

AN BORD PLEANÁLA
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Armstrong Planning

An Bord Pleanála
64 Marlborough Street
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2nd April 2024

**REFERRAL UNDER S.5(3)(a) OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS
AMENDED)
DUBLIN CITY COUNCIL REF: 0050/24**

Dear Sir or Madam

1. INTRODUCTION

We write, under s.5(3)(a) of the Planning and Development Act, 2000 (as amended) (hereafter referred to as 'the Act'), on behalf of our client, Old City Management Limited (with an address c/o Erin Property Management, 49 Clontarf Road, Clontarf, Dublin 3), to refer to An Bord Pleanála, a Declaration on Development and Exempted Development (DCC Ref: 0050/24, Decision Order P2622, decision date 12/03/2024) issued by Dublin City Council (the Council) on 13/03/2024.

1.1. Terms of the Declaration Request

Our Request for a Section 5 Declaration (dated 15th February 2024) asked the Council to address the question of:

Whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is development, and whether it is exempted development.

The above question alone was the matter to be determined - this Section 5 Declaration Request concerned only the use of the site and explicitly did not concern any works.

Our original Section 5 Declaration Request of the Council included an application form and a letter that was accompanied by a location plan and the Enforcement Section's Response to our initial complaint. The full submission pack is attached at Annex 1.



1.2. The Council's Declaration

The Council's Notification of Declaration on Development and Exempted Development (dated 12/03/24) concluded that *"the above proposed development is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning and Development Acts 2000 (as amended)."* A copy of the Council's Declaration is provided at Annex 2.

1.3. The Council's Rationale

The 'Reasons and Considerations' section of the Declaration did not, in fact, set out any reasons for reaching this decision or relevant considerations, but instead paraphrased the Declaration as follows: *"The Planning Authority considers that no development by reason of works or by reason of a material change of use has taken place at this premises and that the continued use of the premises as hotel use is considered exempt from the requirement to seek planning permission."*

The logic underpinning the Council's Declaration is set out in the Planner's Report (provided at Annex 3) and in essence it holds that:

- a) Schedule 2, Part 1 Exempted Development – General, Class 14 states that a change of use as a hotel, to use as a hostel (other than a hostel where care is provided) is exempted development.
- b) Part 2, Article 5 of the Planning and Development Regulations (as amended) defines care as: *" 'care' means personal care, including help with physical, intellectual or social needs."*
- c) No care will be provided to occupants of the rooms.
- d) *"The building will continue operating as a hotel and the provision of short term accommodation for homeless people, in which the rooms are leased on a nightly basis is provided to guests (sic), would not constitute a material change of use for the premises."*
- e) Regular hotel duties shall be provided.
- f) There is unlikely to be an adverse impact on the proposed planning and sustainable development of the area.

This Planning Report failed to have any regard to the case law precedent that we referred to in our Declaration Request, and declined to contend with the arguments we advanced, the main thrust of which is as follows:

- Use as a 'Hotel', use as a 'Hostel (Tourist)' and use as a 'Hostel (Non-Tourist)' are separate and distinct land use categories for the purposes of planning and development control.



- The exempted development provisions of the Planning and Development Regulations allow for a change of use between hotel and hostel (tourist) without the need for planning permission because they provide similar services to similar user groups.
- Hotels and non-tourist hostels provide different services to a different user groups.
- The Development Plan clearly acknowledges the distinction between these two uses. Section 15.13.9 of the Development Plan concerns 'Hostels / Sheltered Accommodation / Family Hubs' and makes explicit reference to 'non-tourist hostel accommodation', connecting it with 'homeless accommodation' and 'social support institutions; and the Development Plan sets out a clear expectation that a planning application would be required for a proposed 'Hostel (Non-Tourist)' use, and sets out a list of requirements to be fulfilled by any prospective applicant.

We deconstruct the Council's rationale in Section 3 below, but first we set out the relevant background and context for the Inspector's information.

2. BACKGROUND AND CONTEXT

2.1. Site Description

The subject site is identified on the accompanying Site Location Map (outlined in red), it measures approximately 0.09 ha and comprises the premises of the former Paramount Hotel, occupying Nos. 7-8, 9 & 10 Exchange Street Upper and Nos. 1, 27-28 & 29-30 Parliament Street, which are amalgamated internally. The site has frontage onto 3 different streets within the Temple Bar Area: Exchange Street Upper; Essex Gate and Parliament Street.

It should be noted that Nos. 9 & 10 Exchange Street Upper, No. 1 as well as Nos. 27 & 28 Parliament Street are all Protected Structures; and that No. 27 Parliament Street is located within an Architectural Conservation Area.

The site was formerly in use as a hotel (for which planning permission was granted), and is currently in use at a hostel (non-tourist) where short-term homeless accommodation is provided (without the benefit of planning permission).

2.2. Site History and Use of the Premises

4598/19 - Planning permission was last approved at the subject site for façade alterations, internal alterations and a change of use at floors 1-5 to hotel bedrooms. This proposal sought an increase in the hotel bedroom count from the previously approved 117 bedrooms (as permitted under application ref. 3778/17) to 122 bedrooms over 6 storeys. This permission does not appear to have yet been implemented.

3778/17 - Planning permission was approved for the refurbishment and extension of the Paramount Hotel. The development description and submitted planning documents clearly indicate that this application involved works to an existing hotel.



There are no other files available on the electronic register to reveal when the hotel was first established but it was offered for sale as a going concern in 2015 when it was already an established three-star commercial hotel with an overall floor area of 3,800 sqm including two floors used as a bar, restaurant and music venue. The Paramount Hotel was in use as a hotel that was open to tourists and visiting members of the public until December 2019, when it closed its doors to the public. Our investigations reveal that no food & beverage offerings have been available to the general public since early 2020, and that the Turk's Head public house, which forms part of the subject site and is connected to the hotel use, has been closed since January 2020. Paramount Hotel was not available for booking by members of the public for hotel accommodation when we made enquiries in October 2023 – Our investigations clearly indicated that the 'commercial hotel' use had been abandoned.

We understand that the Peter McVerry Trust (a housing and homeless charity, as well as an approved housing body) acquired a lease on the property circa April 2021. The premises have been used thereafter as a hostel (non-tourist) where care or short-term homeless accommodation is provided. Our investigations in Q3 of 2023 involved discussions with staff at the Peter McVerry Trust and revealed that the Paramount was the subject of a contract with Dublin City Council/Dublin Regional Homeless Executive for the express purpose of accommodating homeless people and providing temporary emergency accommodation for recovering drug addicts for periods of up to 6 months individually (with an option of extending that period with the agreement of the Council). We were also informed by the Trust that the Paramount was being operated as a 'medium threshold service' with a mix of people at different stages in their drug recovery programme, and that social care staff were on-site at the Paramount 24/7, providing care to residents dealing with addiction.

We understand that the Peter McVerry Trust have recently exited the aforementioned lease, and that the premises remain in use to this day as a Hostel (Non-Tourist) where short-term homeless accommodation is provided under the aegis of DCC/Dublin Regional Homeless Executive.

2.3. Complaint to the Council's Enforcement Section

A complaint was lodged with DCC's Enforcement Section (dated 20/10/2023) alerting the Council to the fact that a material change of use had occurred at the Paramount without the benefit of planning permission. The response of the Enforcement Section (dated 18/12/2023) concluded that: *"Recent investigations & inspection carried out by the area enforcement officer revealed that the above premises, a hotel, is currently in use providing accommodation to persons. There has been no deviation from the approved use and consequently it is intended to close this file with no further action."*

In the first instance, we note this response failed to address the central query of whether a material change of use has occurred at the subject site and instead deployed alternative wording relating to whether a 'deviation from an approved use' has occurred.

Secondly, the conclusion that *"there has been no deviation from the approved use (i.e. hotel use)"* drawn to by the Enforcement Section was predicated on its understanding that a 'hotel'

is merely a premises 'providing accommodation to persons'. We would point out that B&Bs, guesthouses, homeless shelters, family dwellings, student housing and shared living schemes (among other land use categories) all provide accommodation to persons yet are not considered hotels. Any change of use between any of these categories should be considered a material change of use and would therefore be considered 'development' for the purposes of the Act. We maintain that the position of the Enforcement Section was flagrantly wrong and amounted to flawed logical reasoning.

3. DECONSTRUCTION OF THE RATIONALE IN THE DECLARATION

The position of the Council in their Enforcement Response was that a material change has not occurred because the Paramount "*continues to provide accommodation to persons*". This position evolved somewhat in the Section 5 Declaration where it is maintained that no material change of use has occurred because rooms are leased on a nightly basis to guests who happen to be homeless, that hotel duties continue to be provided, that no care is provided to occupants, and that there is unlikely to be an adverse impact on the proper planning and sustainable development of the area. We counter each of these arguments in the sections below.

3.1. The Question of Whether 'Care' is Provided

In the first instance, it must be noted that the Planner's Report has clearly misinterpreted the 'Terms of our Declaration Request', and claims in that section of the report that "*The applicant wishes to clarify whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care for short-term homeless accommodation is provided' is development, or whether it is exempted development.*" In fact, we requested the Council to determine whether the change of use to use as a hostel (non tourist) where care or short-term homeless accommodation is provided is development. Misinterpreting our request in this way has permitted the Council to predicate its assessment on the question of whether care is provided at the premises, and avoid the question of whether the use of the premises for homeless accommodation amounts to a material change of use.

The Planner's Report records the submissions from the owner of the Paramount Hotel who claims that "*No element of care, be it social, physical or emotional will be provided to guests.*" Accepting this, the Planner's Report maintains that no care is provided to occupants and accordingly concludes that no material change of use has occurred at the Paramount in light of Class 14 of the Regulations, which exempts a change of use from hotel to hostel (other than a hostel where care is provided).

Both the Council and the owner of the Paramount have been careful to argue that no care is provided at the premises, despite our investigations back in Q3 of 2023 revealing that the Peter McVerry Trust operated a medium threshold service from the premises (at that time) providing temporary emergency accommodation for recovering drug addicts for periods of up to 6 months individually and that social care staff were on-site 24/7, providing care to residents dealing with addiction.

Crucially, we would point out that the question of whether drug rehabilitation, psychological, intellectual, physical or medical care is provided is irrelevant. Part 2, Article 5 of the Regulations defines “care” as meaning “*personal care, including help with physical, intellectual or social needs*”. It must be acknowledged that accommodation for the homeless is a ‘social need’, and that the provision of homeless accommodation is ‘providing care’ irrespective of whether or not other support services are provided on-site. A hostel for the homeless meets a social need, and is an essential component of social care.

In relying on Class 14 to consider the change of use exempt, the Council must deny that homeless accommodation is a social care issue, which is an absurd position given the numerous governmental documents published over the years that seek to address homelessness and specifically refer to the issue as a social need, recognising the need for social care interventions to address homelessness effectively.

- ‘A Key to the Door, The Homeless Agency Partnership Action Plan on Homelessness in Dublin 2007-2010’ stated that “*as part of Towards 2016, the Government has accepted the NESC recommendation that an additional 73,000 social housing units be provided nationally between 2005 and 2012 to meet social need*”.
- ‘Housing Access for All, An Analysis of Housing Strategies and Homeless Action Plans’ lists priority recommendations for early action and advises that “*the Department should issue guidance to local authorities giving social rental housing priority over affordable purchase housing where there exists unmet social need*.” And concludes that “*General access to suitable and appropriate housing for all, regardless of social status, must be made the central priority, which in turn demands due attention of the practical steps needed to realise this vision in terms of homeless provision and social need*.”
- The Health Act 2004 primarily focuses on the provision and regulation of health and social care services, and explicitly recognises the importance of housing in supporting the health and well-being of individuals.
- Housing (Miscellaneous Provisions) Act 1997 addresses emergency accommodation for homeless individuals and acknowledges the role of social care in supporting homeless people.
- The Government’s ‘Rebuilding Ireland Action Plan for Housing and Homelessness’ includes targets for increasing the supply of social and affordable housing, preventing homelessness, and improving the provision of support services.

Overall, addressing homelessness in Ireland involves a comprehensive social care approach that encompasses the provision of accommodation and support services. By contrast, hotels and tourist hostels provide accommodation to paying guests meeting a commercial need, not a social need.

In summary, the logic underpinning the Council's Declaration holds that there is no material change of use because no care will be provided to occupants of the rooms. This logic is inherently flawed as the homeless accommodation being provided meets a social need and is a form of 'care', and therefore conforms to the definition of 'care' in the Regulations, meaning that the change of use cannot be considered exempt under Class 14.

3.2. Whether Regular Hotel Services are Provided – Distinction Between Hotel and Hostel (Non Tourist) Use

The Planner's Report maintains that the building will continue operating as a hotel and that regular hotel duties shall be provided. We find this hard to accept as typical hotel services such as restaurant and bar facilities, concierge, conference room and laundry services and a minibar are not typically associated with homeless shelters. We submit that hotels and non-tourist hostels provide different services to a different user groups, the former is operated on a commercial basis and the latter is operated on a non-commercial basis. The table below sets out a range of distinguishing features that are commonly understood to typify hotels and non-tourist hostels respectively.

Table 1. Comparative services and user groups as per Hotel and Hostel (Non-Tourist) Uses.

Hotel	Hostel (Non-Tourist)
Operated on a commercial basis.	Operated on a non-commercial basis.
Providing accommodation (predominantly overnight and short-term) for paying guests.	Operated as a social service
Catering to specific user groups (predominantly tourists, visitors and working professionals on business trips).	Provides emergency accommodation (predominantly short and medium term) to specific disadvantaged user groups (including the homeless persons, homeless families, recovering addicts and people in need of care).
Professionally managed.	Run by non-profit organisations.
Run for profit.	On-site social care provided.
Licenced to serve alcohol.	
Ancillary restaurant facilities.	
Ancillary bar.	
Ancillary meeting room facilities.	
Ancillary conference room.	
Ancillary function room	
In-room minibar.	



Concierge service.	
Laundry service.	
Wake-up call service.	
Provides publicly accessible facilities	

Examining a given premises against this table should give a clear indication of the use of that premises. If we were to examine the Paramount Hotel circa 2018 it would exhibit all or nearly all of the characteristics listed in the 'Hotel' column, and if we were to repeat the exercise today we would find that the Paramount now exhibits all or nearly all of the characteristics set out under the 'Hostel (Non-Tourist)' column, and few if any of the characteristics of the former column.

There can be no dispute that a 'Hotel' use is clearly distinct from a 'Hostel (Non-Tourist)' use (as is clear from table 1 above) in that the former is a professionally managed commercial enterprise that is run for profit, that predominantly caters to tourists and visitors; whereas the latter is a social service operated by non-profit organisations such as charities, housing bodies or regional homeless executives, offering homeless accommodation services to specific disadvantaged user groups, such as the homeless, persons with dependencies, or people in need of care. The current occupants of the Paramount do not pay for their accommodation, it is the Dublin Homeless Executive that remunerates the owner of the Paramount. The Planner's Report records the submission of the owner and admits that the property owner has a contract in place with Dublin City Council/ Dublin Regional Homeless Executive for the provision of short-term accommodation for homeless persons.

The Development Plan clearly distinguishes between the commercial nature of Hotel and Tourist Hostel accommodation and social need provided by Non-tourist Hostels, and clearly sets out an expectation that requiring planning permission is required for changing between these uses. We set out relevant development plan policies and land-use definitions below.

Use as a 'Hotel'

Section 1.0 of Appendix 15 to the Development Plan describes 'Land-Use Definitions' and specifically defines a 'Hotel' as follows: *"Hotel - A building, or part thereof, where sleeping accommodation, meals and other refreshments and entertainment, conference facilities, etc., are available to residents and non-residents, and where there is a minimum of twenty rooms en-suite. Function rooms may also be incorporated as part of the use."*

The commercial nature of a 'hotel' and its integral role in catering to visitors and tourists is acknowledged under Section 15.14 of the Development Plan, which concerns 'Commercial Development/Miscellaneous'. Subsection 15.14.1 sets out the Council's policy in relation to 'Hotels and Aparthotels' specifically, and seeks: *"To ensure a balance is achieved between the requirement to provide for adequate levels of visitor accommodation and other uses in the*



city such as residential, social, cultural and economic uses, there will be a general presumption against an overconcentration of hotels and aparthotels."

Sub-section 15.14.1.1 of the Development Plan is also under the general category of 'Commercial Development' and concerns 'Hotel Development' specifically and states that: *"Hotel developments are encouraged to provide for publicly accessible facilities such as café, restaurant and bar uses to generate activity at street level throughout the day and night."*

Section 6.5.6 of the Development Plan concerns 'Key Economic Sectors' including the 'Tourism, Hotels and Events' sector. This section clearly connects hotel use to visitors and the economic sector and reads as follows: *"towards the end of the last Development Plan period, the city saw numerous applications for the development of new hotels and for the expansion of existing hotels in the city... such development is to be welcomed in that it provides for much needed additional accommodation for tourists visiting the city..."*

Use as a 'Hostel (Tourist)'

Section 1.0 of Appendix 15 to the Development Plan sets out the land-use definition of 'Hostel (Tourist)' and makes a clear distinction between the commercial nature of a 'Hostel (Tourist)' use and the social care aspect of a 'Hostel (Non-Tourist) where care or short term homeless accommodation is provided', defining the former as follows: *"Hostel (Tourist) - A building, or part thereof, which would provide meals/ refreshments, sleeping accommodation and entertainment to residents/ tourists only, and is other than a hostel where care or short term homeless accommodation is provided."*

It is important to note that the Development Plan's own land use definitions explicitly distinguish between a tourist hostel and a hostel where short term homeless accommodation is provided.

Use as a 'Hostel (Non-Tourist)'

Section 1.0 of Appendix 15 to the Development Plan (as referenced above) does not include 'Hostel (Non-Tourist)' in its list of Land-Use Definitions, it does, however, define 'Buildings for the Health, Safety or Welfare of the Public' as follows: ***"Buildings for the Health, Safety or Welfare of the Public - Use of a building, or part thereof, as a health centre or clinic or for the provision of any medical or health services (but not the use of a house of a consultant or practitioner; or any building attached to the house or within the curtilage thereof, for that purpose), hospital, nursing home, day centre and any other building for:***

- *The provision of residential accommodation and care to people in need of care (but not the use of a dwelling for that purpose)*
- *The use as a residential school, college or training centre."*

We say that this Land-Use Definition is relevant in the case of our Section 5 Declaration Request, as the term 'Buildings for the Health Safety or Welfare of the Public' specifically includes *"the*

provision of residential accommodation and care to people in need of care”, which should include ‘Hostels (Non-Tourist)’.

Section 15.13.9 of the Development Plan concerns ‘Hostels / Sheltered Accommodation / Family Hubs’ and makes explicit reference to ‘non-tourist hostel accommodation’, connecting it with ‘homeless accommodation’ and ‘social support institutions’. It reads as follows: “*An over-concentration of non-tourist hostel accommodation, homeless accommodation, social support institutions and family hubs can potentially undermine the sustainability of a neighbourhood* and so there must be an appropriate balance in the further provision of such developments and/or expansion of such existing uses in electoral wards which already accommodate a disproportionate quantum. Accordingly, there shall be an onus on all applicants to indicate that any proposal such development will not result in an undue concentration of such uses, nor undermine the existing local economy, the resident community, the residential amenity, or the regeneration of the area. All such applications for such uses shall include the following:

- *A map of all homeless and other social support services within a 750 m radius of application site.*
- *A statement on catchment area, i.e. whether proposal is to serve local or regional demand and estimation of expected daily clients.*
- *A statement regarding security and operational management of the service/facility including hours of operation.*
- *Assessment of the impact on the public realm and quality environment.*

Conditions may be attached to a grant of permission limiting the duration of the permission and the use on a temporary basis.”

This section of the Development Plan sets out a clear expectation that a planning application would be required for a proposed ‘Hostel (Non-Tourist)’ use, and sets out a list of requirements to be fulfilled by any prospective applicant (see bullet points in the quotation above).

Policy Objective QHSN28 of the Development Plan also indicates that a planning application should be required for any proposals for such a use, it concerns ‘Temporary Homeless Accommodation and Support Services’ and seeks: “*To ensure that all proposals to provide or extend temporary homeless accommodation or support services shall be supported by information demonstrating that the proposal would not result in an undue concentration of such uses nor undermine the existing local economy, resident community or regeneration of an area. All such applications shall include: a map of all homeless services within a 750 metre radius of the application site, a statement on the catchment area identifying whether the proposal is to serve local or regional demand; and a statement regarding management of the service/facility.”*

Conclusion

From examining the definitions set out above, and the treatment of each use category in Development Plan policy, it should be abundantly clear that the Development Plan appreciates the distinction between hotels/tourist hostel meeting a commercial need and non-tourist hostel meeting a social need.

4. WHETHER THE CHANGE OF USE WOULD IMPACT ON THE PROPER PLANNING AND SUSTAINABLE DEVELOPMENT OF THE AREA – THE QUESTION OF WHETHER A MATERIAL CHANGE OF USE HAS OCCURRED

Section 3 of the Act requires that in order for change of use to constitute development, it must be a material change of use. Case law has determined that a change of use is material if the character of the first use is substantially different, in planning terms, from the proposed use and if the proposed use would impact on the proper planning and sustainable development of the area.

The Planner's Report maintains that giving over the hotel to homeless accommodation is unlikely to result in an adverse impact on the proper planning and sustainable development of the area. We dispute this claim and would point out that homeless people often have a complex range of specific needs for various reasons. As mentioned above, DCC and the owner of the Paramount have indicated that no support services are provided at the premises. We submit that the provision of homeless accommodation (a form of care that meets a social need), without sufficient support services for occupants, is more likely to affect the demand for services in the area and to impact on proper planning and sustainable development, with implications for social cohesion, law and order, public health and local enterprise. Our clients and local business owners have detailed numerous instances of significant egregious anti-social behaviour directly related to the homeless shelter at the Paramount, including shop-lifting, theft, physical and threatening behaviour, drug dealing, drug taking, defecating and urinating in doorways, and shouting from windows at unsocial hours; with ambulances, fire tenders and police cars being called to the premises on a regular basis.

Furthermore, we would point out that the Planner's Report did not address the question of whether the character of the first use is substantially different in planning terms. We have clearly shown in the section above that 'Hotel' use and 'Hostel (Non-Tourist)' use are separate land use categories with different profiles, offering different services to different user groups. We submit that the difference between these uses is substantial in planning terms and has potential impacts on planning considerations. Hotels generally provides facilities such as conference facilities, restaurant, bar to non-residents. This gives rise to planning considerations such as traffic movements, and pedestrian movements to and from the premises, which contribute to encouraging a more vibrant streetscape particularly in a town centre. The loss of such services may have a negative impact on the existing townscape and as such is a planning consideration, and therefore could be considered material. Similarly, the group of people that the non-tourist hostel caters for can affect the demand for local services and facilities in the immediate area and gives rise to material planning considerations that distinguish between 'hotel' and 'hostel' applications.

We acknowledge the Council's humanitarian obligation to provide suitable emergency accommodation to those in need, however this does not remove the legal requirement for the proper planning permission to be in place, observing due process (including public consultation).

Temporary homeless accommodation can be provided in a number of ways including at a Hostel (Non-Tourist), a homeless shelter or at a 'Building for the health, safety or welfare of the public'. We acknowledge that a non-profit organisation such as the Dublin Homeless Executive could also arrange for some individual homeless persons to be accommodated temporarily at an existing hotel or commercial hostel (tourist hostel) without effecting a material change of use. However, depending on the intensity of that use (i.e. the number of homeless people accommodated within a single planning unit and the proportion of homeless persons to standard paying tourists/visitors), there would be a point at which a material change of use would be deemed to have occurred. If a hotel is completely or predominantly taken over for use providing homeless accommodation to homeless persons then it ceases to be a hotel by definition. The question of whether a material change of use has occurred is a matter of fact and degree, and has been explored in depth in planning case law.

In **ABP-308540-20** the Inspector addressed the question of 'whether the change of use from residential use to a hostel for homeless accommodation is or is not development or is or is not exempted development' and found that: *"The development constitutes a change of use between two classes, from the former use (residential) to its current use for the provision of residential accommodation and care to people in need of care (Class 9 of Part 4 of the 2nd Schedule), which in my opinion is a material change of use by reason of providing a different service (homeless accommodation) to a different user group (homeless persons)."* This logic equally applies to the case of the Paramount where the former use as a hotel and the current use as a non-tourist hostel involve the provision of different services to different user groups, as shown in table 1 above.

In **ABP-307064-20** the Board decided that the change of use of Westbrook House (Ennis, Co. Clare) from commercial guesthouse to a homeless persons hostel managed by an approved housing body was development and was not exempted development. In this case the Board found that: *"Westbrook House is in use as independent living accommodation for individuals who have some degree of vulnerability and risk of homelessness and who are transitioning to permanent independent living accommodation with the benefit of support and assistance from housing agency staff."* The Board ultimately found that this use: *"would not come within the meaning of a commercial guesthouse as it is operated by a housing agency on a non-commercial basis."*

It should be clear from the above that use as hotel and use as hostel (non-tourist) where care or short term homeless accommodation is provided, are distinct planning uses, and that a change of use from one to the other should be considered 'Development'. In fact, Policy QHSN29 of the Development Plan concerns 'Temporary Accommodation Located in the City Centre' and acknowledges the mechanism of adapting tourist hostels and hotels for use as

temporary/homeless accommodation, and sets out a presumption against such proposals in Dublin 1, 7 & 8.

In the case of the Paramount, the lease was taken over by a non-profit organisation, and was entirely put to use providing homeless accommodation, the hotel facilities were closed to the public. The scale and intensity of that change of use should certainly amount to a material change of use, and is therefore 'Development'.

5. WHETHER IT IS EXEMPTED DEVELOPMENT

Article 10 of the Regulations provides that *"development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempt development for the purposes of the Act."* Within Part 4, Class 6 specifically includes a 'guest house' and a 'hostel (other than where care is provided)', meaning that a change of use from a guest house to a hostel (tourist) is exempted development, but a change of use from a guest house to a hostel where care is provided is not exempted development. There is no class that provides for a hotel use and as such there is no mechanism by which one could argue that the change of use from a hotel to a hostel is exempted development under Article 10.

Schedule 2, Part 1 Exempted Development – General, Class 14 states that a change of use as a hotel, to use as a hostel (other than a hostel where care is provided) is exempted development. We have shown that homeless accommodation is a social need and therefore meets the definition of 'care' under Part 2, Article 5 of the Regulations, meaning that the change of use for a hotel to hostel providing homeless accommodation is not exempt irrespective of whether or not other support services are provided on-site.

The current use (meeting a social need) therefore constitutes a change of use from the permitted use (meeting a commercial need), which is a material change of use by reason of providing a different service to a different user group; this material change of use would not come within the scope of article 10(1) of the Regulations, as it does not constitute a change of use within any one class, nor does it come within the scope of Schedule 2, Part 1, Class 14, and cannot be considered Exempted Development.

There are no other exemptions available for this material change of use within existing legislation.

6. CONCLUSION AND SUMMARY

The purpose of the Section 5 Declaration Request was not to determine the acceptability or otherwise of the matters raised in respect of the proper planning and sustainable development of the area, but rather to ascertain whether or not the matter in question constitutes development, and if so, whether it falls within the scope of exempted development within the meaning of the relevant legislation.

We have shown the following:



- The permitted use of the Paramount was use as a hotel.
- The current use of the premises is use as a homeless shelter or hostel (non-tourist) where care or short-term homeless accommodation is provided.
- Homeless accommodation is itself a social need and a social care issue, and conforms to the definition of 'care' in the Regulations.
- A 'Hostel (Tourist)' and a homeless shelter or 'Hostel (Not Tourist)' are distinct land use categories, and while a change of use from a Hotel to the former is exempt under Class 14, a change of use from Hotel to the latter is not covered under Class 14.
- 'Hotel' use and 'Hostel (Non-Tourist)' use are separate land use categories with different profiles, offering different services to different user groups; the former is operated on a commercial basis, the latter is operated on a non-commercial basis.
- The difference between these uses is substantial in planning terms and has potential impacts on planning considerations.
- Change between these uses should therefore be considered a material change of use and is therefore 'Development'.
- There are no exemptions applicable to the change of use that has occurred, which should be considered development requiring planning permission and not 'Exempted Development'

We trust the Board has sufficient information to reach a decision on this referral, and we look forward to a decision on the matter in due course. We respectfully ask that all correspondence be directed to Armstrong Planning at 12 Clarinda Park North, Dún Laoghaire, Co. Dublin, A96 V6F9.

Yours faithfully,

DAVID ARMSTRONG BA MRUP MRTPI MIPI

For and on behalf of Armstrong Planning Ltd
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Annex 1

Section 5 Declaration Request

DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT

SECTION 5 APPLICATION FORM



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

NAME OF APPLICANT: Old City Management Limited

ADDRESS OF APPLICANT: Erin Property Management, 49 Clontarf Road, Clontarf, Dublin 3

EMAIL ADDRESS: [REDACTED]

TELEPHONE NO. Day: _____ Mobile: [REDACTED]

NAME OF AGENT AND AGENT'S ADDRESS: Armstrong Planning Ltd, 12 Clarinda Park North,
Dún Laoghaire, Co. Dublin, A96 V6F9

TELEPHONE NO. Day: _____ Mobile: [REDACTED]

ADDRESS FOR CORRESPONDENCE (if different from above)

Armstrong Planning Ltd, 12 Clarinda Park North, Dún Laoghaire, Co. Dublin, A96 V6F9

LOCATION OF SUBJECT SITE: Paramount Hotel, Nos. 7-8, 9 & 10 Exchange Street Upper and
Nos. 1, 27-28 & 29-30 Parliament Street, Dublin 2

Is this a Protected Structure or within the curtilage of a Protected Structure?

Yes ✓

No

**Please provide details of works (where applicable) or proposed development.
(Note: only works listed and described under this section will be assessed under this
Section 5 application). Use additional sheets if required.**

Whether the change of use at the Paramount Hotel from use as a 'hotel' to use
as a 'hostel (non-tourist) where care or short-term homeless accommodation is
provided' is development, and whether it is exempted development.

List of plans, drawings etc. submitted with this application

Site Location Map and Cover Letter

Please state Applicant's interest in this site: Neighbour impacted by the change of use

If applicant is not owner of site, please provide name & address of owner:

Ampbay Limited; Address: The Paramount Hotel, 27-30 Parliament Street, Dublin 2, DP90

Are you aware of any enforcement proceedings connected to this site? *If so please supply details:*

N/A

Where there previous planning application/s on this site?

Yes ☒

No

If so please supply details:

Planning Ref: 4260/23

Signed: 

Date: 15/02/2024

NOTES

Application shall be accompanied by 2 copies of site location map with site clearly outlined in red and a fee of €80.00. Please submit 2 copies of any additional plans/reports etc. you may wish to include as part of the application.

Application shall be forwarded to: Dublin City Council, Planning Registry
Section, Block 4, Floor 0, Civic Offices, Wood Quay, Dublin 8.

Contact Details: Phone: 01 222 2149 Fax: 01 222 2675



Armstrong Planning

The Planning Department
Dublin City Council
Civic Offices
Wood Quay
Dublin 8
D08 RF3F

15th February 2024

Dear Sir or Madam

**RE: SECTION 5 DECLARATION REQUEST IN RELATION TO A CHANGE OF USE AT THE
PARAMOUNT HOTEL, DUBLIN 2**

I write on behalf of my client, Old City Management Limited (with an address c/o Erin Property Management, 49 Clontarf Road, Clontarf, Dublin 3) to request, under Section 5 of the Planning and Development Act, 2000 (as amended) (hereafter referred to as 'the Act'), a Declaration on the question of:

Whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is development, and whether it is exempted development.

The above questions alone are the matters to be determined - this Section 5 Declaration Request concerns only the use of the site and does not concern any works.

Site Description

The subject site is identified on the accompanying Site Location Map (outlined in red), it measures approximately 0.09 ha and comprises the premises of the former Paramount Hotel, occupying Nos. 7-8, 9 & 10 Exchange Street Upper and Nos. 1, 27-28 & 29-30 Parliament Street, which are amalgamated internally. The site has frontage onto 3 different streets within the Temple Bar Area: Exchange Street Upper; Essex Gate and Parliament Street.

It should be noted that Nos. 9 & 10 Exchange Street Upper, No. 1 as well as Nos. 27 & 28 Parliament Street are all Protected Structures; and that No. 27 Parliament Street is located within an Architectural Conservation Area.

The site was formerly in use as a hotel (for which planning permission was granted), and is currently in use at a hostel (non-tourist) where care or short-term homeless accommodation is provided (without the benefit of planning permission).



Site History and Use of the Premises

4598/19 - Planning permission was last approved at the subject site for façade alterations, internal alterations and a change of use at floors 1-5 to hotel bedrooms. This proposal sought an increase in the hotel bedroom count from the previously approved 117 bedrooms (as permitted under application ref. 3778/17) to 122 bedrooms over 6 storeys. This permission does not appear to have yet been implemented.

3778/17 - Planning permission was approved for the refurbishment and extension of the Paramount Hotel. The development description and submitted planning documents clearly indicate that this application involved works to an existing hotel.

There are no other files available on the electronic register to reveal when the hotel was first established but it was offered for sale as a going concern in 2015 when it was already an established three-star commercial hotel with an overall floor area of 3,800 sqm including two floors used as a bar, restaurant and music venue. The Paramount Hotel was in use as a hotel that was open to tourists and visiting members of the public until December 2019, when it closed its doors to the public. Our investigations reveal that no food & beverage offerings have been available to the general public since early 2020, and that the Turk's Head public house, which forms part of the subject site and is connected to the hotel use, has been closed since January 2020. Paramount Hotel was not available for booking by members of the public for hotel accommodation when we made enquiries in October 2023 – Our investigations clearly indicated that the 'commercial hotel' use had been abandoned.

We understand that the Peter McVerry Trust (a housing and homeless charity, as well as an approved housing body) acquired a lease on the property circa April 2021. The premises have been used thereafter as a hostel (non-tourist) where care or short-term homeless accommodation is provided. Our investigations in Q3 of 2023 involved discussions with staff at the Peter McVerry Trust and revealed that the Paramount was the subject of a contract with Dublin City Council/Dublin Regional Homeless Executive for the express purpose of accommodating homeless people and providing temporary emergency accommodation for recovering drug addicts for periods of up to 6 months individually (with an option of extending that period with the agreement of the Council). We were also informed by the Trust that the Paramount was being operated as a 'medium threshold service' with a mix of people at different stages in their drug recovery programme, and that social care staff were on-site at the Paramount 24/7, providing care to residents dealing with addiction.

We understand that the Peter McVerry Trust have recently exited the aforementioned lease, and that the premises remain in use to this day as a Hostel (Non-Tourist) where care or short-term homeless accommodation is provided under the aegis of DCC/Dublin Regional Homeless Executive.

Complaint to the Council's Enforcement Section

A complaint was lodged with DCC's Enforcement Section (dated 20/10/2024) alleging that a material change of use had occurred at the Paramount without the benefit of planning



permission. The response of the Enforcement Section (dated 18/12/2023) (attached at Appendix 2) concluded that:

"Recent investigations & inspection carried out by the area enforcement officer revealed that the above premises, a hotel, is currently in use providing accommodation to persons. There has been no deviation from the approved use and consequently it is intended to close this file with no further action."

In the first instance, we note this response failed to address the central query of whether a material change of use has occurred at the subject site and instead deployed alternative wording relating to whether a deviation from an approved use has occurred.

Secondly, the conclusion that *"there has been no deviation from the approved use (i.e. hotel use)"* drawn to by the Enforcement Section is predicated on its understanding that a 'hotel' is merely a premises that provides accommodation to persons. We would point out that B&Bs, guesthouses, homeless shelters, family dwellings, student housing and shared living schemes (among other land use categories) all provide accommodation to persons yet are not considered hotels. Any change of use between any of these categories should be considered a material change of use and would therefore be considered 'development' for the purposes of the Act. The position of the Enforcement Section is flagrantly wrong and amounts to flawed logical reasoning.

We will show below that such a contention demonstrates an inaccurate and incomplete understanding of certain policy objectives of the Dublin City Council Development Plan (2022-2028) (the Development Plan), and of specific use classes of the Planning and Development Regulations, 2001 (as amended) (the Regulations), as well as of the land-use definitions that are set out in the Council's own Development Plan.

Distinctions Between Land Use Categories

It must be acknowledged that (i) Use as a 'Hotel' and (ii) Use as a 'Hostel (Tourist)' and (iii) Use as a 'Hostel (Non-Tourist) where care or short-term homeless accommodation is provided' are separate and distinct land use categories for the purposes of planning and development control.

(i) Use as a 'Hotel'

We note that Section 1.0 of Appendix 15 to the Development Plan describes 'Land-Use Definitions' and specifically defines a 'Hotel' as follows:

"Hotel - A building, or part thereof, where sleeping accommodation, meals and other refreshments and entertainment, conference facilities, etc., are available to residents and non-residents, and where there is a minimum of twenty rooms en-suite. Function rooms may also be incorporated as part of the use."



The commercial nature of a 'hotel' and its integral role in catering to visitors and tourists is acknowledged under Section 15.14 of the Development Plan, which concerns 'Commercial Development/Miscellaneous'. Subsection 15.14.1 sets out the Council's policy in relation to 'Hotels and Aparthotels' specifically, and seeks:

"To ensure a balance is achieved between the requirement to provide for adequate levels of visitor accommodation and other uses in the city such as residential, social, cultural and economic uses, there will be a general presumption against an overconcentration of hotels and aparthotels."

Sub-section 15.14.1.1 of the Development Plan is also under the general category of 'Commercial Development' and concerns 'Hotel Development' specifically and states that:

"Hotel developments are encouraged to provide for publicly accessible facilities such as café, restaurant and bar uses to generate activity at street level throughout the day and night."

Section 6.5.6 of the Development Plan concerns 'Key Economic Sectors' including the 'Tourism, Hotels and Events' sector. This section clearly connects hotel use to visitors and the economic sector and reads as follows:

"towards the end of the last Development Plan period, the city saw numerous applications for the development of new hotels and for the expansion of existing hotels in the city... such development is to be welcomed in that it provides for much needed additional accommodation for tourists visiting the city..."

(ii) Use as a 'Hostel (Tourist)'

Section 1.0 of Appendix 15 to the Development Plan sets out the land-use definition of 'Hostel (Tourist)' and makes a clear distinction between the commercial nature of a 'Hostel (Tourist)' use and the social care aspect of a 'Hostel (Non-Tourist) where care or short term homeless accommodation is provided', defining the former as follows:

***"Hostel (Tourist)** - A building, or part thereof, which would provide meals/ refreshments, sleeping accommodation and entertainment to residents/ tourists only, and is other than a hostel where care or short term homeless accommodation is provided."*

Class 6 of Part 4 of the Second Schedule to the Regulations identifies a 'hostel (other than a hostel where care is provided)' as a class of use and clearly makes a distinction between commercial nature of a tourist hostel and the social care aspect of a hostel where care is provided.

The definition of a 'business premises' in Article 5 of the Regulations makes specific reference to including a hotel and a hostel (other than a hostel where care is provided).

(iii) Use as a 'Hostel (Non-Tourist) Where Care of Short-Term Homeless Accommodation is Provided'

Section 1.0 of Appendix 15 to the Development Plan (as referenced above) does not include 'Hostel (Non-Tourist)' in its list of Land-Use Definitions, it does, however, define 'Buildings for the Health, Safety or Welfare of the Public' as follows:

"Buildings for the Health, Safety or Welfare of the Public - Use of a building, or part thereof, as a health centre or clinic or for the provision of any medical or health services (but not the use of a house of a consultant or practitioner; or any building attached to the house or within the curtilage thereof, for that purpose), hospital, nursing home, day centre and any other building for:

- *The provision of residential accommodation and care to people in need of care (but not the use of a dwelling for that purpose)*
- *The use as a residential school, college or training centre."*

We say that this Land-Use Definition is relevant in the case of our Section 5 Declaration Request, as the term 'Buildings for the Health Safety or Welfare of the Public' specifically includes *"the provision of residential accommodation and care to people in need of care"*, which should include 'Hostels (Non-Tourist)'.

Notwithstanding the above, Section 15.13.9 of the Development Plan concerns 'Hostels / Sheltered Accommodation / Family Hubs' and makes explicit reference to 'non-tourist hostel accommodation', connecting it with 'homeless accommodation' and 'social support institutions'. It reads as follows:

"An over-concentration of non-tourist hostel accommodation, homeless accommodation, social support institutions and family hubs can potentially undermine the sustainability of a neighbourhood and so there must be an appropriate balance in the further provision of such developments and/or expansion of such existing uses in electoral wards which already accommodate a disproportionate quantum. Accordingly, there shall be an onus on all applicants to indicate that any proposal such development will not result in an undue concentration of such uses, nor undermine the existing local economy, the resident community, the residential amenity, or the regeneration of the area.

All such applications for such uses shall include the following:

- *A map of all homeless and other social support services within a 750 m radius of application site.*
- *A statement on catchment area, i.e. whether proposal is to serve local or regional demand and estimation of expected daily clients.*
- *A statement regarding security and operational management of the service/facility including hours of operation.*
- *Assessment of the impact on the public realm and quality environment.*



Conditions may be attached to a grant of permission limiting the duration of the permission and the use on a temporary basis.”

This section of the Development Plan sets out a clear expectation that a planning application would be required for a proposed ‘Hostel (Non-Tourist)’ use, and sets out a list of requirements to be fulfilled by any prospective applicant (see bullet points in the quotation above).

Policy Objective QHSN28 of the Development Plan also indicates that a planning application should be required for any proposals for such a use, it concerns ‘Temporary Homeless Accommodation and Support Services’ and seeks:

To ensure that all proposals to provide or extend temporary homeless accommodation or support services shall be supported by information demonstrating that the proposal would not result in an undue concentration of such uses nor undermine the existing local economy, resident community or regeneration of an area. All such applications shall include: a map of all homeless services within a 750 metre radius of the application site, a statement on the catchment area identifying whether the proposal is to serve local or regional demand; and a statement regarding management of the service/facility.

From examining the definitions set out above, and the treatment of each use category in Development Plan policy, it should be abundantly clear that hotels and non-tourist hostels provide a different service to a different user group. The table below sets out a range of distinguishing features that are commonly understood to typify hotels and non-tourist hostels respectively.

Table 1. Comparative services and user groups as per Hotel and Hostel (Non-Tourist) Uses.

Hotel	Hostel (Non-Tourist)
Providing accommodation (predominantly overnight and short-term) for paying guests.	Provides emergency accommodation (predominantly short and medium term) to specific disadvantaged user groups (including the homeless persons, homeless families, recovering addicts and people in need of care).
Catering to specific user groups (predominantly tourists, visitors and working professionals on business trips).	Operated as a social service
Professionally managed.	Operated on a non-commercial basis.
Operated on a commercial basis.	Run by non-profit organisations.
Run for profit.	On-site social care provided.
Licensed to serve alcohol.	
Ancillary restaurant facilities.	

Ancially bar.	
Ancillary meeting room facilities.	
Ancillary conference room.	
Ancillary function room	
In-room minibar.	
Concierge service.	
Laundry service.	
Wake-up call service.	
Provides publicly accessible facilities	

Examining a given premises against this table should give a clear indication of the use of that premises. If we were to examine the Paramount Hotel circa 2018 it would have all or nearly all of the characteristics listed in the 'Hotel' column, and if we were to repeat the exercise today we would find that the Paramount now exhibits all or nearly all of the characteristics set out under the 'Hostel (Non-Tourist)' column.

To conclude this section, there can be no dispute that a 'Hotel' use is clearly distinct from a 'Hostel (Non-Tourist)' use (as is clear from table 1 above) in that the former is a professionally managed commercial enterprise that is run for profit, that predominantly cares to tourists and visitors; whereas the latter is a social service operated by non-profit organisations such as charities, housing bodies or regional homeless executives, offering homeless accommodation services to specific disadvantaged user groups, such as the homeless, persons with dependencies, or people in need of care. The Development Plan clearly acknowledges the distinction between these two uses.

Material Change of Use Requiring Planning Permission (Case Law Precedent)

Section 3 of the Act requires that in order for change of use to constitute development, it must be a material change of use. Case law has determined that a change of use is material if the character of the first use is substantially different, in planning terms, from the proposed use and if the proposed use would impact on the proper planning and sustainable development of the area.

We have already shown in the section above the distinct differences between a non-tourist hostel and a hotel. The latter generally provides facilities such as conference facilities, restaurant, bar to non-residents. This gives rise to planning considerations such as traffic movements, and pedestrian movements to and from the premises, which contribute to encouraging a more vibrant streetscape particularly in a town centre. The loss of such services



may have a negative impact on the existing townscape and as such is a planning consideration, and therefore could be considered material.

Furthermore, the group of people that the non-tourist hostel caters for can affect the demand for local services and facilities in the immediate area and would give rise to material planning considerations that distinguish between 'hotel' and 'hostel' applications.

We acknowledge the Council's humanitarian obligation to provide suitable emergency accommodation to those in need, however this does not remove the legal requirement for the proper planning permission to be in place, observing due process (including public consultation).

Temporary homeless accommodation can be provided in a number of ways including at a Hostel (Non-Tourist), a homeless shelter or at a 'Building for the health, safety or welfare of the public'. We acknowledge that a non-profit organisation could also arrange for homeless persons to be accommodated temporarily at an existing hotel or commercial hostel (tourist hostel) without effecting a material change of use. However, depending on the intensity of that use (i.e. the number of homeless people accommodated within a single planning unit and the proportion of homeless persons to standard paying tourists/visitors), there would be a point at which a material change of use would be deemed to have occurred. If a hotel is completely or predominantly taken over for use providing homeless accommodation to homeless persons then it ceases to be a hotel by definition. The question of whether a material change of use has occurred is a matter of fact and degree, and has been explored in depth in planning case law.

In **ABP-308540-20** the Inspector addressed the question of 'Whether the change of use from residential use to a hostel for homeless accommodation is or is not development or is or is not exempted development' and found that:

"The development constitutes a change of use between two classes, from the former use (residential) to its current use for the provision of residential accommodation and care to people in need of care (Class 9 of Part 4 of the 2nd Schedule), which in my opinion is a material change of use by reason of providing a different service (homeless accommodation) to a different user group (homeless persons)."

This logic equally applies to the case of the Paramount where the former use as a hotel and the current use as a non-tourist hostel involve the provision of different services to different user groups, as shown in table 1 above.

In **ABP-307064-20** the Board decided that the change of use of Westbrook House (Ennis, Co. Clare) from commercial guesthouse to a homeless persons hostel managed by an approved housing body was development and was not exempted development. In this case the Board found that:

"Westbrook House is in use as independent living accommodation for individuals who have some degree of vulnerability and risk of homelessness and who are transitioning to permanent independent living accommodation with the benefit of support and assistance from housing agency staff."

And that this use:

"would not come within the meaning of a commercial guesthouse as it is operated by a housing agency on a non-commercial basis."

It should be clear from the above that use as hotel and use as hostel (non-tourist) where care or short term homeless accommodation is provided, are distinct planning uses, and that a change of use from one to the other should be considered 'Development'. In fact, Policy QHSN29 of the Development Plan concerns 'Temporary Accommodation Located in the City Centre' and acknowledges the mechanism of adapting tourist hostels and hotels for use as temporary/homeless accommodation, and sets out a presumption against such proposals in Dublin 1, 7 & 8.

In the case of the Paramount, the lease was taken over by a non-profit organisation, and was entirely put to use providing homeless accommodation, the hotel facilities were closed to the public. The scale and intensity of that change of use should certainly amount to a material change of use, and is therefore 'Development'.

Whether it is Exempted Development

Article 10 of the Regulations provides that *"development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempt development for the purposes of the Act."* Within Part 4, Class 6 specifically includes a 'guest house' and a 'hostel (other than where care is provided)', meaning that a change of use from a guest house to a hostel (tourist) is exempted development, but a change of use from a guest house to a hostel where care is provided is not exempted development. There is no class that provides for a hotel use and as such there is no mechanism by which one could argue that the change of use from a hotel to a hostel is exempted development.

The current use therefore constitutes a change of use from the permitted use, which is a material change of use by reason of providing a different service to a different user group; this material change of use would not come within the scope of article 10(1) of the Regulations as it does not constitute a change of use within any one class. There are no other exemptions available for this material change of use within existing legislation.

Conclusion and Summary

The purpose of this Section 5 Declaration Request is not to determine the acceptability or otherwise of the matters raised in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes




development, and if so, whether it falls within the scope of exempted development within the meaning of the relevant legislation.

We have shown the following:

- The permitted use of the Paramount was use as a hotel.
- The existing use of the premises is use as a hostel (non-tourist) where care or short-term homeless accommodation is provided.
- 'Hotel' use and 'Hostel (Non-Tourist)' use are separate land use categories with different profiles, offering different services to different user groups.
- The difference between these uses is substantial in planning terms and has potential impacts on planning considerations.
- Change between these uses should therefore be considered a material change of use and is therefore 'Development'.
- There are no exemptions applicable to the change of use that has occurred, which should be considered development requiring planning permission and not 'Exempted Development'

We enclose the requisite cheque for €80. We trust that the Council has sufficient information in order to issue the requested declaration, however, should any further information or clarification be required, please do not hesitate to contact us. We respectfully request that all correspondence be addressed to Armstrong Planning at 12 Clarinda Park North, Dún Laoghaire, Co. Dublin, A96 V6F9 and we look forward to receiving a declaration in due course.

Faithfully,



DAVID ARMSTRONG BA MRUP MRTPI MIPI

For and on behalf of Armstrong Planning Ltd
12 Clarinda Park North, Dun Laoghaire, Co. Dublin, A96 V6F9
e. info@armstrongplanning.ie
t. 014433770 / 0838785010

Appendix 1

Site Location Map

Appendix 2

Enforcement Complaint Response from the Council



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Feidhmiú Pleanála
An Roinn Pleanála & Forbairt Maoine
Bloc 4, Urlár 2, Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

David Armstrong
Armstrong Planning
12 Clarinda Park North,
Dun Laoghaire,
Co. Dublin,
A96 V6F9

Planning Enforcement,
Planning & Property Development Department,
Block 4, Floor 2, Civic Offices
Wood Quay, Dublin 8
T. 01 222 2147 E. planningenforcement@dublincity.ie

18th December 2023

**Re Paramount Hotel, Parliament Street, Essex Gate & Exchange Street, incl. 31
& 32 Parliament Street, Dublin 2**

Dear Sir / Madam,

I refer to your complaint regarding the above address.

Recent investigations & inspection carried out by the area enforcement officer revealed that the above premises, a hotel, is currently in use providing accommodation to persons. There has been no deviation from the approved use and consequently it is intended to close this file with no further action.

Should you require any further information please do not hesitate to contact Mr Paddy Keogh, Tel: 222 3118.

I trust that this information is of assistance to you.

Yours faithfully



For Acting Planning Enforcement Manager

Ref: Darren Ritchie
Tel: 01 222 3447
Please quote file ref: E0969/23
Email: planningenforcement@dublincity.ie

Annex 2

Council's Declaration

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na
Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3,
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. decisions@dublincity.ie

13-Mar-2024

Armstrong Planning Ltd
12, Clarinda Park North
Dun Laoghaire
A96 V6F9

Application Number	0050/24
Application Type	Section 5
Registration Date	15-Feb-2024
Decision Date	12-Mar-2024
Decision Order No.	P2622
Location	The Paramount Hotel, Nos. 7-8 & 9 & 10 Exchange Street Upper, and Nos. 1, 27-28 & 29 - 30 Parliament Street, Dublin 2.
Proposal	EXPP: PROTECTED STRUCTURE: Whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is development, and whether it is exempted development.
Applicant	Old City Management Limited

- **If you have any queries regarding this Decision, please contact the email shown above**

Note:

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by A Bord Pleanála within four weeks of the date of the issuing of the declaration.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dublin City Council has by order dated 12-Mar-2024 decided to issue a Declaration that the above proposed development is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000 (as amended).

Reasons & Considerations:

1. The Planning Authority considers that no development by reason of works or by reason of a material change of use has taken place at this premises and that the continued use of the premises as hotel use is considered exempt from the requirement to seek planning permission.

Signed on behalf of Dublin City Council

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na
Cathrach, An Ché Adhmaid, Baile Átha 13th 8.

Planning & Property Development Department, Block 4, Floor 3,
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. decisions@dublincity.ie

13-Mar-2024

for Administrative Officer

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na
Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3,
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. planning@dublincity.ie

13-Mar-2024

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000

EXPP:	0050/24
Location:	The Paramount Hotel, Nos. 7-8 & 9 & 10 Exchange Street Upper, and Nos. 1, 27-28 & 29 - 30 Parliament Street, Dublin 2.
Date Received:	15/02/24
Proposal:	Whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is development, and whether it is exempted development.

Proposal

This section 5, seeks clarification on whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is development, and whether it is exempted development.

Site Description

The subject site is the Paramount Hotel, Nos. 7-8 & 9 & 10 Exchange Street Upper, and Nos. 1, 27-28 & 29 - 30 Parliament Street, Dublin 2. The site has frontage onto 3 different streets within the Temple Bar Area: Exchange Street Upper; Essex Gate; Parliament Street.

Site Zoning

Z5: "To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity."

The subject site is partially within a Conservation Area (those structures along the Parliament St elevation).

Nos. 27, 28 & 31 Parliament Street are protected structures. 1-2 Essex Gate are protected structures. 9 & 10 Exchange Street Upper are protected structures.

Planning History:

- 4260/23: Planning permission refused on lands at Nos. 27-32 Parliament Street (nos. 27, 28 & 31 being protected structures) Dublin 2, 1-2 Essex Gate (both protected structures) Dublin 8, 7-10 Exchange Street Upper (nos. 9 & 10 being protected structures) Dublin 8. The overall development would result in a hotel bedroom count of 108 no. bedrooms (66 existing and 42 proposed) and includes all associated alterations to the existing hotel services
- E0969/23: Alleged change of use from hotel to homeless hostel at Paramount Hotel. Case closed.
- 4597/1: *Split decision. Planning Permission was granted for the following in accordance with the conditions attached:*
- *Facade alterations at ground level of Nos. 30 & 29 Parliament Street with new proposed door to existing shop front;*
 - *Change of use from first to fourth floor of the existing north facing stairwell to 4 no. hotel bedrooms (one at each of the floor level) and*
 - *Change of use at fifth floor level from linen store to hotel bedroom and small internal reconfigurations of linen and cleaner store around the eastern stairwell*
- Planning Permission was refused for the following for the reason(s) attached:
- *The addition of a 294.2sqm sixth floor level comprising 8 no. hotel bedrooms access via 2 stairwells, 2 lifts and a service lift.*
- 4598/19: *Planning permission granted for a) façade alterations at ground level Nos. 30 & 29*

Parliament Street with new proposed door to existing shop front, b) change of use from first to fourth floor of the existing north facing stairwell to 4 no. hotel bedrooms (one at each of the floor level), and c) change of use at fifth floor level linen store to hotel bedroom and small internal reconfigurations of linen and cleaner store around the eastern stairwell. The total amount of change of use floor space equates to 68 sqm. The hotel bedroom count will increase from previously approved 117 bedrooms (as permitted with Reg. Ref. 3778/17) to 122 bedrooms over 6 storeys.

3778/17 Planning permission granted permission, the proposed development includes the demolition of 240 sq m floor area, the renovation of 4,308 sq m and the provision of 1,478 sq m new floor area, resulting in a 127 No. bedroom hotel with a total gross floor area of 5,768 sq m, with ancillary bar at Basement Level; ancillary bar, restaurant, reception and foyer at Ground Floor Level; 127 No. bedrooms at First to Seventh Floor Level; and ancillary hotel facilities and ancillary space (ancillary space includes areas such as circulation cores (lifts and stairs), from Basement to Seventh Floor Level.

Statutory Provisions

Planning and Development Act 2000 (as amended)

Section 5 (1) states: *If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.*

In assessing Section 5 applications regard is given to **Section 3 (1)**, which states in *this Act*, "development" means, *except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

Planning and Development Regulations (as amended)

Schedule 2, Part 1 Exempted Development – General

CLASS 14

Development consisting of a change of use—

(g) From use as a hotel, to use as a hostel (other than a hostel where care is provided),

(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,

(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons, and

Submission from the Applicant:

The Applicant for this section 5 application is not the owner of the site but is a third party. The applicant wishes to clarify whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care for short-term homeless accommodation is provided' is development, or whether it is exempted development. The Applicant states that the Paramount Hotel was in use as a hotel until December 2019 when it closed to the public. The permitted use of the subject site is as a hotel, however the Applicant considers that the hotel use has been abandoned. The applicant outlined that the existing use of the premises is as a hostel (non-tourist) where care or short-term homeless accommodation is provided. The Applicant therefore considers that the change of use that occurred constitutes development and is not exempt.

Submission from the owner:

A response from the owner of the site was submitted by Brock McClure, Planning and Development Consultants. The owner of the site refutes the assertion that the hotel use on this site has been abandoned. It is stated that the hotel owner is actively investing in hotel upgrades and a planning application 4260/23 is currently under appeal with An Bord Pleanála. The owner of the site states that the property is physically maintained as a hotel and no works took place which were inconsistent with this use. The property owner has a contract in place with Dublin City Council/ Dublin Regional Homeless Executive for the provision of short-term accommodation for homeless persons. The owner of the property has stated that there is no discernible change to the use of the building other than the socio-economic class associated with the inhabitants occupying the rooms and regular hotel duties are provided. The management of the hotel and the management of staff will be solely the responsibility of the hotel operator and no element of care, be it social, physical or emotional will be provided to guests of the hotel and no approved housing body be involved.

Assessment:

There are no structural changes associated with the proposal. Thus, the proposal does not constitute "development" by reason of works arising.

Schedule 2, Part 1 Exempted Development – General, Class 14 states that a change of use as a hotel, to use as a hostel (other than a hostel where care is provided) is exempted development.

Part 2, Article 5 of the Planning and Development Regulations (as amended) defines care as: *"care" means personal care, including help with physical, intellectual or social needs.*

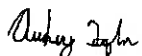
A complaint was lodged with DCC Enforcement section (E0969/23) in relation to the change of use. This file was closed as it was considered that no deviation from the approved use took place.

It would appear, based on the submitted documentation that the building will continue operating as a hotel and the provision of short-term accommodation for homeless people, in which the rooms are leased on a nightly basis is provided to guests, would not constitute a material change of use for the premises. In addition, no works are proposed to the building, the management of the staff will remain constant, regular hotel duties shall be provided, no care will be provided to occupants of the rooms and there is unlikely to be an adverse impact on the proper planning and sustainable development of the area.

On this basis the Planning Authority considers that no development by reason of works or by reason of a material change of use has taken place.

Recommendation

The Planning Authority considers that no development by reason of works or by reason of a material change of use has taken place at this premises and that the continued use of the premises as hotel use is considered exempt from the requirement to seek planning permission.



Audrey Taylor,
A/Senior Executive Planner
07/03/24

Annex 3

Planner's Report

Dublin City Council

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000

EXPP:	0050/24
Location:	The Paramount Hotel, Nos. 7-8 & 9 & 10 Exchange Street Upper, and Nos. 1, 27-28 & 29 - 30 Parliament Street, Dublin 2.
Date Received:	15/02/24
Proposal:	Whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is development, and whether it is exempted development.

Proposal

This section 5, seeks clarification on whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is development, and whether it is exempted development.

Site Description

The subject site is the Paramount Hotel, Nos. 7-8 & 9 & 10 Exchange Street Upper, and Nos. 1, 27-28 & 29 - 30 Parliament Street, Dublin 2. The site has frontage onto 3 different streets within the Temple Bar Area: Exchange Street Upper; Essex Gate; Parliament Street.

Site Zoning

Z5: "To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity."

The subject site is partially within a Conservation Area (those structures along the Parliament St elevation).

Nos. 27, 28 & 31 Parliament Street are protected structures. 1-2 Essex Gate are protected structures. 9 & 10 Exchange Street Upper are protected structures.

Planning History:

4260/23: Planning permission refused on lands at Nos. 27-32 Parliament Street (nos. 27, 28 & 31 being protected structures) Dublin 2, 1-2 Essex Gate (both protected structures) Dublin 8, 7-10 Exchange Street Upper (nos. 9 & 10 being protected structures) Dublin 8. The overall development would result in a hotel bedroom count of 108 no. bedrooms (66 existing and 42 proposed) and includes all associated alterations to the existing hotel services

E0969/23: Alleged change of use from hotel to homeless hostel at Paramount Hotel. Case closed.

4597/1: *Split decision. Planning Permission was granted for the following in accordance with the conditions attached:*

- *Facade alterations at ground level of Nos. 30 & 29 Parliament Street with new proposed door to existing shop front;*
- *Change of use from first to fourth floor of the existing north facing stairwell to 4 no. hotel bedrooms (one at each of the floor level) and*
- *Change of use at fifth floor level from linen store to hotel bedroom and small internal reconfigurations of linen and cleaner store around the eastern stairwell*

Planning Permission was refused for the following for the reason(s) attached:

- *The addition of a 294.2sqm sixth floor level comprising 8 no. hotel bedrooms access via 2 stairwells, 2 lifts and a service lift.*

4598/19: *Planning permission granted for a) façade alterations at ground level Nos. 30 & 29*

Parliament Street with new proposed door to existing shop front, b) change of use from first to fourth floor of the existing north facing stairwell to 4 no. hotel bedrooms (one at each of the floor level), and c) change of use at fifth floor level linen store to hotel bedroom and small internal reconfigurations of linen and cleaner store around the eastern stairwell. The total amount of change of use floor space equates to 68 sqm. The hotel bedroom count will increase from previously approved 117 bedrooms (as permitted with Reg. Ref. 3778/17) to 122 bedrooms over 6 storeys.

3778/17 Planning permission granted permission, the proposed development includes the demolition of 240 sq m floor area, the renovation of 4,308 sq m and the provision of 1,478 sq m new floor area, resulting in a 127 No. bedroom hotel with a total gross floor area of 5,768 sq m, with ancillary bar at Basement Level; ancillary bar, restaurant, reception and foyer at Ground Floor Level; 127 No. bedrooms at First to Seventh Floor Level; and ancillary hotel facilities and ancillary space (ancillary space includes areas such as circulation cores (lifts and stairs), from Basement to Seventh Floor Level.

Statutory Provisions

Planning and Development Act 2000 (as amended)

Section 5 (1) states: *If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.*

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Assessment:

There are no structural changes associated with the proposal. Thus, the proposal does not constitute "development" by reason of works arising.

Schedule 2, Part 1 Exempted Development – General, Class 14 states that a change of use as a hotel, to use as a hostel (other than a hostel where care is provided) is exempted development.

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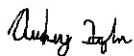
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On this basis the Planning Authority considers that no development by reason of works or by reason of a material change of use has taken place.

Recommendation

The Planning Authority considers that no development by reason of works or by reason of a material change of use has taken place at this premises and that the continued use of the premises as hotel use is considered exempt from the requirement to seek planning permission.



Audrey Taylor,
A/Senior Executive Planner
07/03/24

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DESCRIPTION

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34 Aungier Street, Dublin 2
On behalf of Ordnance Survey Ireland,
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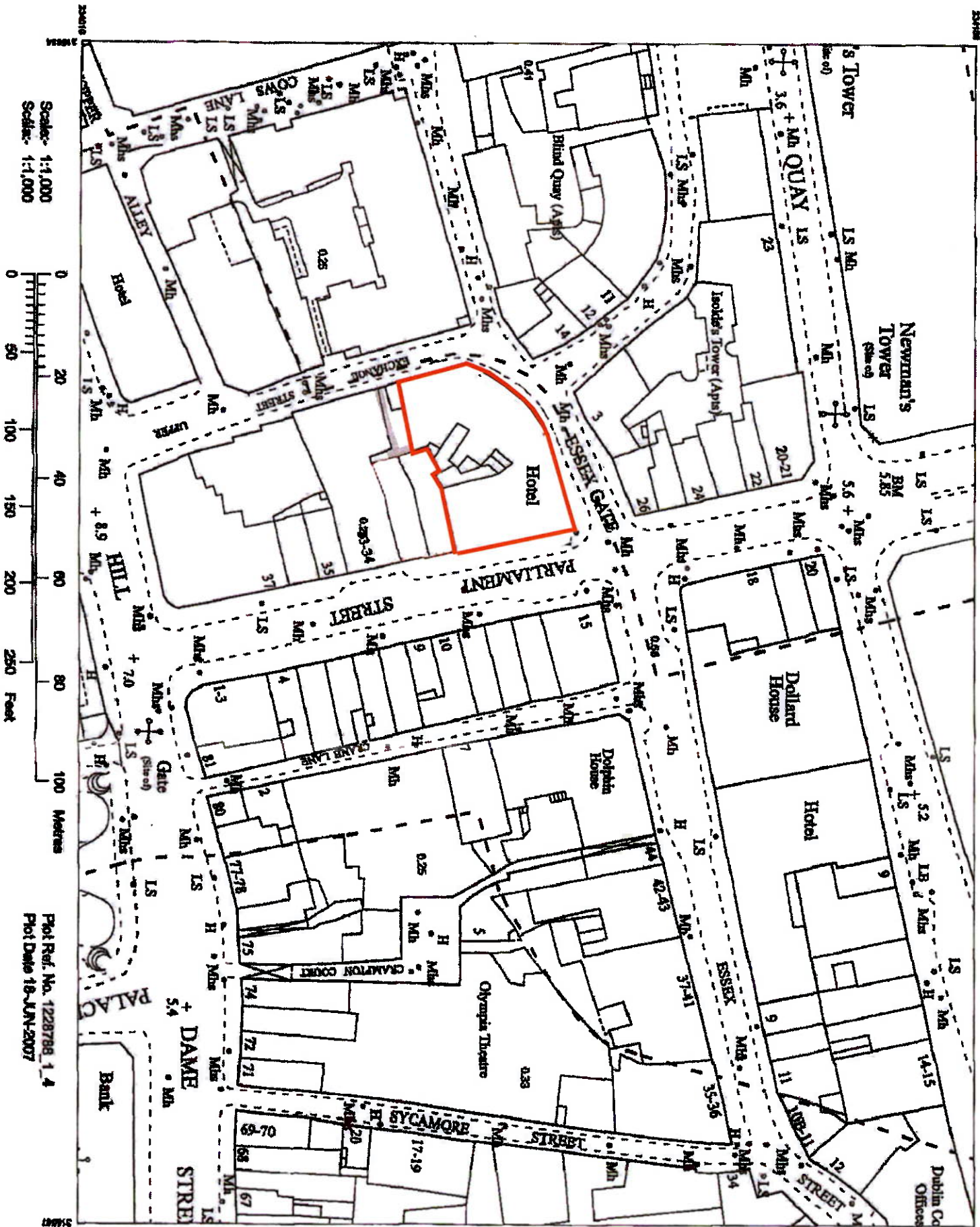
Site Location Map
Scale 1:1000 @ A3

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These drawings were prepared for planning application purposes and should not be used for any other purposes

Surveyed 1970
Revised 2007
Levelled 1983

Urban PLACE Map



Scale: 1:1,000
Scale: 1:1,000



Plot Ref. No. 1228786_1.4
Plot Date 18-JUN-2007

ITM CENTRE PT COORDS
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DESCRIPTION

MAP SHEETS

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Produced by: National Map Office,
34 Market Street, Dublin 2
On behalf of Ordnance Survey Ireland,
Phoenix Park, Dublin 8.

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