



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323161-25

<b>Development</b>	Change of use from retail and retail storage to mixed use building with café and tourist accommodation and all associated site works.
<b>Location</b>	72 Middle Abbey Street (site with Frontage to North Lotts to rear) Dublin 1
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	WEB2664/24
<b>Applicant(s)</b>	72 Abbey Street Middle Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Split Decision.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	72 Abbey Street Middle Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	30 <sup>th</sup> October 2025.

**Inspector**

Terence McLellan

## **1.0 Site Location and Description**

- 1.1. The subject site refers to the building and plot located at 72 Abbey Street Middle in North Dublin city centre. The site measures approximately 0.0167 hectares and comprises a terraced three-bay, five-storey commercial building over basement, built c. 1870 and listed on the National Inventory of Architectural Heritage (Ref. 50010377). The building is separated from the street by a front lightwell and railings, with steps leading to the main entrance. Whilst generally consistent with the height of its neighbours, the subject building is five storeys whilst neighbouring buildings are four storeys.
- 1.2. The site is located on the southern side of Abbey Street Middle, close to the junction with O'Connell Street and the building extends the full depth of the plot, benefitting from an additional frontage onto North Lotts. Previously in commercial use (retail and storage), the existing building is long-term vacant. The surrounding area is characterised by a mix of uses including retail, residential, offices, and food/beverage, however commercial uses are predominant, given the city centre location. The site is well served by all manner of public transport, again befitting the location in the city centre.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for a change of use from retail/retail storage to retail/short term tourist accommodation. This would provide commercial/retail use at ground floor and basement and nine short term tourist apartments on the upper levels.
- 2.2. The development comprises various internal and external works including the omission of the existing recessed mezzanine floors at third floor level and reinstatement of full fourth floor level, external elevational refurbishment including changes to ground floor fenestration and openings onto North Lotts, internal reconfigurations and staircase works.
- 2.3. At Further Information stage the ground floor and basement commercial units were combined to form a single retail/café unit.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Dublin City Council issued a split decision on the 30<sup>th</sup> June 2025. Permission was granted, subject to 12 generally standard conditions, for the change of use of the ground floor and basement from retail to café/restaurant in addition to external elevational works, including paint removal and repointing.
- 3.1.2. Permission was refused for the change of use from retail storage to nine short term tourist accommodation apartments for the following reason:

*Having regard to the Z5 zoning objective for the site, 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity', to the mixed use nature of the area surrounding the site comprising of commercial and residential within a rent pressure zone, and to Section 15.14.35 of the current Dublin City Development Plan (2022-28) where there is a general presumption against the provision of dedicated short term tourist rental accommodation in the city due to the impact on the availability of housing stock where long term quality residential units could be provided and contribute to the inner city's stock of longer term residential accommodation. The proposed development would contravene the above referenced section of the Development Plan, would create a precedent for a similar type of undesirable development and would therefore be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

- 3.2.1. The first Planner's Report contains the following points of note:
- The proposed development for retail, café, and tourist accommodation uses such guesthouse, hotel, hostel are permissible in this zoning. It is noted that short term accommodation is not specifically listed under the zoning objective and will be considered on its merits, the policies and objectives outlined in the plan, and where the proposed development does not adversely affect the

amenities of premises in the vicinity and does not prejudice the proper planning and sustainable development of the area.

- Concerns raised regarding the viability of a retail unit at basement. Ground floor and basement should be combined into a single commercial use.
- Residential use is not currently established on the site, but the size and layout of the units proposed in the subject application would indicate that this site is suitable for long-term occupancy/permanent residential units.
- Permission has been granted for permanent residential on other sites in the Abbey Street area.
- The derogation under Section 15.14.3 would not apply, the units would have sufficient light and would enjoy the amenities of the city centre, compensating for the lack of amenity space.
- The scheme should be amended to provide long term residential. Four units could be provided as one bedroom and four units could be provided as studios. Unit 1 and 3 could be combined to address shortcomings in Unit 1.

3.2.2. The report concluded in a request for Further Information as follows:

1. Basement and ground floor areas should be combined into a single commercial unit. Part of the basement should also be made available for storage/bicycle parking for the above units.
2. The scheme should be amended to provide long-term residential accommodation. Up to 4 no. one bedroom units and 4 no. studio units could be provided. Unit 1 should be reconsidered and an alternative arrangement provided to this space, for example a duplex unit at this level comprising Unit 3 or an ancillary storage/concierge use for the units above.
3. Information required to address bicycle parking needs. Scheme amendments for external doors to open inwards, provision of a Delivery Strategy, and demonstration that the development would have no adverse impact on Luas operation and safety.

3.2.3. The second Planner's Report addressed the Further Information submitted on 4<sup>th</sup> June 2025 and contains the following points of note:

- The extension of the café to basement level is welcomed.
- The failure to provide basement storage/bicycle parking for above units has not been addressed nor has the request for long-term residential use.
- The Applicant's argument that the site/building is not suitable for long-term residential use is not accepted. There are examples of other permissions nearby for long-term residential.
- Conversion to long-term residential is highly favourable. There is a need to balance the demands of the city centre, including the need to provide tourist accommodation. The proposal would result in potential residential uses being lost, meaning less long-term and secure accommodation to meet needs.
- Section 15.14.3 and Policy QHSN7 express a general presumption against the provision of dedicated short term tourist rental accommodation due to the impact on the availability of housing stock.
- Demand for housing accommodation in Dublin is high. The proposal would be inconsistent with Section 15.14.3 and the proposal for short term accommodation would not be considered an appropriate use for the building, which could result in an undesirable precedent for similar development and further loss of potential long-term residential properties.
- The FI response does not fully address cycle parking matters for the café, however, on balance, the provision of two spaces is acceptable and can be secured by condition, recognising the nature of the site, public transport availability, and the city centre location.
- Issues regarding doors opening outwards have been satisfactorily addressed. Whilst a Delivery Strategy wasn't provided, servicing details are partially included in the Luas Operational Safety Compliance Report and notes that operations would comply with all parking and loading restrictions.
- Luas Operational Safety Compliance Report confirms that no element of the works will infringe on the tram's swept path or come within the 2.75m Overhead Conductor System unless explicitly permitted with protective measures in place.

### **3.3. Other Technical Reports**

- 3.3.1. **Drainage Division (05.02.2025):** No objection subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- 3.3.2. **Environmental health (31.01.2025):** Recommend conditions regarding fumes/odours and noise for both the operational and construction stages. A standard 'hours of construction work' condition is also recommended.
- 3.3.3. **Transportation Planning (23.01.2025 and 24.06.2025):** Further information requested regarding cycle parking, external door openings, submission of a Delivery Strategy, and demonstration that the development would have no adverse impact on Luas operation and safety. Following the receipt of Further Information, no objections raised, subject to conditions.

#### 3.4. **Prescribed Bodies**

- 3.4.1. **Transport Infrastructure Ireland (19.12.2025):** No objection. Standard observations/conditions regarding works in proximity to Luas, Construction Method Statement, and Section 49 contributions.

#### 3.5. **Third Party Observations**

- 3.5.1. None.

### 4.0 **Planning History**

#### Subject Site

- 4.1. **Planning Authority Reference 4212/16:** Permission was granted by the Planning Authority in October 2017 for the change of use of the building from retail/retail storage to a 17-bedroom hotel including elevational improvements and the addition of a rooftop penthouse suite with rooftop terrace.

#### Surrounding Area

*38-39 Abbey Street Upper*

- 4.2. **ACP Reference 316120/Planning Authority Reference 5510/22:** Permission was refused by the Commission for the refurbishment and change of use from the

permitted use as storage/office ancillary to restaurant use (but in use as residential) to an aparthotel. The Commission refused permission for the following reason:

*The proposed development for which planning permission is sought differs materially from the existing characteristics of the appeal site and the statutory notice, in that works have already been carried out and are completed. In this regard it is considered inappropriate to grant permission in a circumstance where the statutory description of the proposed development is not consistent with the existing status of the subject site. The proposed development would, therefore, be contrary to proper planning and sustainable development.*

*In deciding not to accept the Inspector's recommendation to dismiss the appeal, the Board shared the concerns raised by the inspector regarding the works that have been completed on site but considered it appropriate to refuse permission rather than dismiss the appeal. The Board noted the Inspector's assessment of the nature of the use of the building, short term versus permanent accommodation, having regard to the substantive reason for refusal the Board decided not to pursue this matter.*

- 4.3. **Planning Authority Reference 4722/23:** Permission was granted by Dublin City Council in May 2024 for revisions to existing elevation at 39 Abbey Street Upper, a new three floor extension at 39 Abbey Street Upper, a new two floor extension and a communal roof terrace at the rear of No. 38, providing 3 no. one bedroom units and 4 no. studio units.

*28 Abbey Street Lower*

- 4.4. **Planning Authority Reference 4500/22:** Permission was granted in November 2022 for the change of use from public house to retail at basement and ground floor level, and to residential at first, second and third floor levels to accommodate 3 no. one bed apartments.

#### **Other Relevant History**

*4 Inns Court, Winetavern Street*

- 4.5. **ACP Reference 318161-23/Planning Authority Reference 4210/23:** The Commission overturned the Planning Authority's decision to refuse permission on a



Z5 zoned site. Permission was granted by the Commission for a change of use from office to short term accommodation.

*4 Ormond Quay Lower*

- 4.6. **Planning Authority Reference 3494/23:** Permission was refused by the Planning Authority in May 2023 for the change of use of a tattoo parlour and residential unit at first floor, and residential unit at second floor, to provide short-term letting accommodation. Permission was refused on the basis that it would result in the permanent loss of two apartments.

*26 Dorset Street Lower*

- 4.7. **Planning Authority Reference WEB1616/24:** Permission was granted by the Planning Authority in January 2025 for the subdivision and change of use of the existing commercial use to provide new retail space and four short term rental studio units.
- 4.8. The Commission's attention is also drawn to the further examples provided by the Planning Authority and the extensive and detailed examples of short-term accommodation sites across Dublin as set out in the Applicant's Appeal Statement. These are on file for the Commissions information. I have considered all relevant examples in my assessment of the proposed development.

## **5.0 Policy Context**

### **5.1. Dublin City Development Plan 2022-2028**

- 5.1.1. The site zoned Z5 – 'City Centre', the objective of which 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. Permissible uses on Z5 zoned lands include Bed & Breakfast, Guesthouse, Hostel (Tourist), Hotel, Live-Work Units, Residential, Student Accommodation.
- 5.1.3. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin

remains competitive as a place to live and invest in. The relevant policies from this chapter include:

- QHSN6 - Urban Consolidation: To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.
- QHSN7 - Upper Floors: To resist and where the opportunity arises, to reverse the loss of residential use on upper floors and actively support proposals that retain or bring upper floors into residential use in order to revitalise the social and physical fabric of the city through measures such as the Living City Initiative. Dublin City Council will actively engage with property owners and other stakeholders at a national level to investigate other alternative measures in addition to the Living City Initiative to expedite bringing upper floors into residential use, and will be actioned by the City Recovery Task Force and its successor.
- QHSN38 - Housing and Apartment Mix: To encourage and foster the creation of attractive, mixed use, sustainable residential communities which contain a wide variety of housing and apartment types, sizes and tenures, in accordance with the Housing Strategy and HNDA, with supporting community facilities and residential amenities. Further detail in regard to unit mix is set out in Chapter 15: Development Standards.

5.1.4. Chapter 6: City and Enterprise, recognises that Dublin is an international city and gateway to the European Union for many businesses. The city region contributes significantly to Ireland's economy and is a major economic driver for the country. The relevant policies from this chapter are:

- CEE14 - Quality of Place.
- CEE26 – Tourism in Dublin: To promote and facilitate tourism as one of the key economic pillars of the city's economy and a major generator of employment and to support the appropriate, balanced provision of tourism facilities and visitor attractions.

- CEE28 - Visitor Accommodation: It is a policy of Dublin City Council to consider applications for additional hotel, tourist hostel and aparthotel development having regard to particular matters.
- CEE01 - Study on the Supply and Demand for Hotels, Aparthotels and Hostels.

5.1.5. Section 6.5.6 relates to Key Economic Sectors where under the heading of Tourism, Hotels and Events, the following is stated in relation to Short Term Accommodation 'there will be a presumption against the use of houses or apartments for short-term lets in all areas of the city.'

5.1.6. Chapter 7: The City Centre, Urban Villages, and Retail, notes that Dublin's village and neighbourhood centres are the heart of their local communities, providing a focus for local activities, allowing sustainable urban living and allowing people access to local shops, services, employment and facilities. The relevant policies of this chapter include:

- CCU23 - Active Uses
- CCUV30 - Cafes/Restaurants

5.1.7. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related CO2 emissions.

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

- BHA11 - Rehabilitation and Reuse of Existing Older Buildings.

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

- Section 15.14 - Commercial Development/ Miscellaneous: Includes separate subsections on 'Hotels and Aparthotels', 'Hotel Development', 'Aparthotels', 'Bed and Breakfast/Guesthouses', and 'Short Term Tourist Rental Accommodation'.
- Section 15.14.3 - Short Term Tourist Rental Accommodation: There is a general presumption against the provision of dedicated short term tourist rental accommodation in the city due to the impact on the availability of housing stock. Applications for Short Term Tourist Rental Accommodation will be considered on a case-by-case basis in certain locations that may not be suitable for standard residential development such as tight urban sites where normal standards or residential amenity may be difficult to achieve. Applications may also be considered in locations adjacent to high concentration of night / time noisy activity where standard residential development would be unsuitable.

5.1.10. Appendix 1 – Housing Strategy:

- Annex 3 to Appendix 1: Dublin City Sub-City HNDA

## **5.2. National Guidelines**

- 5.2.1. Circular PL10/2017 and PL 04/2019 sets out guidance on planning applications for short-term lettings.
- 5.2.2. Circular PL10/2017 seeks the protection of residential rental stock in areas of high housing demand/need. The strategy for the rental sector recognises the issue of potentially significant numbers of properties being withdrawn from the long-term rental market for use for short-term lettings and the negative impact this would have for the supply and availability of residential rental accommodation.
- 5.2.3. Circular PL4/2019. seeks to influence the bringing back of houses and apartments in designated Rent Pressure Zones which are currently being used for short-term letting

purposes to the traditional long-term rental market thereby helping to ease the accommodation shortage pressures currently being experienced in the area.

5.2.4. Further relevant guidance includes:

- Guidance Note for Local Authorities for Regulating Short-Term Letting, July 2019.
- Sustainable Urban Housing: Design Standards for New Apartments, 2023.

### 5.3. **Natural Heritage Designations**

5.3.1. The site is not within or immediately adjacent to any European site. The nearest European Site is the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), c. 2.5km to the north-east.

### 5.4. **EIA Screening**

5.4.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

## 6.0 **The Appeal**

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

6.1.1. A First Party appeal has been received from Hughes Planning and Development Consultants, for and on behalf of the Applicant, 72 Abbey Street Middle Limited, against the decision of Dublin City Council to refuse permission for the change of use to short term visitor accommodation. The grounds of appeal can be summarised as follows:

#### Inappropriate Assessment

- The development has been inappropriately assessed and refused on the basis that an approval results in the loss of the potential use of the building for residential.

- The site is well located for public transport, a full range of services and amenities, and in close proximity to a number of key tourism sites, making it an ideal location for high quality tourist accommodation.
- Layout and operational logic is based on the operation of a 'hotel' as set out under Fáilte Ireland's Hotel Classification Scheme. Service facilities will be provided for the storage of cleaning, bedding, and bathroom materials.
- The accommodation will be under regular supervision by people experienced and trained in hotel management. Printed advice will be provided in each unit.
- Commentary in the Planner's Report effectively states that the PA have refused permission because it would prefer a different use, which sets an undesirable precedent for assessment of future applications.
- The subject site is zoned Z5. Residential is permitted, as are other uses associated with tourist accommodation such as B&Bs, hotels, and hostels. It is unclear if any of these alternative permissible uses would have been dismissed on the basis of the potential loss of residential accommodation.
- The proposed use is permissible in this location, but the PA have assessed it in the context of providing residential accommodation.
- Query the provision of a zoning matrix for an area if the PA can see fit to guide on use over another rather than assessing a scheme on its merits.
- Further Information was sought by the PA to change the proposed use before refusing permission as the Applicant wished for the proposal to be assessed as initially proposed. The manner of assessment is unreasonable.

#### Applicant's Intent and Suitability for Residential Use

- The site has been vacant for more than 20 years and is underutilised. Despite marketing, a commercial tenant cannot be attracted due limited size and floorplates etc.
- Short term visitor accommodation is sought to ensure the site is sustainably used instead of laying idle. Active frontage is retained by commercial at ground floor. Part of the reason the Applicant has not pursued residential is due to financial viability issues.

- Standard residential would not be suitable due to the inability to provide private/communal amenity space due to the restricted nature of the site in conjunction with its architectural quality. Furthermore, residential accommodation would be deficient in terms of floorspace, room widths, dual aspect, cycle and refuse storage.
- Residential units on the site would be close to a high concentration of nighttime noise/noisy activity, as referred to in Section 15.14.3. There would be a low level of residential amenity. This was dismissed by the PA solely on the basis that they have granted permission to other residential uses on the street.
- Provision of standard residential would effectively sterilise the adjoining sites due to the side windows.
- Policy CEE26 seeks to improve the accessibility of tourism infrastructure. The development supports the growth of the tourism industry in Dublin.
- Working habits have reduced demand for office space in the city centre. The proposal also provides accommodation for people travelling to Dublin for a short period of work.
- There is no overconcentration of tourist accommodation in the area, and the proposal has regard to established character.

### Zoning

- Short term accommodation is not defined as a specific use class in the CDP. The Planner considers that it does not accord with the Z5 Objective.
- Short term accommodation is comparable to other tourist accommodation such as B&Bs, hostels, and hotels which are permissible on Z5 land. There are numerous precedent examples for short term accommodation on Z5 zoned lands (full details provided in the Appeal Statement).
- This includes multiple examples where both the PA and the Commission considered short term accommodation to be representative of residential use and/or where it was considered comparable to other tourist accommodation and therefore permissible on Z5 lands.

- The precedents issue clear guidance confirming that short term accommodation is acceptable on Z5 lands and that short term accommodation, regardless of reception/concierge, is comparable to other short term/stay formats.
- Given the limited number of units, it is not necessary to provide reception/concierge facilities as this can be more efficiently undertaken remotely. Daily cleaning visits and weekly management visits would be undertaken on site.

#### Shortage of Visitor Accommodation

- As noted in the CDP, tourism is a central pillar of Dublin's economy, it is the most important overseas tourism destination in the Country and was hard hit by the pandemic.
- The Irish hospitality and tourism sector is facing challenges. Shortage of supply is driving spiralling costs and in turn, a loss of revenue. Many visitors who want to come to Ireland go elsewhere as they cannot find accommodation.
- The Chief Executive of Fáilte Ireland in addressing an Oireachtas Committee stated that the wellbeing of the Irish tourism economy and those that rely on it, need as much tourism accommodation returned to tourism as quickly as possible, noting the pressures resulting from housing displaced persons in visitor accommodation.

#### Impact on Housing Stock

- The development would not result in a loss of residential accommodation. The site is not in use as housing, it has not been in use as housing, and it is not proposed to be used for housing. The proposal would therefore have no impact on housing stock within the city.
- It is not considered financially viable to provide residential use at the site due to costs incurred.
- A change of use to facilitate the proposed development would enhance the vitality of the area.



- There are a number of precedent examples that support the provision of short term/stay accommodation when considered against existing housing stock (full details in the Appeal Statement).
- This includes an example of a retention permission where the PA considered that, rather than representing the loss of a residential unit, the provision of a short-term rental apartment would result in the addition of a residential unit that is suitable for short term lettings.
- Further examples are provided whereby the Commission considered that a change of use to short term rental would not result in the loss of long-term housing, or set a precedent for such, based on the fact that the existing use was not residential to begin with.

## **6.2. Planning Authority Response**

- 6.2.1. Request that the Commission uphold the decision to issue a split decision. If permission is granted, request that Section 48 and Section 49 (Luas X City) development contribution conditions be applied.

## **6.3. Observations**

- 6.3.1. None.

## **7.0 Assessment**

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

- Zoning
- Impact on Housing
- Transport
- Other Matters

## **7.2. Zoning**

- 7.2.1. A key issue raised in the appeal is the compliance with the zoning objective. The Planning Authority have stated that short term accommodation is not specifically listed under the zoning objective and that the development will be considered on its merits.
- 7.2.2. The Applicant contends that the proposed use is permissible in this location and that the Planning Authority's assessment has been inappropriate as it has assessed and refused the development in the context of the provision of residential accommodation and the loss of the potential use of the building for residential purposes, rather than having regard to the zoning matrix and assessing the scheme on its merits.
- 7.2.3. The Applicant highlights a number of examples where the Planning Authority have considered short term accommodation to be in line with the Z5 zoning objective, either on the basis of being comparable to other forms of visitor accommodation or being comparable to residential use. Further examples are provided by the Applicant regarding appeal decisions that indicate that the Commission shares this view and that short term rental would be akin to residential or other forms of visitor accommodation.
- 7.2.4. The proposal is for a change of use from retail/retail storage to retail/café and short term tourist apartments. The site is zoned Z5 'City Centre', the stated objective of which is 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.' Permissible uses café, shops, restaurant, Bed & Breakfast, Guesthouse, Hostel (Tourist), Hotel and Student Accommodation.
- 7.2.5. The zoning objective is explicit that the proposed commercial use (retail/café) is permissible and as such I am satisfied that this use is acceptable on the site. I note that short term tourist accommodation is not listed/defined as a particular use in the zoning matrix. However, in my opinion, short term tourist accommodation is clearly comparable to and compatible with other forms of visitor accommodation such as B&Bs, hostels and hotels and on that basis, I consider it to be a permissible use on Z5 land.
- 7.2.6. I note the concerns raised by the Applicant regarding the manner of assessment by the Planning Authority in terms of the request that the scheme be amended to provide

permanent standard residential accommodation at FI stage and that permission was refused on the basis that the proposal would result in the loss of potential housing.

- 7.2.7. It is not a matter for the Commission to address perceived or actual deficiencies in the Planning Authority's assessment. That being said, it is evident from the Planner's Report that the Planning Authority have expressed a clear preference for the site to be developed for standard residential accommodation. The Further Information request itself could be interpreted as a direction. In my view, the assessment should be based on the provisions of the CDP. For the reasons set out above, I consider that the proposed short term tourist apartments would be in line with the Z5 zoning and as such would be permissible on this site, subject to assessment against normal material planning considerations. Having regard to the adopted policy framework, I do not consider the approach of the Planning Authority to be entirely reasonable and the Planning Authority's preference for standard residential would not outweigh the provisions of the development plan.

### **7.3. Impact on Housing**

- 7.3.1. The crux of the Planning Authority's reason for refusal is that the development would have a negative impact on the city's housing stock as it would result in the loss of potential residential use. It is submitted that the development would not comply with Section 15.14.3 and Policy QHSN7 of the CDP, which express a general presumption against the provision of dedicated short term tourist rental accommodation due to the impact on the availability of housing stock and in the context of existing housing pressures.
- 7.3.2. The Planning Authority argue that the building is suitable for long-term residential use and point to other examples on Abbey Street where they have approved residential. On this basis, the Planning Authority do not accept the Applicant's argument that the site is not suitable for long-term residential use and that the derogation provided in Section 15.14.3 would not apply.
- 7.3.3. The Applicant argues that standard residential units would not be suitable due to the inability to provide private/communal amenity space, and that accommodation would be deficient in terms of floorspace, room widths, dual aspect, cycle and refuse storage. It is also submitted that the units would be subject to high levels of noise, thereby compromising residential amenity.

- 7.3.4. It is submitted by the Applicant that the development would support tourism which is a key element of Dublin's economy, and that it would address shortages in visitor accommodation. The Applicant's position is that the proposal would not result in a loss of residential use as the site is not in use as housing, it has not been in use as housing for a number of decades, and it is not proposed to be used for housing. On that basis, the Applicant contends that the proposal would have no impact on housing stock within the city.
- 7.3.5. To support their argument, the Applicant refers to a case where the Planning Authority considered the provision of a short-term rental apartment to result in the addition of a residential unit that is suitable for short term lettings. The Applicant also refers to further examples whereby the Commission considered that a change of use to short term rental would not result in the loss of long-term housing, or set a precedent for such, based on the fact that the existing use was not residential to begin with.
- 7.3.6. Pressures relating to a shortage of visitor accommodation and the more pressing issues of housing availability are well documented. The Planner's Report refers to Policy QHSN7: Upper Floors. This policy seeks to resist and where the opportunity arises, to reverse the loss of residential use on upper floors and actively support proposals that retain or bring upper floors into residential use in order to revitalise the social and physical fabric of the city through measures such as the Living City Initiative. Whilst I note that the existing building would be retained, there is no active existing or recent residential use on the upper floors of the existing buildings and there would therefore be no loss of accommodation.
- 7.3.7. Section 15.14.3 states that there is a general presumption against the provision of dedicated short term tourist rental accommodation in the city due to the impact on the availability of housing stock. Although vacant, the established use of the building is commercial and there is no evidence that it has ever been in residential use. On that basis I am satisfied that the building does not constitute existing housing stock and that the proposal would not impact on the availability of housing stock or result in a loss of residential accommodation.
- 7.3.8. Section 15.14.3 further states that *'applications for Short Term Tourist Rental Accommodation will be considered on a case by case basis in certain locations that may not be suitable for standard residential development such as tight urban sites*

*where normal standards or residential amenity may be difficult to achieve. Applications may also be considered in locations adjacent to high concentration of night / time noisy activity where standard residential development would be unsuitable’.*

- 7.3.9. The Planning Authority disagree with the Applicant’s contention that the site is unsuitable for residential accommodation and consider that suitable long-term accommodation could be provided on the site, as illustrated by planning approvals 4722/23 and 4500/22. It is the view of the Planning Authority that flexibility can be shown regarding private/communal amenity space, given the range of amenities on offer in the city centre.
- 7.3.10. Whilst I do not disagree with the Planning Authority’s opinion on this matter, I am aware of other similar cases in the city centre whereby the Planning Authority justified the provision of short-term accommodation, at least in part, on the basis that there was limited capacity to provide private or communal open spaces. Furthermore, I would share some of the concerns of the Applicant regarding the quality of accommodation of long-term residential units on this site. My concerns relate to the north facing, single aspect studio units fronting onto Abbey Street Middle. Whilst I accept they may be well lit, they have a single aspect onto a busy city centre street with a tramline. Future residents of these units would have difficulties in ventilating the units during the summer whilst balancing the potential high levels of noise from the street with the windows open. Overall, I have concerns that a satisfactory standard of residential accommodation and amenity could be achieved. Whilst I note the Planning Authority’s concerns regarding Unit 1, I consider it acceptable on balance given the nature of short-term visitor accommodation.
- 7.3.11. I have noted the planning approvals referred to by the Planning Authority for standard residential on Abbey Street and I do not consider them to be comparable. One of the approvals is for dual aspect units whilst the other approval, albeit including some single aspect units, does provide communal amenity space as well as units fronting onto quieter side streets.
- 7.3.12. I acknowledge the very real pressures on housing availability, including demand/shortages, price inflation, the findings of the Dublin Housing Strategy and the location of the site within a rent pressure zone. However, as set out above, the building is not considered to constitute existing housing stock, and the proposals would have

no measurable impact in terms of a loss of housing or the availability of housing. I am satisfied that the proposal is permissible on Z5 zoned lands, that it would be in line with Policy CEE28 in that it will adhere to the wider objective to provide a rich and vibrant range of uses in the city centre and will not represent an unacceptable intensification of activity in the area, and that it would not result in the loss of housing or potential housing.

#### **7.4. Other Matters**

- 7.4.1. Whilst not raised in the appeal, I would note that the proposed elevational amendments and improvements are entirely acceptable, having regard to the buildings NIAH status. I also note that the café at ground floor/basement is somewhat lacking in detail regarding location of the kitchen/back of house space etc. In my view this is a matter that will be finalised once an end user has been secured. In any event, there is sufficient room within the ground floor/basement unit to accommodate the necessary spaces and whilst it would be open to the Commission to request these details either by Further Information or planning conditions, I do not consider that this is warranted in this instance.

#### **8.0 AA Screening**

- 8.1. I have considered the proposal in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in central Dublin on a serviced site located c. 2.5km from the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), which is the nearest European site. The development comprises a change of use from retail and retail storage to retail/cafe and short term rentals, as set out in Section 2.1 of this report. No appropriate assessment issues were raised as part of the appeal. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European site. The reason for this conclusion is as follows:

- The nature and small scale of the works and the location with a serviced urban area.
- The significant separation distance from the nearest European site and lack of connections.

- The screening determination of the Planning Authority.

8.2. I conclude, on the basis of objective information, that the development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and development Act 2000) is not required.

## 9.0 Water Framework Directive

9.1. There are no water courses within the appeal site or immediately surrounding it. The Royal Liffey is approximately 100 metres to the south. The proposed development comprises a change of use with minor external works to the building. No water deterioration concerns were raised in the planning appeal. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

9.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- The nature and scale of the works.
- The location of the site in a serviced urban area, the distance from the nearest water bodies, and the lack of direct hydrological connections.

9.3. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 10.0 Recommendation

- 10.1. I recommend that the Commission GRANT permission for the proposed development, subject to conditions, for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

- 11.1. Having regard to the Z5 'City Centre' zoning pertaining to the site, the provisions of the Dublin City Council Development Plan 2022 - 2028, the long-term vacant nature of the site and extant use of the site for commercial purposes, the design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not significantly detract from the character of the surrounding areas, would not adversely affect existing or future housing stock and would comply with the provisions of the Development Plan in relation to visitor accommodation. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 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 4<sup>th</sup> day of June 2025, 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. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.



**Reason:** To limit the nature of the development to that sought, in the interest of clarity.

3. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

4. The developer shall control odour emissions from the café/restaurant premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

5. The café/restaurant use hereby approved shall not operate outside the hours of 08:00-22:00 Monday to Saturday, or 09:00-21:00 on Sundays and public holidays.

**Reason:** In the interests of amenity.

6. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment and the amenities of properties in the vicinity.

7. Drainage arrangements for the site, including the disposal of surface and foul water, shall comply with the requirements of the planning authority.

**Reason:** In the interests of public health.

8. The development shall comply with the transport requirements of the Planning Authority including the requirement to provide two bike lockers, orderly development, costs and repairs to the public road, and compliance with the Code of Practice.

**Reason:** To ensure a satisfactory standard of development.

9. Prior to the commencement of development, the Developer shall submit an Operational Management Plan to the Planning Authority for written approval.

**Reason:** In the interests of amenity.

10. Notwithstanding the provisions of the Planning and Development regulations 2001 (as amended), no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage or attached to the glazing without the prior grant of permission.

**Reason:** In the interests of visual amenity.

11. The development shall comply with the following requirements of Transport Infrastructure Ireland:

- a) The Developer will be required to apply for a works permit from the Luas Operator by virtue of the Light Railway (Regulation of Works) Bye-laws 2004 (S.I. number 101 of 2004) which regulates works occurring close to the Luas infrastructure in accordance with TII's "Code of engineering practice for works on, near, or adjacent the Luas light rail system". The developer shall be liable for all of TII's costs associated with the removal and reinstatement of Luas related building fixings and infrastructure. The permit application will require prior consultation, facilitated by the Luas operator, Transdev.
- b) Prior to commencement of development, a Demolition and/or Construction Method Statement shall be submitted for the written agreement of the planning authority subject to the written agreement of TII. The method statement shall resolve all Luas interface issues and shall (i) identify all Luas alignment interfaces, (ii) contain a risk

assessment for works associated with the interfaces, and (iii) contain mitigation measures for unacceptably high risks, including vibration and settlement monitoring regime if necessary. The method statement shall be in accordance with TII's "Code of engineering practice for works on, near, or adjacent the Luas light rail system.

- c) Prior to commencement of development, the following plans and details shall be submitted for the written agreement of the planning authority subject to the written agreement of TII: (a) OCS pole protection and safety distances, and / or (b) Existing, temporary and subsequent permanent fixings. The developer shall be liable for all costs associated with the removal and reinstatement of the Luas related infrastructure.
- d) Prior to the commencement of development, the developer shall enter into an access and maintenance agreement with TII.
- e) All works associated with removal, temporary and final instatement of Luas infrastructure are to be undertaken outside of Luas operational hours, under system shutdown and Overhead Conductor System isolation.
- f) All deliveries made to the development site, including during the construction phase, shall be made to limit interference with Luas operations.
- g) The developer shall be responsible for any loss of Luas revenue or any other costs associated with a suspension of passenger services, or alterations to the Luas infrastructure which may arise out of, or as a consequence of, the design, construction or the operation of the development by the development contractors, sub-contractors, their employees or agents or any other related party. Appropriate agreements between TII, Luas Operator and the developer shall be undertaken and completed prior to the commencement of development.
- h) The development shall comply with TII's "Code of engineering practice for works on, near, or adjacent the Luas light rail system.

**Reason:** In the interests of amenity and to minimise disruption/ensure the safe operation of the Luas.

12. 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 Coimisiún 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 made under section 48 of the Act be applied to the permission.

13. 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 Commission 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.

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Terence McLellan  
Senior Planning Inspector

3<sup>rd</sup> November 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ACP-323161-25
<b>Proposed Development Summary</b>	Change of use from retail and retail storage to mixed use building with café and tourist accommodation and all associated site works.
<b>Development Address</b>	72 Middle Abbey Street (site with Frontage to North Lotts to rear) Dublin 1
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input checked="" type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_