of October 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Prior to the commencement of the Developer shall submit revised drawings for written agreement of the Planning Authority showing the following amendments;
 - a. The entire second floor of the proposed development shall be permanently omitted thus reducing the height of the development. The maximum height of the scheme shall not exceed 27.5 metres.
 - b. The ground floor shall be amended to provide level access from Cumberland Street South. Any changes in levels shall be dealt with

internally. This amendment to the finished floor levels shall also be addressed in a revised drainage assessment.

Reason: In the interest of visual amenity and the protection of established residential amenities.

4. Prior to commencement of the permitted use, detailed drawings of the proposed signage, including illumination/lighting details, shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of visual amenity.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional plant, machinery or telecommunications structures shall be erected on the roof of the building, without a prior grant of planning permission.

Reason: In the interest of visual amenity.

6. No additional signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual amenity.

8. Prior to the commencement of development, a bat and swift survey shall be undertaken. The methodology and timing shall be agreed in advance, in writing, with the planning authority. The survey shall be undertaken by a

suitably qualified ecologist during the active season (for bats specifically). The survey reports shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of the protection of bats and swifts.

9. The ground floor garden area, adjacent to the northern boundary, shall not be used between the hours 10:00pm and 08:00am daily.

Reason: To protect residential amenities of the area.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall – (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

11. The applicant shall undertake to implement the measures outlined in the Mobility Management Plan Framework, as lodged with the application.

Reason: To encourage the use of sustainable modes of transport.

12. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

13. Site development and building works shall be carried out only between the hours of 0700 and 1800 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

14. The construction of the development shall be managed in accordance with a construction and demolition management plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including: (a) Location of the site and materials compound including area identified for the storage of construction waste; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of parking/transport facilities for site workers during the course of construction; (e) Details of timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; (f) Measures to obviate queuing of construction traffic on the adjoining road network; (g) Measures to prevent the spillage or deposit of clay rubble or other debris on the public road network. Alternative arrangements to

be put in place for pedestrians and vehicles in the case of closure of any public road or footpath during the course of site development works; (i) Details of appropriate mitigation measures for noise, dust and vibration and monitoring of such level; (j) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

Reason: In the interests of amenities, public health and safety.

15. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development

16. 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.

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.

17. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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

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.

Kenneth Moloney
Senior Planning Inspector

14th April 2024

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321543-24		
Proposed Development Summary	Permission for demolition of building, the construction of a new hotel extension building and all ancillary works.		
Development Address	Hospitality House, 16-20 Cumberland Street South, Dublin 2, D02 Y097 and Alex Hotel, 41-47 Fenian Street, Dublin 2, D02 H678.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	10(b)(iv).	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			

No	✓	Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Threshold is > 2ha site. Appeal site is < 2ha site.	Preliminary examination required (Form 2)

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

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321543-24
Proposed Development Summary	Permission for demolition of building, the construction of a new hotel extension building and all ancillary works.
Development Address	Hospitality House, 16-20 Cumberland Street South, Dublin 2, D02 Y097 and Alex Hotel, 41-47 Fenian Street, Dublin 2, D02 H678.
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The site is an urban consolidation site in Dublin city centre. The subject site contains an existing 4-storey office building, and the proposed development involves the demolition of an existing building (c. 3059 m ²), construction of new hotel extension building (c. 9530 m ²), comprising of 8-storey

	<p>over ground floor level hotel extension. Proposed development also includes the refurbishment of ground and lower ground levels of the existing Alex Hotel building (c. 1169 m²), along Fenian Street. During the construction phases the proposed development would generate waste. However, given the size of the proposed development, I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the demolition, construction or operational phase due to the nature of the proposed development. The development, by virtue of its commercial type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
Location of development	<p>The subject site is not located within or adjoins any</p>

<p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>environmentally sensitive sites or protected sites of ecological importance, or any sites known for cultural or historical significance. The site also has no connectivity to any environmentally sensitive sites.</p> <p>Owing to the serviced urban nature of the site and the urban consolidation of this city centre site, I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area.</p>
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The application site is a city centre urban site and is not located in or immediately adjacent to any European site. The closest Natura 2000 site is c. 2.3 km, South Dublin Bay and River Tolka Estuary SPA, site code 004024.</p> <p>The size development site is 0.319ha and there are no waterbodies or ecological</p>

	<p>sensitive sites in the vicinity of the site.</p> <p>The site is located within a serviced urban area and the site would be connected to public surface and foul sewers.</p> <p>The DHLGH submission considers the proposed development has the potential to disturb a roosting habitat of a population of bat species, listed under Annex IV of the EU Habitats Directive, and has the potential to disturb nesting birds (Swifts), protected under s. 22 of the Wildlife Act 1976. These impacts could occur due to major structural changes to the existing building on the site. I have assessed the potential for these impacts and opportunities for mitigation in the main Planning Assessment (Section 8.0) above, under a sub-section '<i>Ecology</i>'. A condition facilitating a survey which may indicate the presence or otherwise of bats and swifts is recommended. The results of this survey will indicate</p>
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		<p>the measures which may be required.</p> <p>I do not consider that there is potential for the proposed development to significantly affect other significant environmental sensitivities in the area.</p>
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)