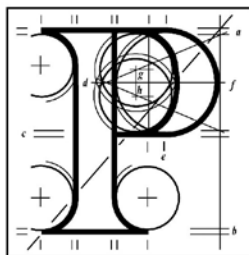


An Bord Pleanála



Inspector's Report

Development: Demolition of the following buildings: Nos. 71, 72 and 73 Aungier Street, a former dance hall building to the rear of Aungier Street, and Nos. 6, 7, 13, 14 and 14A Stephen Street Upper, and construction of a mixed use retail and student accommodation scheme in 3 to 7 storey blocks (over partial basement on Stephen Street Upper) and a partial mezzanine at ground floor, all on a site bounded by 71 – 75 Aungier Street, Dublin 2, and 17 – 19 Longford Street Great and 6 – 14A Stephen Street Upper and Whitefriar Place, Dublin 8.

Application

Planning authority: Dublin City Council
Planning application reg. no. 3971/15
Applicant: Kesteven Limited
Type of application: Permission
Planning authority's decision: Refusal

Appeal

Appellant: Kesteven Limited
Type of appeal: First party -v- Decision
Observers: P. J. O'Boy
Silverwood Developments Limited
Date of site inspection: 10th August 2016
Inspector: Hugh D. Morrison

Site

The site is located at the northern end and on the western side of Aungier Street (R114). This site encompasses the greater portion of the roughly triangular block bound by this Street, to the east, and Stephen Street Upper, to the north west, and Longford Street Great, to the south. This block lies to the south of Dublin Castle and its grounds. Between it and these historic features lies a modern four storey building on the north western side of Stephen Street Upper, which incorporates the former Dunlop factory and which accommodates Dunnes Stores' headquarter offices. Beside this building to the south west lies Leitrim House, a four storey Georgian townhouse, and further to the south west lies the entrance to Ship Street Great and the accompanying side elevation of the three storey terraced building at the southern end of this Street.

The site comprises land at the centre of the said block and the properties at Nos. 71 – 75 Aungier Street (inclusive), Nos. 17 – 19 Longford Street Great (inclusive), and Nos. 6 – 14A Stephen Street Upper (inclusive). The site is of irregular shape and it extends over 0.325 hectares. It is of mildly undulating form with falls generally from the centre to the north west. The more easterly of the two physically defined plots adjoining Longford Street Great is appreciably lower than the westerly one. This Street is relatively level, while Aungier Street falls in a northerly direction and Stephen Street Upper falls in a north easterly direction. Both these Streets meet at the north eastern corner of the overall block to form a junction with South Great George's Street, to the north, and Stephen Street Lower, to the east.

The centre of the site is dominated by a former dance hall that is now vacant. In plan-view this hall is in the shape of a coffin and so it is known as The Coffin. It is accompanied by ancillary flat-roofed buildings.

To the east the site is bound by Aungier Street and it comprises the following properties:

- No. 71 is a single storey flat roofed building, which was originally a motor garage and more recently a furniture shop. It is now vacant.
- No. 72 is a three storey building with a vacant shop unit at ground floor and 2 studio apartments on each of the upper floors.
- No. 73 is a three storey building with 2 three storey returns. There is a vacant shop unit at ground floor and a two-bed apartment on each of the upper floors.
- Nos. 74 & 75 are a pair of buildings now reduced to two storeys in height. They are both vacant and in a derelict condition.

To the north west the site is bound by Stephen Street Upper and it comprises the following properties:

- No. 6 is a three storey over basement building with a two storey return. This building is in use as offices and it abuts the four storey building, IBOA House, which encloses the south western corner of the overall block.
- Nos. 7 – 12 (inclusive) have been largely demolished and the site along these plots is enclosed by means of a brick wall and a line of three gateways. (The partial remains of a single storey building, which was formerly used as a motor garage, is at No. 7).
- No. 13 is a two storey building with a single storey rear extension. The ground floor is vacant, having last been used as a hot food takeaway shop with associated accommodation on the upper floor.
- Nos. 14 & 14A are a pair of three storey buildings with two and single storey rear extensions. While both buildings have shop fronts, they are each in use as a single three-bed dwelling house.

To the south, the site is bound by Longford Street Great. The properties on the street-front have been demolished and the site to this Street and the adjoining laneway is enclosed by a wall and a security fence. The wall to Longford Street Great incorporates an arched gateway and two accompanying arched door cases.

Proposal

As originally submitted, the proposal would entail the following elements:

- Demolition of the following buildings:
 - Nos. 71, 72 and 73 Aungier Street (gross floor areas of 170 sq m, 273 sq m and 257 sq m, respectively);
 - A former dance hall building to the rear of Aungier Street (gross floor area of 543 sq m);
 - Nos. 6, 7, 13, 14 and 14A Stephen Street Upper (gross floor areas of 498 sq m, 185 sq m, 147 sq m, 95 sq m and 116 sq m, respectively)
- The construction of a mixed use retail and student accommodation scheme in 3 to 7 storey blocks (over a partial basement on Stephen Street Upper) and a partial mezzanine in the ground floor comprising:
 - The construction of 5 retail units at the ground floor level of Aungier Street and Longford Street Great with gross floor areas of 68 sq m, 100 sq m, 41 sq m, 69 sq m and 1976 sq m. The latter is a foodstore

with a net floor area of 1350 sq m and includes an ancillary off-licence sales area.

- The construction of 300 en-suite student accommodation bedrooms on the 1st to 6th floors comprising 30 house units, each with communal kitchen facilities (ranging in size between 3 and 8 single bed en-suite rooms) providing 282 bed spaces and 18 one-bed studio rooms (18 bed spaces), and associated facilities including a central access lobby/reception area off Stephen Street Upper, a gym, a central amenity hub, recreation areas, administration areas, bin stores, and bicycle parking area, gardens and open amenity areas within the development at 1st floor and roof gardens and private terraces on the roofs over the 3rd, 4th, 5th and 6th floors overlooking Stephen Street Upper, and the roofs overlooking Aungier Street, Longford Street Great and the central block.
- A service yard/loading area and vehicular access off Stephen Street Upper.
- Associated plant, landscape and site development works.

In terms of overall floorspace, the site presently accommodates 2182 sq m of which 1808 sq m would be demolished and 374 sq m would be retained. The proposal would entail the construction of 12,197 sq m of new build floorspace and so an overall total of 12,571 sq m would ensue.

Following the receipt of further information, the retention of the building at No. 73 Aungier Street was incorporated within the proposal and the top storeys of the proposed blocks onto Stephen Street Upper and Longford Street Great were set back. Consequently, the total gross floor area of the overall proposal has declined slightly to 12,369 sq m and the number of student rooms would be 271 (284 bedspaces) instead of 300. The elevations of the proposal onto the aforementioned Streets and onto Aungier Street have been reworked.

Planning authority's decision

Following receipt of further information, permission was refused for the following reasons:

1. *It is not considered that the applicant has provided sufficient justification for the demolition of buildings Nos. 13, 14 and 14A Stephen Street Upper and therefore the proposed development would contravene Policy 17.10.5 of the Dublin City Development Plan 2011 – 2017, which seeks to retain and re-use older buildings of significance, which are not protected but which contribute to the streetscape. The proposed development would thereby create an undesirable precedent for similar developments within the area and as such*

would seriously injure the amenity of property in the vicinity and as such it is considered to be contrary to the proper planning and sustainable development of the area.

- 2. Having regard to the sensitive location of the site with two Recorded Monuments identified DU018-02089 Church Site and DU018-020162 Theatre Site, its location within a Conservation Area and Zone of Archaeological Constraint, it is considered that the proposed podium style development in the centre of the development with a large ground floor retail floor plate which stretches out to all three streets, disregards the archaeological remains that are insitu and the potential to present more appropriately to the public, and would therefore seriously impact on the historical significance of the site and its importance in reflecting the chronological history of the City of Dublin. The proposal as such is considered to seriously impact on the archaeological and historical significance of the site and as such on the amenity of property in the vicinity and is considered contrary to the Z5 zoning objective of the site which is to consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity, the proposal is therefore considered to be contrary to the proper planning and sustainable development of the area.*
- 3. Having regard to the location of the proposed development in close proximity to the environs of Dublin Castle, Aungier Street and associated protected structures, it is considered that the bulk and scale of the development would represent a visually incongruous insertion into Stephen Street Upper and Longford Street Great, which would be detrimental to the setting and character of this historic area. The proposed development would therefore seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

Technical reports

- Environmental Health: Conditions requested.
- TII: Section 49 Metro North levy condition requested.
- City Archaeologist: Advises on the great archaeological potential and sensitivity of the site and sets out detailed recommendations on changes to the proposal or, if it is to be permitted, then the archaeological conditions to be attached. Following receipt of further information, she concludes that “there has been little significant change to the development and that the proposal remains an entirely inappropriate response to a site of key archaeological and historical importance in the topographical development of city of Dublin.”

- OPW: Further information requested under the following headings: Visual assessment of the impact of the proposal upon Dublin Castle, reconsideration of the scale and massing of the proposal upon Stephen Street Upper, the lack of connectivity between Dublin Castle and this Street, and the siting of a vehicular access off it, and the security implications of the proposal for Dublin Castle.
- An Taisce: Revisions requested with respect to the design/streetscape presence of the proposal. Following receipt of further information, clarification of the same requested, as the slightly revised proposal fails to address in any substantive manner the range of serious concerns previously expressed.
- Roads and Traffic Planning: Following receipt of further information, no objection, subject to conditions.
- DoAHRRGA: Provides a detailed and far reaching critique of the proposal, which if the applicant does not fully address would lead to a recommendation of refusal.
- Conservation Officer: Objects, as the scale of re-design and adjustment necessary would be beyond the advertised description of the proposal. Following receipt of further information, refusal recommended for the following reason:

The proposal is contrary to the guidance of international conventions and charters on conservation, the architectural heritage protection guidelines, and the Dublin City Development Plan, as it undermines its conservation and archaeological strategy for the historic city and will radically and detrimentally remove surviving architectural character and fabric that maybe regarded as the precious and sensitive setting of the core cultural monument of the historic city, Dublin Castle.

Grounds of appeal

The applicant begins by highlighting two issues which they consider have been inadequately assessed by the planning authority, i.e. the fact that the mixed use nature of the proposal would be a completely consistent response to the Z5 zoning objective for the site, and the positive contribution that this proposal would make towards accommodating increasing student numbers in Dublin.

The applicant lists the pre-application meetings that they had with planning and conservation officers and they express surprise at the decision subsequently made on their application.

The applicant expresses concern at the rushed re-consultation exercise that occurred following their submission of further information. They also express concern over

inaccuracies in the advice forwarded to the case planner and her final assessment of their revised proposal.

Turning to the three reasons for refusal, the applicant cites the following grounds of appeal.

First reason

(The applicant did not have access to any report from the City Archaeologist that may have been issued in response to their revised proposal).

- This reason inaccurately cites Section 17.10.5 of the CDP as “policy”. This Section refers to two considerations of relevance to the retention of unprotected structures, i.e. their significance and whether or not they make a positive contribution to the streetscape.
- The applicant’s conservation architect assessed the buildings at Nos. 13, 14 & 14A Stephen Street Upper under NIAH criteria for significance and concluded that they are not significant. The planning authority’s contention to the contrary is unsubstantiated.
- The proposal would not establish an adverse precedent. It should, like any other proposal, be considered “on its merits” and, in the light of relevant CDP policies and objectives, such consideration points to its acceptability.
- The planning authority cites “injury to the amenity of property in the vicinity” without explaining what it means. Nevertheless, the applicant reviews each of the three public elevations of their proposal to the surrounding streets and the central portion of the same. The appropriateness of each to its context is elucidated, including the wider context of Dublin Castle, and so the enhancement of the area would ensue.

Second reason

- The applicant summarises the archaeological picture of the site that emerges from a review of previous extensive investigations. The applicant’s archaeologist prepared a summary report as a briefing document for interested parties. She also prepared an archaeological impact statement (AIS), which was subsequently revised to reflect the common ground floor level of the submitted proposal. The City Archaeologist questioned whether preservation insitu would now be realistic and so the applicant proposed that full excavation occur, an approach with which the City Archaeologist agreed in principle.

The archaeological points raised under the planning authority’s request for further information are reviewed. Thus, (i) referred to an urban design issue,

i.e. the reservation of an area of open space, (ii) if remains of St. Peter's Church were to be found, then they would lead to a redesign of the proposal to facilitate their retention insitu in a basement that would be accessible to the public, and (iii) the upstanding sections of walls within the site have been assessed by the applicant's conservation architect and interpreted accordingly.

The City Archaeologist's post-further information advice, as cited in the case planner's report, is critiqued. While this advice accepts that excavation could afford important answers to questions to do with the history of the site, it fails to (a) acknowledge the applicant's aforementioned commitment under (ii) above, (b) recognise the value of incorporating the wall on Longford Street Great, which contains segmented door cases, into the proposal, and (c) accept the role that information boards could have in presenting the archaeology/ history of the site to the public.

- The suggestion that an area of open space be incorporated at ground level within the proposal is challenged on the basis that when St. Peter's Church was insitu it would have been surrounded by open ground and a ditch. Since then the building out of the city block that exists today did at one time incorporate an area of open space, but, as first recorded in the OS map of 1847, this area, too, has been built over.

Furthermore, this suggestion fails to reckon with the relative smallness of the city block in question and the fact that the applicant does not control properties that would adjoin the area of open space. The resulting juxtaposition would not represent good urban design as it would be the unsightly rear elevations of these properties that would be evident and the opportunity to provide active frontages would not exist. Furthermore, experience elsewhere of small, enclosed spaces in Dublin indicates that they tend to become venues for anti-social behaviour.

There is no historic precedent for a route through the site. Instead the nearest processional route of old to Dublin Castle can be seen in Stephen Street Upper/Ship Street Little.

The proximity of public open space in the wider area, e.g. St. Patrick's Cathedral Park, the grounds of Dublin Castle and St. Stephen's Green, would provide recreational opportunities for future residents of the proposal.

Far from adversely affecting the amenity of surrounding properties the proposal would remedy the longstanding dereliction that characterises the site.

Third reason

- Attention is drawn to the absence of any discussion of bulk and scale from the case planner's report.

With respect to the Stephen Street Upper elevation of the proposal, its massing reflects that evident in the building plots shown on Rocque's historic 1756 map and its height would be similar to that of the Dunnes Stores office building opposite, thereby re-balancing the streetscape.

The curve of Stephen Street Upper allows for the said elevation to incorporate the bronze "vee" detail and the dignity of this elevation would be enhanced by the specification of granite plinths to the shop fronts. By contrast the elevation to Longford Street Great would, as a rectangular building, reflect this Street's alignment. The top storeys on each of these elevations would be set back.

- Unlike the Dunnes Stores office building, the proposal, as depicted on the submitted photomontages, would have no material impact upon views from Dublin Castle. Any impact would be consistent with the minor changes that must occur to the city's skyline if it is to continue to evolve.
- The proposed development of the central portion of the site would simply follow the historic pattern, as last evidenced by the existing dance hall.
- The proposal, as revised, would entail the retention and restoration of the buildings at Nos. 73, 74 and 75 Aungier Street and the replacement of the ones at Nos. 71 and 72 with buildings that would be wholly sympathetic to the receiving streetscape. The nearest protected structures at Nos. 76, 77, 78 and 80 Aungier Street would not be directly affected by the proposal.
- The proposal would not be a visually incongruous insertion into Stephen Street Upper and Longford Street Great. Considered within their contexts the proposed elevations onto both of these Streets would relate well to existing development, e.g. the four storey buildings at Nos. 15 – 20 Stephen Street Upper and the four storey IBOA building, which adjoins the south western portion of the site. Furthermore, the curved alignment of the Stephen Street Upper elevation would be such that it would not be seen in its totality by passers-by, but rather as an unfolding elevation.
- Once again any concern over amenity is misplaced as the proposal would regenerate a derelict site and increase activity and footfall to the city block in question.

The applicant requested both an oral hearing and a decision by September 2016 to facilitate the two year development programme that would allow the student accommodation to be available from the start of the academic year in 2018.

Responses

The planning authority has responded to the above cited grounds of appeal, as follows:

- The applicant was afforded the opportunity, under a request for further information, to address the planning authority's concerns. Their response entailed some modest revisions to the proposal that were insufficiently extensive to overcome the said concerns.
- The buildings at Nos. 13, 14 & 14A Stephen Street Upper are an integral part of the streetscape that contributes positively to its character and identity. They should therefore be retained.
- St. Peter's Church is one of three recorded monuments in the relevant block. While the specific location of this Church remains to be discovered, the applicant has not thought through sufficiently how best to represent the historic significance of the site.
- The scale of the proposal onto Stephen Street Upper and Longford Street Great would be too dominant and it would set an adverse precedent for the area.

Observers

P. J. O'Boy resident at No. 15 Stephen Street Upper:

- Expresses deep concern that his existing personal health issues would be exacerbated by the environmental impact of any construction phase.

Silverwood Developments Limited owner of commercial buildings, opposite the site, along the north western side of Stephen Street Upper:

Attention is drawn to the following concerns that were raised by the observer in response to the original application:

- Excessive density and height,
- Negative impact on protected structures and streetscape,
- Impact on the reception of sunlight/daylight at their buildings opposite,
- Impact of traffic generated by the proposed ground floor retail use,

- Impact upon amenity of roof terraces, and
- Archaeological impact.

These concerns were not allayed by the submitted further information.

The observer supports the planning authority's three reasons for refusal. They draw attention to the issue of bulk and scale, which was raised by many of the objectors, and included as such in the case planner's report. Additionally, they cite three further matters of concern, which are summarised below.

- Attention is drawn to the proposed service access to the retail use off Stephen Street Upper. Articulated delivery vehicles and refuse vehicles would have to reverse into this access, thereby causing an obstruction to what is an important cross city arterial route. Such obstruction would lead to congestion at peak times.

If a smaller supermarket were to be specified, then servicing could take place from the kerbside. In this respect, Aungier Street would provide a more appropriate point from which to do this.

Notwithstanding the aforementioned ground, if the Board is minded to grant, then conditions are requested that would reduce the size of the supermarket, omit the proposed service access, and restrict the hours of servicing to avoid traffic peaks and to safeguard amenity.

- Exception is taken to the applicant's suggestion that the observer's buildings have a significant impact upon views from Dublin Castle. Likewise, exception is taken to the suggestion that these buildings unbalance the streetscape of Stephen Street Upper.

Rather the said buildings illustrate how old and new can be successfully integrated, something that the proposal would fail to do with respect to the shop fronts at Nos. 13, 14 & 14A Stephen Street Upper. Instead an intense and repetitive elevational treatment to this Street is proposed.

Notwithstanding the setting back of the top storey to the elevation in question, the proposal would still be overbearing. Furthermore, its scale would reduce the amount of sunlight/daylight that would be received by the observer's buildings opposite, with a loss in the solar gain enjoyed as a result of their largely glazed street side elevations.

- Attention is drawn to the control that has been exerted over height within the area of the site in the past. Thus, for example, the observer's proposal that a fourth floor be added to their buildings was refused at appeal (PL29S.208575) on the grounds that such addition would be overly dominant

and overbearing to nearby protected structures and it would detract from the setting of Dublin Castle.

Given the aforementioned precedent, the observer cannot see how the Board could now grant the current proposal that would be similar in height to the denied fourth floor.

Notwithstanding the aforementioned ground, if the Board is minded to grant, then a reduction in height to three or four storeys should be conditioned.

Planning history

- 1574/00: 7 Stephen St. Upr.

Demolish existing garage and erect five storey building over basement car park comprising four floors of offices with two bed apartment overhead: Permitted on 15th December 2000, subject to 8 conditions, including an archaeological condition, which referred to a masonry structure identified in the archaeological report that required further investigation and which may be required to be preserved insitu, and an amending condition with respect to the top floor, which was to be set back by a further 0.5m and the presenting elevation angled and finished in a light metal material.

- 2023/00: 71 Aungier St.

Demolish existing single storey retail building and the erection of a new four storey over basement building to be used for retail on the ground and first floors and offices on the second and third floors (basement to be used for storage): Permitted on 13th February 2001, subject to 15 conditions, including an archaeological condition, which required that an archaeological assessment be carried out and reported upon.

- 6130/03: 17 and 18 Great Longford St.

Construction of part four/part six storey building with offices on the ground floor and 12 apartments on the upper floors with a shared court yard and roof terrace: Permitted on 24th February 2004, subject to 14 conditions, including an archaeological monitoring condition.

- 4013/06: 72 Aungier St.

Change of use from retail unit to a restaurant with internal and external alterations, including the reinstatement of the rear yard and the provision of a new shop front: Permitted on 5th September 2006, subject to 14 conditions.

- 5426/06: 17 and 18 Great Longford St.

Construction of five storey building with retail on the ground floor (180 sq m) and offices on the upper floors (906 sq m), fourth floor roof terrace to be set back: Permitted on 21st March 2007, subject to 17 conditions, including an archaeological monitoring condition, which refers to “Confirmation of a masonry structure, in all likelihood associated with the parish church of St. Peter’s, should be determined.” A subsequent time extension was granted and so this permission remains extant until 7th June 2017.

Development Plan

The Dublin City Development Plan 2011 – 2017 (CDP) shows the site as lying within an area that is zoned Z5, wherein the objective is “To consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity.” The site also lies within the Zone of Archaeological Interest (ZAI) and there are 2 Recorded Monuments within it, i.e. the Church of St. Peter (DU 018 020089) and the Aungier Street Theatre (DU 018 020162). (The wider surrounding area of the site is a Recorded Monument, too, i.e. an ecclesiastical enclosure (DU018 020389)). The properties within the site that front onto Aungier Street lie within a designated conservation area. Section 7.2.5.4 cites Aungier Street as one of a number of key historic main routes into the city centre. Archaeological policies FC63 – 65 (inclusive) and the development standards set out in Section 17.11 of archaeological sites are of relevance. Appendix 23 sets out guidelines for student accommodation.

The aforementioned zonings and designation are shown in the draft Dublin City Development Plan 2016 – 2022, too. Section 11.1.4 cites Aungier Street as one of number of priority areas of special historic and architectural interest, which the planning authority undertakes to survey further from a conservation perspective with a view to the designation of ACAs where special interest is identified.

National planning guidelines and other relevant advice

- Architectural Heritage Protection
- Framework and Principles for the Protection of the Archaeological Heritage

Report of the oral hearing

The proposal was the subject of an oral hearing, which took place on 6th and 7th September 2016 in the Board’s conference room. A list of the written and oral submissions made at this hearing is set out in Appendix A and a copy of the letter setting out the order of proceedings is set out in Appendix B.

First day

Firstly, **the applicant's submissions** were made. In his opening remarks, **Ian McGrandle** (item (i)(a) in Appendix A) referred to the following cluster of inter-related issues that lie at the centre of the appeal:

- The development of vacant derelict land in Dublin city centre,
- The approach to and addressing of underground archaeological remains within a development,
- The approach to protected monuments and places, and
- The appropriate scale and integration of new buildings into an existing urban block.

He warned that, if the weighting given to these issues in the planning authority's decision was to be replicated in the Board's decision, then this would have a "chilling effect" on the site and comparable sites in the city centre.

Stephen Marshall (item (i)(b)) gave an overview of the proposal. He referred to how the historical grid of Stephen Street Upper and Longford Street Great had influenced the design, along with contextual influences, such as the prevalence of brick in the locality. He also referred to the views that would be available from the former Street into the centre of the development through the glazed reception and circulation areas and how the design of the centre would intentionally differ from the streetscape elevations.

Barry O'Brien (item (i)(c)) gave an overview of the proposal from the applicant's perspective. He referred to the site assembly that has been undertaken and to the foreign direct investment that would be entailed in the project, which would provide badly needed student accommodation.

Nigel Tae (item (i)(d)) introduced "Scape Student Living" the firm that would operate the proposed student accommodation. He outlined the firm's approach to design and management and its underlying quest to provide student accommodation with associated facilities that goes beyond that which is afforded by traditional halls of residence.

Alan Whelan (item (i)(e)) reviewed planning policies and objectives relevant to the proposal. In doing so, he drew attention to the Department of Housing, Planning, Community and Local Government's document published in July 2016, entitled "Rebuilding Ireland: Action Plan for Housing and Homelessness", which supports the greater provision of student accommodation and advises that planning authorities should assist in the development of such accommodation through their planning function. He also demonstrated numerically that the existing and potential demand

for purpose-built and managed student accommodation outstrips existing and projected supply considerably, hence the need for the current proposal.

Cathal Crimmins (item (i)(f)) discussed the significance of the buildings at Nos. 13, 14 & 14A Stephen Street Upper, based on his own research into and survey of them. He concluded that, under the NIAH's methodology, they are of no significance and they do not make a positive contribution to the streetscape. Reason 1 of the draft refusal was thus dismissed.

Tracy Kearney (item (i)(g)) drew attention to the structural implications of the historic insertion of shop fronts into each of the buildings at Nos. 13, 14 & 14A Stephen Street Upper. She also drew attention to the prospect that the removal of cement from soft clay brickwork would be likely to damage the same. She concluded that, as consequence of these factors, the viability of the retention of these buildings is open to question.

In an additional document, Tracy Kearney set out how the proposed ground floor would represent the optimum structural solution for the proposal, as it would afford flexibility as to the siting of piles in conjunction with the whereabouts of archaeological remains that may need to be retained insitu. This solution would also allow such remains to be presented to the public through reinforced glass.

Linzi Simpson (item (i)(h)) reviewed the history of the site and the changing approach to how to handle its archaeology under the emerging proposal. She referred to how a multi-level ground floor format gave way to a single level one, which would necessitate the excavation of medieval clays. She also referred to the absence of certainty as to the siting of St. Peter's Church and so the whereabouts of any remains that may exist is an open question. Construction management challenges indicated that full excavation of the site would be advisable to ensure that the various research questions attendant upon this site could be assured of being answered. The fact that the site is large and that it can be excavated as a whole is of assistance in this respect.

Thomas Jennings (item (i)(i)) reviewed how the proposed service access arrangements came to be selected from a number of options. He responded to one of the observer's claims that Stephen Street Lower is a cross city route by insisting that it effectively provides local access only and he outlined how student drop-offs would be actively managed.

Stephen Marshall (item (i)(j)) outlined how the proposed high block in the centre of the proposal would not have an overbearing effect on surrounding streets. He outlined, too, how the proposal would not lead to overshadowing of the atriums to the Dunnes Stores HQ on the opposite side of Stephen Street Upper. His design rationale for the elevations to this Street and that of Longford Street Great was set

out in detail. He explained how the standard bedroom units facilitates a repetitive pattern and hence formal elevations. He described the curvature of the former Street as “a gift to the site” from an architectural perspective.

Vincent Traynor (item (i)(k)) discussed the photomontages of the proposal taken from public vantage points on surrounding streets and from within Dublin Castle and its grounds. He commented on the appropriateness of the proposed streetscape elevations and he concluded that the visibility of the proposal would have no material impact upon views available from within Dublin Castle and its grounds.

Secondly, **the planning authority’s submissions** were made. **Ruth Johnson** (item (ii)(a) of Appendix A) discussed the archaeology of the site. She drew attention to the presence of two recorded monuments, i.e. St. Peter’s Church and the Aungier Street Theatre, and to a medieval grave yard identified by the Archaeological Survey of Ireland. She expressed the view that the key challenge posed by the proposal was how the significant archaeological content of the site could be balanced with it.

Nicki Matthews (item (ii)(b)) discussed the conservation interest attendant upon the site within its context of the Aungier Street area, which has been elucidated in the published study “Aungier Street: Revitalising a Historic Neighbourhood”. She drew attention to comparable developments for student accommodation on Mill Street and Thomas Street and she also drew attention to work that is on-going on the preparation of a draft Architectural Conservation Area (ACA) for the Aungier Street area.

Eileen Hart (item (ii)(c)) summarised the three reasons for the planning authority’s refusal of the proposal.

Second day

Firstly, **the OPW’s submissions** were made (item (iii)(a) of Appendix A). **Pauline Byrne** outlined how Dublin Castle and its grounds are being opened up to greater use by the public. A Conservation Management Plan (CMP) is being prepared which would promote a continuation of this trend. **Hugh Bonner** elaborated on this point in referring to the objective to open up access with Stephen Street Upper. He expressed concern that the visual impact of the proposal would be to exacerbate the existing looming effect of the Dunnes Stores HQ. He also expressed concern that the height of the proposal would pose security issues.

Secondly, **the DoAHRRGA’s submission** was made (item (iii)(b)). **Fredrick O’Dwyer** expressed the view that the proposal would affect the character and setting of the existing Aungier Street Conservation Area. Within this context, he expressed concern over the massing of the proposal. He also raised a series of questions as to how the reconstruction of the buildings at Nos. 74 and 75 and the above ground upstanding remains of the theatre would be handled.

A question and answer time followed in which the substantive subjects of archaeology, conservation, and streetscape were addressed, along with any miscellaneous matters.

Archaeology

- The applicant's undertaking to provide an archaeological information wall was explored and details concerning the same were provided. Likewise, their undertaking to install reinforced glass within the ground floor to display any remains of the church and the theatre was explored in the context of the likely requirements of the prospective foodstore operator.
- Whether the full excavation option would be compliant with the CDP's Policy FC64 was explored.
- The question raised by the DoAHRRGA concerning the handling of the above ground upstanding remains of the theatre was addressed.

Conservation

- The question raised by the DoAHRRGA concerning the reconstruction of Nos. 74 and 75 Aungier Street and related questions to do with these buildings were addressed.
- The approach to the reconstruction of No. 73 was discussed in the context of differing views as to the historically appropriate typology that should inform the same.
- The rationale for the coffin shape of the former dance hall was the subject of discussion.
- The status of the published study cited by Nicki Matthews was clarified as being that of a non-statutory informative document.
- Richard McLoughlin (item (iv) of Appendix A) outlined the work that he has undertaken to date on the preparation of a draft ACA for the Aungier Street area and the sources that he has drawn upon. He outlined the rationale for seeking a route through the site between Stephen Street Upper and Longford Street Great and he expressed the view that the modest scale of the buildings at Nos. 13, 14 & 14A was in deliberate contrast to the larger buildings on Aungier Street. The City Conservation Officer advised that in the presence of an effective moratorium on additions to the RPS, the protection of the said buildings was being pursued by means of the emerging ACA.

- The OPW advised that their Stephen Street Upper access objective was a long term one and that a 10 year time frame was in prospect within which to resolve issues in its provision.

Streetscape

- Aspects of the buildings at Nos. 73 – 75 Aungier Street and Nos 13, 14 & 14A Stephen Street Upper were discussed further.
- The visibility of the proposal from further west on Golden Lane was explored with the aid of an additional photomontage.

Miscellaneous

- The historic presence of Ormond Gate on Stephen Street Upper in a position adjacent to the proposed service access was explored within the context of how this association with the site might be acknowledged.

Submissions were received from the planning authority and the DoAHRRGA on archaeological and conservation conditions (item (v) in Appendix A). Sean Kirwan emphasised the importance of avoiding conflict between the outworking of national monuments legislation and planning legislation. To this end, the presumption in favour of the preservation insitu of the masonry remains of recorded monuments is stronger than the presumption in favour of the preservation of archaeological remains in general.

The oral hearing concluded with **closing statements** from the DoAHRRGA, the planning authority, and the applicant (item (vi) in Appendix A).

Assessment

I have reviewed the proposal in the light of national planning guidance, the CDP, relevant planning history, and the submissions of the parties, the prescribed bodies, and the observers to this appeal, including those that were made and the discussion that ensued at the oral hearing. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use,
- (ii) Archaeology,
- (iii) Conservation,
- (iv) Streetscape,
- (v) Skyline,
- (vi) Amenity,

- (vii) Development standards,
- (viii) Traffic, access, and parking, and
- (ix) AA.

(i) Land use

- 1.1 The site is presently underutilised. Thus, only the upper floors of the buildings at Nos. 72 and 73 Aungier Street and Nos. 14 and 14A Stephen Street Lower are in residential use and the building at No. 6 Stephen Street Lower is in office use. The remaining buildings at Nos. 71, 74 and 75 Aungier Street and Nos. 7 and 13 Stephen Street Lower are vacant, along with the former dance hall, known as “The Coffin”, which is sited towards the centre of the site. (Nos. 74 and 75 have partially collapsed internally and so they are currently uninhabitable and No. 7 has been largely demolished apart from that portion which immediately adjoins the street). The former buildings between Nos. 7 and 13 have been demolished and the former buildings at Nos. 17 – 19 Longford Street Great have been demolished. The plots thus cleared are considerably overgrown.
- 1.2 The site maintains frontages onto Aungier Street, Longford Street Great, and Stephen Street Upper. Aungier Street connects with South Great George’s Street to the north and, via Redmond’s Hill, with Wexford Street/Camden Street to the south. These streets to the north and to the south provide the focus for considerable retail and commercial activity that contrasts somewhat with the more intermittent pattern of such activity on Aungier Street. And yet as the connecting Street between these other streets, the opportunity exists for it to become more active, an opportunity that remains to be more fully realised.
- 1.3 The site lies within an area that is zoned Z5 (city centre) in the current and emerging CDPs. Under this zone the objective is “To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.” The accompanying commentary outlines how the primary purpose of the zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses, which interact with each other, creates a sense of community, and which sustains the vitality of the inner city both by day and night. This mix of uses should occur both vertically and horizontally along the street frontage.
- 1.4 The proposal is for a mixed use development that would comprise the provision of 4 retail units, including a larger one that would be capable of accommodating a supermarket which would incorporate an off-licence, at ground floor, and, as revised, student accommodation comprising 271 bedrooms (284 bedspaces),

predominantly at upper floor levels, but with a reception and gym at ground floor onto Stephen Street Upper.

- 1.5 Under Z5, retail uses are permissible. Off-licences are addressed under Section 17.29 of the CDP. The applicant's planning consultant has engaged with the factors set out in this Section, in his planning report dated 4th October 2015, and he has demonstrated that the proposed off-licence would satisfy these factors. Student accommodation is addressed under Policy QH30, which encourages the provision of such accommodation close to third level campuses and high quality public transport corridors and cycle routes. The site is conveniently placed for a number of such campuses, e.g. DIT on Aungier Street and Kevin Street, the Royal College of Surgeons, and TCD, as well as a number of independent campuses such as the Dublin Business School on Aungier Street/Bow Lane East. Furthermore, Aungier Street is served by multiple bus routes. Accordingly, I consider that the site would be an appropriate location for student accommodation.
- 1.6 As originally submitted, the proposal would have had a total floorspace of 12,571 sq m on a site with an area of 3250 sq m. Thus, this proposal would have exhibited a plot ratio of 3.868 and it would have a stated site coverage factor of 90%. Under the revised proposal, the total floorspace would be slightly less at 12,369 sq m and so the plot ratio would be 3.806.
- 1.7 Under Sections 17.4 and 17.5 of the CDP, the indicative plot ratio for Z5 is 2.5 – 3.0 and the indicate site coverage factor is 90%. The proposal would thus exhibit a plot ratio considerably in excess of the said range and its stated site coverage factor would coincide with the maximum cited. Section 17.4 sets out circumstances in which a higher plot ratio may be permitted. One of these circumstances is of relevance, i.e. to facilitate comprehensive redevelopment in areas in need of urban renewal. This Section also counsels that plot ratios should be used in conjunction with other development control measures in the assessment of proposals. Accordingly, the density of the current proposal will effectively be revisited indirectly under other parts of my assessment that have a bearing on this question.
- 1.8 I conclude that the proposal would, as a mixed use development, comply with the primary purpose and strategy of Z5 of the CDP. This proposal would comprise uses that would be appropriate within Z5. It would also represent a positive response to the need for increased economic activity on Aungier Street and it would remedy the dereliction and underutilisation of buildings and plots on a site that is centrally located within the city.

(ii) Archaeology

- 2.1 Under the CDP, the site is shown as lying within the Zone of Archaeological Interest (ZAI) and 2 Recorded Monuments lie within its boundaries, i.e. the Church of St. Peter (DU 018 020089) and the Aungier Street Theatre (DU 018 020162).
- 2.2 DoAHRGA advice on archaeology is set out in the document entitled “Framework and Principles for the Protection of the Archaeological Heritage”. Section 3.3 of this document identifies the two alternative approaches to handling archaeology on development sites, i.e. preservation in-situ or preservation by record. Section 3.4 states that there is a presumption in favour of the former approach and the latter approach should be pursued only where the proposed development (a) cannot be relocated, (b) cannot be re-designed to avoid removal of the site or monument (or portions of such), and (c) is really necessary.
- 2.3 Section 3.8 of the aforementioned document discusses historic towns located within present day urban areas. This Section states that surviving masonry structures below ground level are of particular archaeological or historic interest and so they need to be preserved in-situ. It also states that “Every effort should be made to secure the preservation in-situ of surviving upstanding features or structures of archaeological interest located in historic towns”.
- 2.4 The CDP sets out several policies (FC63 – FC67) and objectives (FC047 – FC051) on archaeology and accompanying advice (Section 17.11). Of these Policies, FC64 is of most relevance to the current proposal:

To promote the in-situ preservation of archaeology as the preferred option where development would have an impact on buried artefacts, except where other alternatives are acceptable or exceptional circumstances are determined by the relevant statutory agencies. Where preservation in-situ is not feasible, sites of archaeological interest shall be subject to archaeological investigations and recording according to best practice, in advance of redevelopment.

- 2.5 The applicant’s archaeologist in her evidence to the oral hearing outlined the significance of the site. Thus,
- The curved alignment of Stephen Street Upper appears to form part of the north western boundary to a large, 7th Century, monastic settlement that extended over the wider area and which was known as *Dubh-linn*.
 - The 11th Century Church of St. Peter of the Hill was sited somewhere in the site. An associated grave yard was excavated during the development of the IBOA building to the south west of this site. This Church was demolished and a new one was built further to the south on Aungier Street in the late 17th

Century. The raised ground upon which it was erected may have been levelled at the same time.

- The site formed part of the Aungier Estate, which was developed in the 1660s. This Estate entailed the construction of townhouses and its subsequent development, including the former dance hall built in the 1950s, may have affected the site of the aforementioned Church.
- A theatre was sited in a position adjoining Longford Street Great. This theatre was in-situ during the middle decades of the 18th Century. Thereafter, it was replaced by a terrace of 4 red brick houses. The remains of two door cases and a brick archway on the southern boundary of the site testify to the presence of the theatre and/or these houses.

2.6 The applicant's archaeologist outlined the findings of previous archaeological testing within the site, which was undertaken in connection with earlier proposals that did not proceed (cf. planning history). These findings detected the foundations of 17/18th Century houses and later 19th Century basements along Stephen Street Upper and part of Longford Street Great, along with one foundation wall to the theatre. Elsewhere, a band of medieval soils was detected to the rear of the sites of the former houses on Stephen Street Upper and it extends southwards from there. A ditch, possibly one that enclosed the above cited grave yard, was also detected and within it two skeletons.

2.7 The applicant's archaeologist outlined how the originally anticipated approach to the archaeology of the site would have entailed a twin track strategy of preservation in-situ and preservation by record. This strategy would have been facilitated by a split-level ground floor, whereby the above cited medieval soils and ditch would have been preserved in-situ and, in the absence of a new basement from all but the north western portion of the site, any remains of the Church could have been preserved in-situ, too. However, due to the differing levels of the streets surrounding the site, this approach was set aside in favour of one that would entail essentially a single level ground floor. Consequently, a greater amount of excavation would arise, including that of the medieval soils, and so the feasibility, in practice, of ensuring the preservation in-situ of non-masonry remains could not be assured. Full excavation of the site and preservation by record of the said remains is now proposed as the approach that would be most likely to yield the answers to the outstanding research questions that are attendant upon the site.

2.8 The applicant's archaeologist accepts that the switch from a split-level ground floor to an essentially single level one was design-led rather than archaeologically-led. That said, she and the applicant's structural engineer draw attention to the greater complexity and relative inflexibility of the piling pattern

that would have characterised the former approach. By comparison, the latter approach would facilitate greater flexibility in the siting of piles. They also emphasise that under either scenario the fact that the site would be approached as a whole, rather than in the fragmented way that has occurred in the past, would ensure that archaeology could be handled in a more satisfactory manner.

- 2.9 The City Archaeologist's original advice concludes that the scale of the proposal and the sensitivity of the site warrant full excavation of archaeological deposits to natural sub-soil level in order to address the aforementioned outstanding research questions. Her requested changes to the proposal related to the manner in which such deposits are displayed to the public, in particular any remains of the Church. Nevertheless, during the oral hearing, she was unable to confirm that the proposal would be compliant with Policy FC64 and she alluded, in this respect, to how re-design and the judicious omission of elements from the current proposal would facilitate greater preservation in-situ. She also made a distinction between the street frontages of the site and the interior of the same. While the proposal's treatment of the former was considered to be appropriate, the treatment of the latter was unsatisfactory.
- 2.10 The DoAHRRGA's archaeologist drew upon the document entitled "Framework and Principles for the Protection of the Archaeological Heritage" in making a distinction between the recorded monuments on the site and other archaeological remains. Thus, the presumption in favour of the retention in-situ in the case of the former was said to be stronger again than in the case of the latter.
- 2.11 The applicant confirmed that the level of the proposed ground floor would be consistent with adherence to the aforementioned stronger presumption. They set out how they would display any masonry remains of the Church and below ground remains of the theatre/houses by means of the insertion of reinforced glass in the ground floor of the proposed foodstore. They intimated that, as the draft lease for this foodstore is based upon the current proposal rather than any conditions that may be attached to a grant of permission, it does not refer to such insertion of reinforced glass. Confidence was however expressed that any prospective tenant would appreciate the value of such public display.
- 2.12 The City Archaeologist appears to have drawn upon the published study entitled "Aungier Street: Revitalising an Historic Neighbourhood" and associated emerging work that is being undertaken in connection with the preparation of a draft ACA for the Aungier Street area in envisaging a form of public display in the open that would be accessed by a new through route of the site.

- 2.13 The applicant critiqued this approach by referring to the absence of any historic precedent for such a through route and the safety and security risks that would be attendant upon introducing publically accessible open space to the centre of the site.
- 2.14 I consider that there are two imperatives with respect to archaeology. The first is that the answers to outstanding questions attendant upon the site should be discovered. From the evidence before me, full excavation and preservation by record would appear to be the surest way of ensuring that this imperative is respected. While I accept that the applicant's original approach would have facilitated a greater opportunity for preservation in-situ, I consider that this opportunity needs to be weighed in the light of the accompanying piling pattern and the inevitable risks posed to archaeological remains by activities on a major construction site. The second imperative is that masonry remains of the recorded monuments on the site are capable of being preserved in-situ. This the current proposal would do.
- 2.15 Turning to the display of the masonry remains of the recorded monuments, while some confidence can be expressed as to where such remains may be sited with respect to the theatre, their extent is unknown. Furthermore, the remains of the Church, if they exist, could occur at any one of numerous points underneath the footprint of the proposed foodstore.
- 2.16 The prospective tenant for the foodstore would be a discount food retailer. The net retail floorspace available would be 1350 sq m. At the oral hearing, no reduction in this floorspace was envisaged and so the display of the recorded monuments would be by means of reinforced glass in the ground floor to this foodstore. While the applicant's architect expressed confidence that the layout of this floor could be adapted to facilitate such display, I am aware that discount food retailers tend to operate in a relatively inelastic manner and, if seasonal commercial pressures are considered too, there may be difficulty, in practise, in ensuring that the display remains visible.
- 2.17 I agree with the planning authority that it is an important objective that the remains of the recorded monuments be made available for public display. I consider that, in view of my discussion in the foregoing paragraph, the envisaged extent and layout of the proposed foodstore (cf. drawing no. 33 revision A) may not be wholly consistent with this objective. Thus, for example, it may be appropriate to recess the shop front onto Longford Street Great to more adequately present the upstanding archaeological remains and any sub-surface remains of the theatre and/or houses. Likewise, the site of the Church, denoted by any archaeological remains, may lend itself to being presented in a dedicated publically accessible space, as an appendage to any retail use.

- 2.18 The aforementioned scenarios would have implications for the extent and layout of floorspace that would ultimately be available to any retail operator. However, I consider that there needs to be an acceptance by the applicant that the display of the archaeological remains of the recorded monuments warrants dedicated space rather than space which could be used for other purposes. I, therefore, envisage the need, to condition the redesign of the proposed foodstore, once the full archaeological situation pertaining to the recorded monuments is known, to ensure that the masonry remains of these monuments is capable of being displayed in dedicated publically accessible spaces.
- 2.19 At the oral hearing the applicant elaborated upon their proposal for a conservation wall on the Stephen Street Upper elevation. Thus, this wall would potentially entail the exhibition of artefacts from the site and the use of interactive technology to inform the public in an engaging manner of the site's history. The applicant also expressed a willingness to use artworks to convey a sense of place and to employ local reference points, such as that of the historic toll gate on Stephen Street Upper known as Ormond Gate, in the naming of the student accommodation. These matters could be conditioned.
- 2.20 I conclude that the applicant's proposed approach to handling the archaeology of the site would be appropriate, provided the masonry remains of the recorded monuments are preserved in-situ and are the subject of public display in a dedicated space(s).

(iii) Conservation

- 3.1 Under the CDP, Aungier Street is designated a Conservation Area and so the buildings within the site that front onto this Street lie within this Area. Whereas there are examples of buildings that are protected structures to the north of these buildings, they themselves are not protected structures. Under Policy FC41, the planning authority undertakes to protect and conserve the special interest and character of Conservation Areas in the development management process and Section 17.10.8 elucidates what this entails.
- 3.2 In the case of the current proposal, existing buildings on the site would be affected and new build elements would have a visual impact on the aforementioned Conservation Area and its setting, including protected structures on the northern side of Stephen Street Upper, to the west of Aungier Street. I will discuss under this part of my assessment the said existing buildings and under the following two parts the impact of the new build elements on the streetscape and the skyline.

- 3.3 As originally submitted, the applicant proposed to retain and restore the historic buildings at Nos. 74 and 75 Aungier Street. Following a request for further information, they included the building at No. 73 within this programme of retention and restoration. Nos. 74 and 75 have been reduced to two storeys and they are in a serious state of disrepair. The applicant proposes to restore their missing second and third floors and in the case of No. 74 to add a fourth floor over the central and rear portions of the building. No. 73 would likewise have a third floor added and a fourth floor over its rear portion. All three buildings would accommodate individual retail units on the ground floor and studio units on their upper floors. The studios would be designed to fit the historic layout of their host buildings and they would include pod bathroom facilities that would be freestanding within their floorspaces.
- 3.4 While the City Conservation Officer and the DoAHRRGA welcomed, in principle, the applicant's undertakings in these respects, they expressed concern that insufficient details of the proposed restoration works have been submitted. The City Conservation Officer also expressed concern that the rebuilding of No. 73 would distinguish it from No. 72, with which it may have been historically paired. She stated that an opportunity to reproduce the four-bay typology, typical of Aungier Street, would thereby be lost.
- 3.5 The applicant responded by stating that they recognised and accepted that considerable work remains to be done on the details of the proposed restoration works. (I consider that such details could be the subject of conditions). They questioned whether the said typology was as prevalent as the City Conservation Officer was suggesting and so they were not persuaded of the need to revisit the proposed design approach to No. 73.
- 3.6 While the applicant insisted that the proposed fourth floors to Nos. 73 and 74 would not be visible from within Aungier Street, I am concerned that they would be visible from within the site and that they would detract from the attempt otherwise to reproduce the size and shape of the original buildings. I, therefore, consider that these floors should be omitted by condition.
- 3.7 The parties are in agreement that the proposed demolition of the building at No. 6 Stephen Street Upper, the remains of the garage at No. 7, and the former dance hall and its ancillary buildings towards the centre of the site poses no conservation issues. They differ, however, on whether it is in order for the buildings at Nos. 13, 14 & 14A to be demolished or whether they should be retained and restored.
- 3.8 The planning authority's first reason for refusal refers to these buildings and states that, under Section 17.10.5 of the CDP, they are of significance and contribute to the streetscape. At the oral hearing, it was further explained that

their modest scale contrasted historically, and indeed today too, with the taller buildings further to the east and to the north on Stephen Street Upper and on the western side of Aungier Street. Accordingly, they are of importance to the setting of the Conservation Area that is centred on Aungier Street.

- 3.9 The applicant's conservation architect presented evidence based on his background research and external and internal survey of the said buildings, which included exploratory opening up works. This evidence entailed applying the headings typically used in the NIAH's methodology, to assess whether these buildings are of significance. He concluded that they were not. Thus, the applicability of Section 17.10.5 to them was questioned.
- 3.10 The case planner drew attention to the "starting point" that the said two and three storey buildings present for any new build block to the west. In their absence the four storey building at No. 15 would be this "starting point" and so their presence or otherwise has a bearing on what might be judged to be the appropriate scale of this block.
- 3.11 From the evidence before me, I do not consider that the buildings at Nos. 13, 14 & 14A are of significance and so Section 17.10.5 is not applicable. Whether their retention can be justified on the basis that they form part of the setting of Aungier Street that "tells the story" outlined by the planning authority is an open question. I consider that the legibility of this story is weakened by the presence of four storey buildings at Nos. 15 – 20 (inclusive) on Stephen Street Upper itself.
- 3.12 As indicated under paragraph 2.5 above, the frontage of the site onto Longford Street Great includes two door cases and a brick archway, which testify to the presence of the Aungier Street Theatre and/or the terrace of four houses that replaced this Theatre. Following a request for further information, the applicant undertook to retain this historic reference point insitu and to incorporate it within their overall proposal. Likewise, they undertook to retain and incorporate an adjacent wall on the eastern side of Stable Lane.
- 3.13 While the City Conservation Officer and the DoAHRGA welcomed, in principle, the applicant's undertakings in these respects, they expressed concern that insufficient details of how, in practise, retention and incorporation would be done. The applicant's architect and structural engineer responded by explaining that the items in question would remain as freestanding but secured ones within the context of the new build elements. Further concern was expressed over the openings that are shown as being needed in the said wall (cf. drawing no. 33 revision A) and the scope for redesign that would, in practise, be attendant upon the same. While the applicant sought to reassure, I

find it difficult to see how the need for at least some openings in this wall can be averted.

- 3.15 The applicant's archaeologist stated that upstanding walls elsewhere on the site, some of which are of conservation interest, would be surveyed and recorded prior to their demolition.
- 3.16 The City Conservation Officer shared the City Archaeologist's vision for the site outlined in paragraph 2.12 above. The conservation architect commissioned by the planning authority gave evidence on the second day of the oral hearing as to the approach that is being pursued in the emerging ACA for the Aungier Street area. Thus, it is hoped that a link could be established through the site to connect Dublin Castle, to the north, with the "Valentine Quarter" of Whitefriars and the Carmelites, to the south, via Stable Lane and its corresponding cul-de-sac on the opposite side of Longford Street Great, Little Longford Lane. This link would also facilitate showing casing the items of archaeological and conservation interest on the site in a manner that would be more meaningful than that envisaged by the applicant.
- 3.17 The OPW stated that the emerging Conservation Management Plan for Dublin Castle and its grounds seeks to provide a pedestrian entrance off/exit onto Stephen Street Upper in a position adjacent to Leitrim House, a Georgian townhouse on the northern side of this Street. However, there are multiple issues attendant upon such provision and so a timeframe of a decade for their resolution was indicated.
- 3.18 Under questioning from the applicant, the planning authority stated that the status of the published study that is informing the work on the draft ACA is that of a non-statutory advisory document and the said ACA is due to be presented to councillors in October and thereafter a public consultation exercise will be undertaken with a view to its formal adoption in the future. The applicant also clarified that, whereas this study recommends that the buildings at Nos. 13, 14 & 14A Stephen Street Upper be added to the RPS, the planning authority is seeking rather to use the instrument of the emerging ACA to safeguard their streetscape presence.
- 3.19 Given the status of the said study and the point at which the ACA has reached, I do not consider that weight can be given to the same in the assessment of the current proposal and so the vision articulated by the City Conservation Officer and the City Archaeologist must be assessed in the light of the current CDP.
- 3.20 I conclude that the conservation aspects of the proposal that pertain to the buildings at Nos. 73 – 75 Aungier Street would, subject to the omission of the proposed fourth floors, be appropriate in principle. I also conclude that, as the

buildings at Nos. 13, 14 and 14A Stephen Street Upper are of no demonstrable significance and, as the cited streetscape logic for their retention would lack legibility, their demolition can be acceded to. The proposed handling of upstanding archaeological remains would be satisfactory, although some loss of fabric on Stable Lane may ultimately be necessary.

(iv) Streetscape

- 4.1 The proposal would present new build elements to Aungier Street, Stephen Street Upper, and Longford Street Great. Following a request for further information, these elevations were reworked and the top storeys on each of the latter two Streets were recessed.
- 4.2 The wholly new build element onto Aungier Street would entail the construction of buildings at Nos. 71, 72, and 73 of five, five and part four/part five storeys, respectfully. The building at No. 71 would return to Longford Street Great and it would have a chamfered corner. Nos. 71 and 72 would have combined first and second floor windows with a spandrel disguising the presence of the intervening floor. To compensate for a shallow external recess to upper floor window openings, an aluminium liner would be employed that would project clear of the plane of the street side elevations. These elevations would be finished in red brick and they would terminate in a parapet.
- 4.3 The new build onto Longford Street Great would be of six storey form. The parapet line of the aforementioned return elevation would be continued across this elevation and the fifth floor would be recessed behind this line. The revised design of this elevation reflects the historic grid of the four houses, which historically abutted the southern boundary of the site. This elevation would be finished in sand coloured brick and it would be separated from the return elevation by means of a recessed zinc and glazed panel system. Shop fronts would be installed at ground floor level and the historic two door cases and brick archway would be retained as a feature at this level. Upper floor windows would align with those in the aforementioned corner building and certain groups of these windows would comprise triangular bay windows.
- 4.4 The roof of the fifth floor would be laid out as an area of communal open space, as would the small roofspace above the fourth floor of the corner building. The former roof would be accessed by means of two stair and lift cores that would be housed in box-like structures that would be sited toward the north eastern corner and in the north western corner of the roof. These structures would be 33.50m OD. The north eastern structure would be visible in conjunction with the recessed fifth floor from public vantage points on neighbouring streets (cf. photomontage images 1(b), 2(b), and 4(b)). The western structure would be visible, too, albeit to a lesser extent (cf. photomontage image 3(b)).

- 4.5 I am concerned that the communal open space over the fifth floor would lack the opportunity for informal surveillance and so it would pose a management issue. I am concerned, too, that the aforementioned box-like structures on this roof add to the bulk of the buildings that would abut Longford Street Great and the corner formed between this Street and the western side of Aungier Street. I, therefore, consider that the communal open space should be omitted, along with the box-like structure proposed for the north eastern corner. The other box-like structure should be reduced in size consistent with its retention as a service access only to the adjoining open plant area.
- 4.6 The new build onto Stephen Street Upper would step up from the north east to the south west from four through five to six storeys in form. The third floor in one of the four storey elements, the fourth floor in the five storey element, and the fifth floor in the six storey elements would be recessed behind the parapet line. The revised design of this elevation reflects the historic grid of the nine houses, which are depicted in the Rocque map of 1756 as abutted the north western boundary of the site. The frontages of these houses varied generally between narrower and wider ones to the north east and south west, respectfully, and the elevation would reflect this pattern, too. It would be finished in alternating red and sand coloured brick. "Shop fronts" would be installed at ground floor level, the majority of which would afford views into the reception area for the student accommodation and the associated gym. One of these fronts would serve as the entrance to the student accommodation. It would be of double height and it would afford views of the spiral staircase that would connect with a mezzanine floor and the podium level at the centre of the proposal. Upper floor windows would align vertically and horizontally and certain groups of these windows would comprise triangular bay windows. A bronze vee liner would be employed between the main elements of the elevation to facilitate its negotiation of the curved alignment of Stephen Street Upper.
- 4.7 The roof of the fifth floor would be laid out as an area of communal open space, as would the small roofspaces above the fourth and third floors (where these floors are the top storeys of their elements). The former roof would be accessed by means of two stair and lift cores that would be housed in box-like structures that would be sited towards either end of this roof in recessed positions. These structures would be 33.50m OD. The south western structure would be visible from public vantage points in Golden Lane (cf. photomontage image 3(b)). The north eastern structure is not the subject of a photomontage image and so I am unable to be definitive as to its visibility from public vantage points.
- 4.8 I am concerned that the communal open space over the fifth floor would lack the opportunity for informal surveillance and so it would pose a management

issue. I am concerned, too, that the aforementioned box-like structures on this roof add to the bulk of the building that would abut Stephen Street Upper. I, therefore, consider that the communal open space should be omitted, along with the box-like structure proposed for the north eastern corner. The other box-like structure should be reduced in size consistent with its retention as a service access to the adjoining open plant area.

- 4.9 I conclude that the proposed new build to Aungier Street, Longford Street Great, and Stephen Street Upper would be appropriate from a streetscape perspective, provided the fifth floor areas of communal open space are omitted along with their box-like structures that house the tops of stair and lift cores.

(v) Skyline

- 5.1 Under Section 17.6 of the CDP, the planning authority's building height policy is set out. Under this policy, the site, which lies in the inner city, is deemed to be appropriate for low-rise development, i.e. a maximum of 6 storeys for residential/7 storeys for commercial and below 19m/28m. A variation to the CDP has made explicit that student accommodation is categorised as commercial for the purpose of this policy.
- 5.2 The block proposed for the centre of the site, known as The Pavilion, would be the highest block within the proposal. This block would be 7 storeys high and 23m in height and so it, and by extension the proposal as a whole, would comply with the aforementioned building height policy.
- 5.3 The OPW expressed concern at the application stage over the visual impact of the proposal when viewed from Dublin Castle and its grounds. They also expressed concern that it might inadvertently pose a security risk.
- 5.4 At the further information stage, the applicant submitted photomontages of their revised proposal, six of which feature views taken either from within the grounds to or from Dublin Castle itself. Of these views those taken from higher vantage points within the Castle show the proposal as appearing above the profile of the Dunnes Stores offices, which forms the existing backdrop to the *Dubh Linn* Gardens in front of the Chester Beatty Library.
- 5.5 At the oral hearing, these views were the subject of some discussion between the applicant and the OPW. The former considered that the proposal would contribute to the evolving city skyline in a manner that would have no material impact upon the said views. The latter considered that it would exacerbate the visual impact of the existing looming backdrop. Mention was also made of plans to open the Records Tower up to the public, which would mean that the view within which the proposal would be most prominent would be more widely seen.

- 5.6 At the oral hearing, I enquired about views of the proposal from public vantage points further to the west along Golden Lane. The applicant produced an additional photomontage from one such point that contrasted somewhat with the previously submitted photomontage image 3(b) insofar as The Pavilion would be visible above the profile of the IBOA building to the south west of the site.
- 5.7 I consider that the visual impact of the proposal upon views from Dublin Castle and Golden Lane is in need of some amelioration. The omission of box-like structures, discussed above under part (iv) of my assessment, would be of some assistance. However, the greater contribution arises from The Pavilion and so I consider that its top storey, i.e. its sixth floor should be omitted by condition.
- 5.8 I note the OPW's security concern. I note, too, that the omission of the roof top areas of communal open space and the sixth floor of The Pavilion should be capable of allaying this concern.
- 5.9 I conclude that the proposal would comply with the CDP's building height policy and that subject to the omission of the sixth floor of The Pavilion, in addition to the box-like structures that would be omitted from a streetscape perspective, it would respect the skyline from important public vantage points and thus be compatible with the visual amenities of the area.

(vi) Amenity

- 6.1 The observer, Silverwood Developments Limited, expressed concern over the lighting implications of the proposal upon the Dunnes Stores offices on the opposite side of Stephen Street Upper from the site. The applicant responded to this concern by undertaking a shadow analysis for the equinoxes, which demonstrates that the atriums to these offices would not be affected by the proposal.
- 6.2 More generally, my proposed omission of the top storey from The Pavilions would improve the lighting of properties to the north east of the site.
- 6.3 The observer P J O'Boy is a resident of the building at No. 15 Stephen Street Upper. He expressed concern over the implications for his personal health of any construction phase that would transpire should the proposal be permitted and implemented. While I am not privy to the specifics of the observer's situation, I note that the conventional approach to safeguarding amenity, and by extension public health, during such a phase would be to condition that a construction management plan be prepared and that operations be the subject of limits as to the days and hours in which they can proceed. I propose that these items be conditioned in this case.

- 6.4 The interface between the proposal and the building at No. 15 Stephen Street Upper would be problematic, insofar as the proposed eastern side elevation would appear as an 8m long two storey projection rising above the side of the existing single storey rear extension at No. 15. Second and third floor windows in the rear elevation of the main building at No. 15 would be affected by this elevation, in terms of lighting and loss of outlook. Accordingly, I consider that that this elevation and the element that it encloses should be reduced in size. If this element was to be stepped back to follow the line of the main plane of the rear elevation to the block proposed for the Stephen Street Upper frontage, then its length could be halved and the loss of amenity to No. 15 would be mitigated considerably. On the two floors concerned, the space denoted as kitchen would contract unduly and so compensatory additional space would be required. The omission of the adjoining bedroom denoted as no. 8 on each of the two floors and the inclusion of the space thus freed within each of the kitchens would ensure that internally the impact of the said external step back could be accommodated.
- 6.5 I conclude that the proposal would be capable of being compatible with the amenities of adjoining and adjacent properties, provided any construction phase is conditioned in the conventional manner and the interface between the proposal and No. 15 Stephen Street Upper is eased.

(vii) Development standards

- 7.1 Appendix 23 of the CDP sets out development standards for student accommodation. The applicant's planning consultant has prepared a planning report dated 4th November 2015 in which he demonstrates compliance with the various standards set out in this Appendix. An exception to this pattern of compliance arises in the case of the studio units proposed for the upper floors of the buildings at Nos. 73 – 75 Aungier Street. While the Appendix does not anticipate this type of accommodation, the consultant explains that the self-contained individual form of accommodation that it affords is attractive to some overseas students for whom communal kitchen facilities may be an issue. The inclusion of this accommodation, especially as it would facilitate the restoration of the said historic buildings, strikes me as being reasonable.
- 7.2 I am conscious that the anticipated areas of communal open space would be reduced in number by the omission of the main roof top ones that I have proposed under part (vi) of my assessment. Nevertheless, the area of communal open space in the centre of the site and the incidental ones on secondary roof tops would facilitate a degree of recreation and the site itself is conveniently placed for attractive public open spaces, for example, St. Patrick's Cathedral Park, St. Stephen's Green, and *Dubh Linn* Gardens.

- 7.3 The applicant submitted a Daylight and Sunlight Report, which analyses the impact of the proposal on the lighting levels that would be available in neighbouring properties and in the student accommodation. As with the former, the omission of the top storey of The Pavilion would improve lighting levels within the latter, which although considered to be acceptable would benefit from such improvement.
- 7.4 I conclude that the proposal would either comply with relevant quantitative and qualitative development standards or where divergences would occur this would be capable of being justified.

(viii) Traffic, access, and parking

- 8.1 The proposal would comprise retail units and student accommodation. These retail units would include one that would function as a supermarket. The service access for this supermarket would be off Stephen Street Upper. Its use would entail articulated vehicles reversing into it (cf. drawing no. 142002-2001 revision B), on average once a day. At the oral hearing, the applicant's engineer outlined how this access was selected from a number of options as the optimum one in terms of urban design and accessibility. He addressed the observer's view (Silverwood Development Limited) that Stephen Street Upper is an important arterial route by demonstrating that it serves local access and so its increased use would not affect the strategic road network of the city centre. The other retail units would be smaller and they would be capable of being serviced from Aungier Street.
- 8.2 The student accommodation would generate the need for a limited amount of year round servicing, which would take place from Stephen Street Upper at off-peak times. This accommodation would also generate set down and collection traffic movements during the two weeks a year in which students arrive and depart. These movements would be actively managed in a bid to avoid congestion.
- 8.3 Given the site's city centre location, no off-street car parking spaces are proposed. The CDP's car parking standards indicate that the proposal should be accompanied by 6 such spaces. However, as this standard is expressed as a maximum, the provision of no spaces does not warrant objection.
- 8.4 The proposal would entail the provision of 138 off-street cycle stands in the basement underneath the student accommodation block, which fronts onto Stephen Street Upper. The CDP's cycle parking standards indicate that a minimum of 120 stands should accompany this accommodation. They also indicate that a further 14 should accompany the retail units. The applicant has

expressed a willingness to provide such stands on surrounding streets. This matter could be conditioned.

- 8.5 Dublin City Council's Roads and Traffic Planning Division requested that, in view of the increased footfall on Stephen Street Upper, the applicant undertook to widen the public footpath on the south eastern side of this Street to achieve a consistent width of 2m. At the further information stage, the applicant gave this undertaking (cf. drawing no. 142002-2001 revision B).
- 8.6 I conclude that the traffic movements that would be generated by the proposal would be capable of being satisfactorily handled on the local road network, provided they are consistently managed to occur at off peak times.

(ix) AA

- 9.1 The site is neither in nor near to a Natura 2000 site. This site is in the city centre and so it is fully serviced by public infrastructure, including a combined sewer that ultimately discharges via the Ringsend WWTP to Dublin Bay, which is the subject of several Natura 2000 site designations. There is thus a source/pathway/receptor route between the site and the Bay.
- 9.2 The proposal would, for the first time on the site, entail various measures to clean and control the quantity of surface water discharge that enters the said combined sewer. The overall quantity of foul and surface water that would be discharged into this sewer from the proposal would be negligible by comparison with the quantities handled by the WWTP. While periodic storm water surges through this Plant can lead to a decrease in the water quality of the Bay, the Conservation Objectives of the said Natura 2000 sites do not actually refer to water quality.
- 9.3 Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or proximity of the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Conclusion

The proposal and the oral hearing that took place into the current appeal brought to light two competing visions for the future of the site.

The applicant envisages a multi-storey mixed-use development that would contribute to meeting the need for both additional student accommodation in the city centre and increased economic activity in the Aungier Street area. This development would provide the opportunity for the archaeological interest attendant upon the site to be fully investigated and for the masonry remains of the

two recorded structures to be displayed. It would also provide the opportunity for the restoration of three historic buildings on Aungier Street.

The planning authority envisages a less intensive development of the site that would entail the retention of the buildings at Nos. 13, 14 & 14A Stephen Street Upper and that would facilitate the opening of its centre to the public by means of a new through route, which would possibly in the future link in with a new access to the grounds of Dublin Castle off Stephen Street Upper, to the north, and to the proposed Valentine Quarter, to the south. This approach would facilitate a more fulsome display of items of archaeological and conservation interest.

Clearly, the former vision is the subject of the current proposal, which falls to be assessed and determined in the light of the current CDP. My assessment has concluded that this proposal would accord with this Plan and so, notwithstanding the existence of the latter alternative vision, I consider that this proposal should be supported.

Recommendation

In the light of my assessment, I recommend that the demolition of the following buildings: Nos. 71 and 72 Aungier Street, a former dance hall building to the rear of Aungier Street, and Nos. 6, 7, 13, 14 and 14A Stephen Street Upper, and the construction of a mixed use retail and student accommodation scheme in 3 to 7 storey blocks (over partial basement on Stephen Street Upper) and a partial mezzanine at ground floor, all on a site bounded by 71 – 75 Aungier Street, Dublin 2, and 17 – 19 Longford Street Great and 6 – 14A Stephen Street Upper and Whitefriar Place, Dublin 8, be permitted.

Reasons and considerations

It is considered that, subject to conditions, the proposal would fulfil the objective, purpose, and strategy of the Z5 (city centre) zoning of the site in the Dublin City Development Plan 2011 – 2017. This proposal would comprise uses that would be appropriate to Z5 and that would contribute to meeting the need both for additional student accommodation in the city centre and increased economic activity in the Aungier Street area.

The proposal would facilitate the full disclosure of the archaeological interest attendant upon the site and it would be consistent with the preservation in situ of any masonry remains of the two recorded monuments that have been identified within this site. Subject to such disclosure, these remains may require the redesign of the proposed foodstore to ensure that they can be displayed in dedicated publically accessible spaces. The proposal would facilitate the retention and restoration of the historic buildings at Nos. 73 – 75 Aungier Street and, subject to the

omission of the proposed additional top storeys from Nos. 73 and 74, such restoration would enhance the character of the Aungier Street Conservation Area.

The proposal would make a positive visual contribution to the streetscape, provided the areas of communal open space and their accompanying roof top structures are omitted. Such omission would also ensure that these areas, which would lack the opportunity for informal surveillance, do not pose a management issue. This proposal would comply with the City Development Plan's building height policy and its visual impact upon the skyline from important local vantage points would be acceptable, provided the proposed sixth floor is omitted from the central block along with the aforementioned omission of roof top structures.

The proposal would be compatible with the amenities of the area, provided its interface with the building at No. 15 Stephen Street Upper is adjusted and the aforementioned sixth floor is omitted. The proposal would comply with relevant development standards for student accommodation in the City Development Plan and its proposed service access and cycle parking provisions would be satisfactory. The proposal raises no Appropriate Assessment issues. It would thus accord 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 submitted on the 14th day of March 2015, 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 proposed development shall be amended as follows:
 - (a) The sixth floor of the central block, known as The Pavilion, shall be omitted in its entirety.
 - (b) The areas of communal open space over the fifth floors of the blocks that front onto Longford Street Great and Stephen Street Upper shall be omitted. The roof top box-like structures that house the stair and lift cores that access these areas shall be omitted, too. Utility service access only shall be retained to the

relevant roof tops and such access shall be provided above the westerly stair and lift core in the former Street and the south westerly stair and lift core in the latter Street.

- (c) The fourth floors shall be omitted from the buildings at Nos. 73 and 74 Aungier Street.
- (d) That portion of the most north easterly kitchen on the first and second floors of the block that fronts onto Stephen Street Upper that projects beyond the main plane of the rear elevation of this block shall be omitted. The adjoining bedrooms denoted as no. 8 on each of these floors shall be incorporated into the kitchens.

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 amenity.

- 3. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which exist within the site. In this regard, no construction or site preparation work may be carried out on the site until all archaeological requirements of the planning authority are complied with and the developer shall retain a licensed archaeologist to carry out the archaeological requirements of the planning authority.

The developer shall also comply with the following requirements of the planning authority:

- (a) A scheme for a second phase of test trenching, including methodologies to be used, shall be submitted to and agreed in writing with the planning authority.
- (b) Based on the findings of the agreed second phase of test trenching, a scheme for the exact nature and extent of the archaeological excavation, including methodologies to be used, shall be submitted to and agreed in writing with the planning authority.
- (c) Any masonry remains of the recorded monuments (the Church of St. Peter (DU 018 020089) and the Aungier Street Theatre (DU 018 020162)) shall be preserved in-situ and a scheme for their protection, including during the construction phase, shall be submitted to and agreed in writing with the planning authority.

- (d) A final scheme for the design of the piles and other below ground level elements of the proposal shall be submitted to and agreed in writing with the planning authority.
- (e) Satisfactory arrangements for post-excavation research and the recording, removal and storage, of any archaeological remains which may be considered appropriate to remove, shall be agreed with the planning authority. In this regard, a comprehensive report on the completed archaeological excavation shall be prepared and submitted to the planning authority within a period of six months or within such extended period as may be agreed with the planning authority.

In default of agreement between the parties regarding compliance with any of the requirements of this condition, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation (in-situ or by record) and protection of any remains that may exist within the site.

- 4. No construction or site preparation work may be carried out on the site until the developer has submitted to and agreed in writing with the planning authority a scheme for the public display of any masonry remains of the recorded monuments (the Church of St. Peter (DU 018 020089) and the Aungier Street Theatre (DU 018 020162)), which shall be preserved in-situ. Such display shall be available in a space(s) that is/are publically accessible and dedicated exclusively to the purpose of displaying the said remains. Insofar as this display may require the partial redesign of the ground floor of the proposal, such redesign shall be included in the said scheme. The display shall be retained thereafter for the duration of the development.

Reason: In order to ensure the visibility and legibility of the recorded monuments for the benefit of the public at large.

- 5. No construction or site preparation work may be carried out on the site until the developer has submitted to and agreed in writing with the planning authority a scheme for the following:
 - (a) The detailed recording, stabilisation methodology, including during the construction phase, and subsequent works to ensure the retention in-situ of the two door cases and the archway on the southern boundary of the site with Longford Street Great, and

- (b) The detailed recording, stabilisation methodology, including during the construction phase, and subsequent works to ensure the retention in-situ of the wall along the eastern side of Stable Lane.

Reason: In order to ensure the visibility and legibility of these historical structures for the benefit of the public at large.

- 6. Prior to the commencement of use of the student accommodation, the developer shall prepare a scheme and submit it to and agree it in writing with the planning authority. This scheme shall include the following items:

- (a) Details of all the content of the conservation wall to be installed in the front elevation of the block proposed for Stephen Street Upper,
- (b) Details of the names of the blocks comprised in the proposal, and
- (c) Details of any artwork to be included within the proposal that relates to the history of the site within its context.

Reason: In order to promote an awareness of the history of the site.

- 7. Prior to the demolition of the buildings at Nos. 13, 14 & 14A Aungier Street and prior to the demolition of the former dance hall, the developer shall make a record of these buildings. This record shall include:

- (a) A full set of survey drawings to include elevations, plans and sections, and
- (b) A detailed, labelled photographic survey of all internal rooms, the exterior and the curtilage of the buildings.

This record shall be submitted to the planning authority and one copy of this record shall be submitted to the Irish Architectural Archive.

Reason: In order to establish a record of these buildings.

- 8. Prior to the demolition of existing walls on the site (other than those cited in conditions 3 and 4), the developer shall make a record of these structures. This record shall include:

- (a) A full set of survey drawings to include elevations, plans and sections, and

(b) A detailed, labelled photographic survey.

This record shall be submitted to the planning authority.

Reason: In order to establish a record of these structures.

9. All proposed works to the buildings at Nos. 73 – 75 Aungier Street (inclusive), shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To ensure that the proposed works are carried out in accordance with best conservation practice.

10. Prior to the commencement of works to the buildings at Nos. 73 – 75 Aungier Street (inclusive), a scheme for these works shall be submitted to and agreed in writing with the planning authority. This scheme shall set out a comprehensive programme for the repair, reinstatement, and rebuilding of these buildings based on the findings of a detailed structural survey and assessment of the condition of the surviving fabric and drawing upon historical sources to guide the design of the works to be undertaken. It shall include elucidating detailed drawings and sections of these works and it shall set out the methodologies to be followed in undertaking them.

Reason: In the interest of preserving the architectural integrity and heritage value of these buildings of historic interest.

11. Prior to the first occupation of the student accommodation, the proposed works to the buildings at Nos. 73 – 75 Aungier Street (inclusive) shall be fully implemented.

Reason: In the interest of preserving the architectural integrity and heritage value of these buildings of historic interest.

12. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:

(a) Details of all proposed hard surface finishes;

- (b) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) Details of proposed street furniture, including lighting fixtures and seating;
- (d) Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

13. Details of the materials, colours and textures of all the external finishes to the proposed blocks and paved areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

15. Alterations to the road network, including the widening of the public footpath on the south eastern side of Stephen Street Upper to achieve a consistent width and the provision of 14 cycle stands adjacent to the proposed retail units on Aungier Street, shall comply with the requirements of the planning authority for such works and services.

Reason: In order to ensure a satisfactory standard of development in the interest of road safety.

16. Construction and demolition waste shall be managed in accordance with a construction waste 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 be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the

Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

17. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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;
 - (e) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (g) 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;
 - (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (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.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

18. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

19. Prior to the first occupation of the student accommodation, all the cycle parking spaces shown on the submitted plans shall be provided and, thereafter, they shall be retained insitu for the duration of the student accommodation on site.

Reason: in order to promote and facilitate cycling as a sustainable mode of transport.

20. The residential accommodation in the proposal hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

21. The studios in the student accommodation shall not be sold or let to persons other than current students of recognised third level institutions.

Reason: In the interest of clarity.

22. (a) Prior to the installation of signage for each of the uses in the development, details of such signage shall be submitted to and agreed in writing with the planning authority, and, thereafter, only the agreed signage shall be installed.

(b) Apart from the signage agreed to under (a), notwithstanding the provisions of the Planning and Development Regulations 2001 – 2014, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In order to afford the planning authority control over signage in the interest of visual amenity.

23. Security roller shutters, if installed in the retail units, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the ‘open lattice’ type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

24. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, open spaces, landscaping, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before the student accommodation is made available for occupation.

Reason: To provide for the future maintenance of this development in the interest of amenity and orderly development.

25. 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 – 2015. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 – 2015 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.

26. The developer shall pay to the planning authority a financial contribution in respect of Metro North 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 – 2015. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 – 2015 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.

Hugh D. Morrison, Inspector, 30th September 2016

Appendix A: A list of the written and oral submissions made at the oral hearing held on 6 – 7th September 2016.

First day

At the outset of the oral hearing, a copy of the illustrative figures from the additional information submission (dated 23rd February 2016) of the applicant's archaeologist, Linzi Simpson, was distributed to those parties and prescribed bodies who had not received a copy hitherto. A letter dated 6th September 2016 was submitted by the observer, Silverwood Developments Ltd, which intimated that they would not be in attendance but that they wished that their written submission dated 1st June 2016 to stand.

The proceedings followed the order set out in the pre-oral hearing letter, except for the inclusion of an additional item between items 7 and 8, entitled "Submissions on conditions". No observers as distinct from prescribed bodies took part in the proceedings. Where an * appears below it denotes a written submission.

(i) The applicant's submissions

- (a) Introduction and opening remarks from Ian McGrandles of IMG Planning Ltd,
- (b) Summary of the proposal* from Stephen Marshall of Stephen Marshall Architects,
- (c) Applicant's statement* from Barry O'Brien of Kesteven Ltd,
- (d) Student accommodation: operation and management* from Nigel Taeo of Scape Student Living,
- (e) Planning issues* from Alan Whelan of O'Connor Whelan Planning Consultants,
- (f) Architectural heritage and conservation* from Cathal Crimmins RIAI accredited Grade 1 Conservation Architect,
- (g) Structural review of Nos. 13, 14 & 14A Stephen Street Upper* + Ref Item 2* (note on why the proposed ground floor is considered to be the optimum structural solution for the proposal on the site within its context) from Treacy Kearney of DBFL Consulting Engineers,
- (h) Archaeology* from Linzi Simpson of Linzi Simpson Archaeology,
- (i) Traffic and access* from Thomas Jennings of DBFL Consulting Engineers,
- (j) Architecture* from Stephen Marshall of Stephen Marshall Architects, and
- (k) Photomontages: visual impact existing, further information on CGI's, aerial and castle views* from Vincent Traynor of JSA Architects.

(ii) The planning authority's submissions

- (a) Archaeology* from Ruth Johnson, City Archaeologist,
- (b) Conservation* + extract from amalgamated advice report* dated 18th December 2015 under the heading "Review of planning file particulars" from Nicki Matthews, City Conservation Officer, and
- (c) Planning* from Eileen Hart, Case Planner.

Second day

(iii) Prescribed bodies

- (a) OPW: Pauline Byrne & Hugh Bonner, and
- (b) Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (DoAHRRGA): Fredrick O'Dwyer & Sean Kirwan.

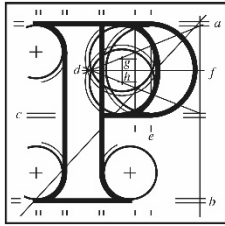
(iv) Questions and answers occurred between the parties and between the prescribed bodies and the first party at the inspector's discretion.

As the City Conservation Officer's submission referred to work on a draft Architectural Conservation Area for the Aungier Street Area, Richard McLoughlin, RIAI accredited Grade 1 Conservation Architect of Lotts Architecture and Urbanism Ltd, spoke about this work in this respect and answered questions on the same.

(v) Submissions on conditions were received from the planning authority and the DoAHRRGA.

(vi) Closing statements

- (a) For the DoAHRRGA from Fredrick O'Dwyer and Sean Kirwan,
- (b) For the planning authority from Eileen Hart, and
- (c) For the applicant from Ian McGrandles.



An
Bord
Pleanála

ORAL HEARING
PL29S.246555

Reference PL29S.246555

Date: 10.30 am, Tuesday 6th September 2016

Location An Bord Pleanála, 64 Marlborough St., Dublin
1.

Purpose of Oral Hearing

The purpose of the oral hearing is to inform the inspector's understanding of the proposed development and the issues raised in the appeal. Following the oral hearing the inspector will prepare a report and make a recommendation on the development to the Board.

The Inspector has discretion as to the conduct of the oral hearing and will exercise this discretion with courtesy and reasonableness. In particular, the inspector is obliged to conduct the hearing expeditiously and without undue formality.

All written submissions already received will be considered by the inspector and the Board. For this reason submissions previously made should not be repeated at the oral hearing. The oral hearing does, however, provide an opportunity to make further submissions beyond the initial written submission. Parties will also be afforded the opportunity to ask questions and seek clarification on submissions made at the hearing. There is no obligation on any party to make a submission to the oral hearing or to ask questions of the other parties.

Oral Hearing Agenda

The agenda for the oral hearing is set out below. Please note that the schedule is indicative only and may vary during the course of the oral hearing.

1. Introduction and Opening of the Oral Hearing

2. Summary of proposed development by the Applicant

Presentation of a very brief description of the nature and extent of the proposed development by the applicant in order to facilitate understanding of the proposal. This should not exceed 15 minutes.

3. Applicant Submission

Response to the written submissions of the planning authority, prescribed bodies, and observers.

The submission should specifically address the design approach to the project, including proposed ground floor layout and levels, and the height, scale, and bulk of the proposed development, in the context of the:

- archaeological sensitivity of the area,
- architectural heritage in the vicinity, and
- existing streetscape.

4. Planning Authority Submission

Response to the applicant's submission.

5. Prescribed Bodies Submissions

Response to the applicant's submission and/or any other submissions to the oral hearing.

6. Observers Submissions

Response to the applicant's submission and/or any other submissions to the oral hearing.

7. Clarifications/ Questions

Parties may pose questions/seek clarification from those who have presented submissions. The Inspector will also pose questions/seek clarifications.

Observers should seek clarification from the Inspector in relation to this part of the Oral Hearing on the day.

8. Closing Statements

Brief closing statements will be taken in the following order:

- Prescribed Bodies
- Planning Authority
- Applicant

9. Oral Hearing Closed