

An
Bord
Pleanála

Board Direction
BD-019171-25
ABP-318268-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/03/2025.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

The Board had regard to:

- (a) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, which seeks more balanced and concentrated growth and targets a significant proportion of future Urban Development on infill/brownfield development sites within the built footprint of existing urban areas.
- (b) The objectives of the Dublin Metropolitan Area Strategic Plan as set out in the Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019, to promote sustainable consolidated growth of the Metropolitan Area including brownfield and infill development,
- (c) The Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011.
- (d) The provisions of Dublin City Development Plan 2022 to 2028 and the site's location in Dublin City Centre on lands with zoning objective Z5 which seeks

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

- (e) The character and pattern of existing and permitted development in the area,
- (f) The layout, form, mass, height, materials, finishes and design detail of the proposed development which will retain and incorporate a substantial amount of the original building fabric at no 61 O Connell Street.
- (g) the Environmental Impact Assessment Report submitted.
- (h) the appeals and observations made in connection with the planning application, and
- (i) the report of the Inspector.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the environmental impact assessment report, as amended, and associated documentation submitted in support of the planning application,
- (c) The submissions from the planning authority, prescribed bodies, the appellants and the observers in the course of the application, and
- (d) the Planning Inspector's report and recommendation.

The Board considered that the Environmental Impact Assessment Report, as amended and supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment during both the construction and operational phase.

The Board agreed with the examination, set out in the Inspector's Report, of the information contained in the Environmental Impact Assessment Report (as amended) and associated documentation submitted by the applicant and the submissions made in the course of the application.

Reasoned Conclusions on the Significant Effects

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are as follows:

Population and Human Health: Potential negative impacts arising from noise, dust, traffic, excavation and demolition impacts during construction will be mitigated by a Construction and Demolition Management Plan and a Construction Traffic Management Plan. Positive impact through the redevelopment of no. 61 O Connell Street an under-utilised building that is designated in the Dublin City Development Plan as a Regeneration Site for employment, residential and commercial space that will support compact sustainable growth and improve the townscape, visual setting, public realm and permeability of the city centre.

Cultural Heritage: Minimal adverse impacts arising from demolition and loss of historic fabric and the creation of a permanent archway through the ground floor of the building. There will be positive impacts on the cultural heritage arising from the restoration, extension and re-use of the currently under-utilised historic building, as well as the enhanced public realm and increased permeability of the site, which will make the urban block more attractive to the public. The loss of some historic fabric will be permanent and cannot be fully mitigated or addressed by means of conditions, but will be tempered by the restoration of the retained structure and its adaptive re-use, and by the regeneration of the area which has been the subject of a prolonged period of decline and by the enhanced permeability and accessibility of the area to the public

Landscape and visual impact: The proposed development encompassing modern design interventions including a new archway will have a material impact on the façade and visual character of the building. Positive or neutral impacts will arise from the repair and restoration of the facades and introduction of new shopfronts and from the provision of high-quality streetscapes, provision of an enhanced public realm and high-quality landscape proposals.

Notwithstanding the conclusions reached in respect of the negative impact of the construction phases on traders and businesses in the vicinity and loss of historic fabric, it is considered that the environmental effects would not justify a refusal of

planning permission having regard to the overall benefits of the proposed development.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so the Board adopted the report and conclusions of the Inspector. The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

Conclusions on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development:

- Would secure the redevelopment of strategic and under-utilised urban land in a prominent city centre location which forms part of a Key Opportunity Site in the Strategic Development Regeneration Area for the North-East Inner City, in the Dublin City Development Plan 2022-2028, which is identified as a civic/cultural hub and focus for quality retail and mixed-use development. The proposed development would assist in the redevelopment and rejuvenation of this part of the city in accordance with the development plan policies and objectives,
- Would be consistent with national, regional and local policy measures and guidance which seeks to fully utilise and bring back into use buildings of historic interest particularly in city centre areas,
- Would make a positive contribution to the urban character of the area,
- Would not seriously injure the amenities of development in the area, the O'Connell Street and Environs Architectural Conservation Area, the character and appearance of the National Monument at Nos. 14-17 Moore Street of the Protected Structures within and adjoining the site and in the vicinity.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 28th day of July 2023, 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 mitigation measures and monitoring commitments contained in the submitted Environmental Impact Assessment Report (EIAR), shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

Reason: To protect the environment.

3. The proposed development shall be amended as follows:
 - (a) Following the stripping out of the existing shopfront and the interior of the building, an inventory of all uncovered historic fabric/finishes, which shall be accompanied by photographs cross-referenced to drawings, shall be submitted to the planning authority. Any surviving historic fabric/finishes identified within the interior or beneath the shopfront shall be incorporated into the design of the development.
 - (b) The design of the gates to the proposed archway shall be revised to provide for a more traditional style which should complement the setting of the historic structure.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of the protection of archaeological heritage.

4. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority confirmation that:
- (a) All works shall be carried out in accordance with best conservation practice.
 - (b) the development will be monitored by a suitably qualified architect with conservation expertise and accreditation and
 - (c) competent site supervision, project management and crafts personnel will be engaged and will be suitably qualified and experienced in conservation works.
 - (d) Windows – the windows on the Second-floor front façade shall be retained unless otherwise agreed in writing with the planning authority. All glazing shall be timber sash and putty fixed. All slimline glazing panels shall conform with the requirements of the planning authority.
 - (e) The existing cementitious render on the rear elevation shall be removed and replaced with a lime render.

Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities.

5. Prior to the commencement of development of works at No. 61 O'Connell Street Upper, the developer shall submit, for the written agreement of the planning authority, a detailed method statement covering all works proposed to be carried out, including:
- (a) 1:20 drawings of the proposed archway and gates,
 - (b) a full specification, including details of materials and methods, to ensure the development is carried out in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage & the Gaeltacht,
 - (c) methodology for the recording and/or retention of concealed features or fabric exposed during the works,
 - (d) details of features to be temporarily removed/relocated during construction works and their final re-instatement,
 - (e) protection of windows during the construction works,
 - (f) details of materials/features of architectural interest to be salvaged,
 - (g) a detailed schedule and methodology of repairs to be carried out following inspection at close quarters,
 - (h) details of the replacement of any brickwork or any works of re-pointing which shall be undertaken so that it matches the original existing wall finish,
 - (i) details of the remaining rainwater goods and bargeboard which where possible shall be repaired and reused, the replacement of which (if any) shall match the original in terms of design and materials,

- (j) details of replacement windows which shall be modelled on surviving windows and shall match them in dimensions, opening mechanism, profiles and materials;

Details to be accompanied by drawings of an appropriate scale of not less than 1:50 in respect of the retained historic facades and 1:10 in respect of windows.

Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities.

- 6. Prior to the commencement of works, the developer shall submit an Historic Building Survey to be undertaken by a suitably qualified architectural historian of the existing protected structure, to include:
 - (a) A full set of survey drawings to a scale of not less than 1:50 to include elevations, plans and sections of the structure.
 - (b) the recording of the details and current condition of No. 61 O'Connell Street Upper; and,
 - (c) a detailed, labelled photographic survey of all internal rooms, including all important features and fittings, the exterior and the curtilage of the building.

A copy of this record shall be submitted to the planning authority prior to commencement of development and to the Irish Architectural Archive.

Reason: In order to establish a record of these protected and non-protected structures and in the interest of the protection of architectural heritage.

- 7. Prior to the commencement of development on the Protected Structures samples of materials and/ or workmanship shall be submitted for the written agreement of the planning authority, and all works shall be carried out in accordance with this written agreement. In the event of agreement not being reached between the developer and the planning authority, the matter may be referred to An Bord Pleanála for determination, and all works shall be carried out in accordance with any determination made resulting from such referral.

Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities.

- 8. All materials, colours and textures of all the external finishes shall be in accordance with the Architectural Design Statement for No. 61 O'Connell Street

Upper submitted with the planning application (as amended by further plans and particulars submitted on the 28th day of July 2023). Any deviation from these details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. Detailed elevation and section drawing (1:20) for the proposed shopfronts, including signage, doors, illumination where required, to reflect the historic significance of the Protected Facade and of Henry Place and to respect the requirements of the O'Connell Street ACA and Area of Special Planning Control shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

The proposed concrete lintel over the gate facing onto Henry Place shall be removed. The proposed Roughcast light grey render finish to Henry Place shall be omitted and a revised elevational treatment shall be agreed in writing with the planning authority prior to the commencement of development.

Thereafter, and notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further advertisement signs, (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags or other projecting elements shall be displayed or erected on any of the proposed buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to protect the character of this Architectural Conservation Area or protected structure.

10. No external security shutters shall be erected on any of the commercial premises, unless authorised by a further grant of planning permission. Details of all internal shutters, which shall be of an open lattice design and shall not contain any form of advertising, shall be submitted for the written agreement of the planning authority prior to the commencement of development, and all internal shutters shall conform to that written agreement.

Reason: In the interest of visual amenity.

11. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

12. The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record (archaeological excavation) and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

13. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. Prior to the first occupation of any of the commercial or residential units, the following matters shall be addressed:
- (a) A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas (residential and commercial), landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority.
 - (b) Details of the management of the proposed passageway including the hours during which the gates are to be open to the public shall be submitted to and agreed in writing with the planning authority.

Reason: To provide for the future maintenance of this private development in the interest of visual amenity.

- (c) Prior to the occupation of any of the retail, restaurant or café units, the specific use of each unit shall be agreed in writing with the planning authority.

Reason: In the interest of clarity and to ensure an appropriate mix of uses.

- 14. The developer shall control odour emissions from the 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.

- 15.
 - (a) All external entrance doors shall be tightly fitted and self-closing.
 - (b) All windows and roof lights in the commercial units shall be double-glazed and tightly fitting.
 - (c) Noise attenuators shall be fitted to any openings required for ventilation or conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

- 16.
 - (a) Where the noise in question does not contain acoustic features that enhance its impact such as tones or impulsive elements, the LAeq level measured over 15 mins (daytime) or 5 minutes (night-time) at a noise sensitive premises when plant is operating shall not exceed LA90 (15 minutes day to 5 mins night) by 5 dB or more, measured from the same position, under the same conditions and during a comparable period with no plant in operation.
 - (b) Where the noise in question does not contain acoustic features that enhance its impact such as tone or impulsive elements, the rating noise level, Ar,T shall be compliant with BS 4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sounds

Reason: In order to protect adjoining residential amenity.

- 17. 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.

18. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

19. Prior to the commencement of development, the developer shall enter into a connection agreement(s) with Uisce Eireann (Irish Water) to provide for a service connection(s) to the public water and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

20. Safe and secure bicycle parking spaces shall be provided within the site in accordance with the submitted plans prior to the occupation of the development. Provision should be made for a mix of bicycle types including cargo bicycles and individual lockers. Electric charging points to be provided at an accessible location for charging cycles/scooters/mobility scooters. Details of the layout and marking demarcation of these spaces (the cycle storage facility) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

21. No doors, save for emergency access or access to substations shall open outwards across the public footway/laneway.

Reason: In the interests of public safety

22. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the

commencement of development.

Reason: In the interest of amenity and public safety.

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

Reason: In the interests of visual and [residential] amenity.

24. Proposals for a development name, commercial unit identification, street/lane naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

25. The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- (b) Location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site and measures to obviate queuing of construction traffic on the adjoining road network.
- (e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (f) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.

- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (h) A monitoring programme for groundwater levels throughout the demolition, excavation and construction works.
- (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;

Reason: In the interest of amenities, public health and safety and environmental protection

- 26. A detailed Construction and Demolition Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

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

Reason: To safeguard the amenity of property in the vicinity.

- 28. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for

written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

29. The developer/contractor will be required to apply for a works permit from the LUAS Operator in accordance with the Light Railway (Regulation of Works) Byelaws 2004 (S.I. No. 101 of 2004), which regulates works occurring close to the LUAS infrastructure and the TII's 'Code of Engineering Practice for works on, near or adjacent to the LUAS Light Rail system'. The permit application will require prior consultation with TII, facilitated by the LUAS operator, Transdev. The developer shall comply with the following requirements:
- a) Construction Traffic Management Plan – the developer/contractor shall consult with TII and shall identify mitigation measures to protect operational LUAS infrastructure.
 - b) Construction and Demolition Management Plan – the developer/contractor shall consult with TII and shall identify and agree a method statement in accordance with the TII's Code of Practice and shall resolve all LUAS interface issues including (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 a vibration and settlement monitoring regime, if necessary.
 - c) Overhead Conductor System (OCS) – the developer shall provide plans and details for the OCS pole protection and safety distances and/or for the existing, temporary and subsequent permanent fixings.

These details shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The developer shall be liable for all costs associated with the removal and reinstatement of the LUAS related infrastructure, or for any loss of LUAS revenue 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.

Reason: To ensure the safe operation of the railway.

30. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory completion and of roads, footpaths, watermains, drains, open space and other services required in connection with the development and the

reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development or reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the satisfactory completion of the development and in the interest of traffic safety.

31. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

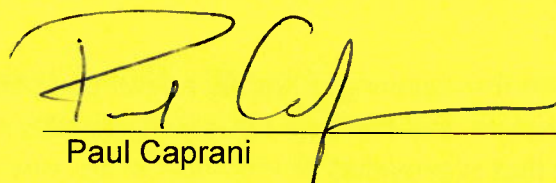
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

32. The developer shall pay to the planning authority a financial contribution in respect of 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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Board Member


Paul Caprani

Date: 11/03/2025