



An
Bord
Pleanála

Inspector's Report PL91.249275

Development

Refurbishment of the existing shop to accommodate a new butchers shop on ground floor, with storage and cleaning areas in basement. A new shop front and signage to front and side with new delivery door on Little Catherine St. plus three apartments on overhead floors, and all ancillary site works.

Location

62 William Street, Limerick.

Planning Authority

Limerick City & County Council

Planning Authority Reg. Ref.

16/1096

Applicant(s)

Pat O'Connor Meats Limited

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

Paul Craughan & Frank Hogan

Observer(s)

None.

Date of Site Inspection

18th December, 2017

Inspector

Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located in Limerick City Centre at the junction of William Street with Little Catherine Street and presently comprises an end-of terrace, two-bay, four-storey over-basement building (with two and three-storey returns to the rear of same) which is occupied by a vacant shop unit (formerly in use as a hair salon) at ground floor level with the accommodation over the upper floors also seemingly not in use. The surrounding area is typical of a city centre location and is dominated by a wide variety of retail outlets in addition to other complementary uses such as restaurants, takeaway food outlets and public houses. The site itself has a stated site area of 0.0331 hectares, is bounded by Limerick Lane to the rear, and terminates a terrace of Georgian-era buildings at the junction of William Street / Little Catherine Street. It has a redbrick facade onto William Street whilst its side elevation onto Little Catherine Street has been rendered in plaster and includes a large rendered plaque.

2.0 Proposed Development

2.1. The subject proposal involves the redevelopment of an existing four-storey over-basement building and includes for the refurbishment of an existing vacant shop unit to accommodate a new butcher's shop (floor area: 135.9m²) at ground floor level with ancillary staff accommodation, storage space and cleaning areas within the basement. It is also proposed to provide a total of 3 No. one-bedroom apartments (combined floor area: 197.2m²) over the first, second and third floor levels which will necessitate various alterations to the internal layout of the existing building. Further ancillary development works will include the provision of a new shop front, the erection of new signage to the front and side elevations, the insertion of a new service / delivery doorway onto Little Catherine Street, and the repointing of external brickwork where necessary.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of a response to a request for further information, on 24th August, 2017 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 12 No. conditions which can be summarised as follows:

- Condition No. 1 – Refers to the submitted plans and particulars.
- Condition No. 2 – Requires the submission of revised drawings, for the written agreement of the Planning Authority, prior to the commencement of development, detailing the relocation of the cold room & chiller units away from the rear elevation of the proposed apartments.
- Condition No. 3 – Refers to the payment of a development contribution in the amount of €11,358.
- Condition No. 4 – Refers to the detailing of the proposed shopfront, signage & lighting etc.
- Condition No. 5 – Prohibits the display of any signage, symbols, structures or nameplates, other than those shown on the submitted drawings, without a prior grant of permission.
- Condition No. 6 – Refers to the installation of grease traps.
- Condition No. 7 – Requires the works to be supervised by an accredited Conservation Architect whose responsibilities will include the preparation of all documentation to be submitted prior to the commencement of works, the collation of reports pertaining to the history of the site, project management, and the final certification that the completed works have been carried out in accordance with best conservation practice.
- Condition No. 8 – Requires any works to historic fabric to be undertaken in compliance with the Building Regulations (taking account of the exemptions specifically provided for in respect of protected

structures or allowed for in relation to existing building stock or structures of architectural or historic interest), in accordance with best conservation practice and the Architectural Heritage Protection Guidelines. Any site specific methodologies and specifications are to be agreed in advance of any development and any repair works are to retain the maximum amount of surviving historic fabric *in situ*.

Condition No. 9 – Refers to the protection of fabric, fixtures and features of significance from damage etc. during the course of the construction works.

Condition No. 10 – Requires the submission of a Construction Management Plan.

Condition No. 11 – Requires proper records to be kept of all works undertaken on site in order to protect those aspects of architectural heritage interest.

Condition No. 12 – Refers to bin storage.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report noted the site context and its location in an area zoned as ‘City Centre’ in the Limerick City Development Plan, 2010 before raising concerns as regards the acceptability of the proposed bin storage arrangements and the need to submit a schedule of the accommodation proposed in order to establish compliance with the requirements of the ‘*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015*’. This report subsequently recommended that further information should be sought in respect of a number of issues including, the siting of any external ventilation fans, the details of the proposed shop front and signage, the bin storage arrangements, compliance with the ‘*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*’, and the need for the proposed development to take due cognisance of the built heritage value / architectural character of the existing structure.

Following the receipt of a response to a request for further information, a final report was prepared which concluded that the proposed development was consistent with the policy objectives of the Planning Authority and the continued development of the City Centre before recommending a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

Environmental & Planning Services: Requires a 'Refurbishment & Demolition Asbestos Survey' to be carried out in accordance with Section 8 of the Health and Safety Authority's 'Asbestos Guidelines (Practical Guidelines on ACM Management and Abatement)' for submission to the Planning Authority. It is further recommended that a site specific waste management plan for the recovery / disposal of all wastes arising from the construction of the proposed development be submitted for the written agreement of the Local Authority prior to the commencement of development.

Fire Officer: No objection.

Architectural Conservation Officer: States that the subject site is identified as being of heritage value in the National Inventory of Architectural Heritage (Ref. No. 21513024) and thus is the subject of a Ministerial Recommendation under Section 53 of the Planning and Development Act, 2000, as amended, and that it is the intention of the Planning Authority to process the property for entry into the Record of Protected Structures as resources permit. The report subsequently states that having conducted a site inspection, and following an examination of the submitted documentation, permission may be granted for the proposed development subject to conditions.

Environment: States that the siting of 3 No. chiller fans on a balcony outside a bedroom window of an apartment is unacceptable and recommends that any grant of permission should include a condition whereby the chiller fans should be relocated away from the residential accommodation.

3.3. **Prescribed Bodies**

Health Service Executive / Environmental Health Officer: Advises of the public health requirements of the Environmental Health Service with regard to the proposed development, including a requirement for the facility to comply with the E.C.

(Hygiene of Foodstuffs) Regulations, 2006-2010 and Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs.

Irish Water: No objection, subject to conditions.

3.4. **Third Party Observations**

A single submission was received from an interested third party and the principle grounds of objection contained therein can be summarised as follows:

- The description of the proposed development as detailed in the public notices makes no reference to the inclusion of the subject property in the National Inventory of Architectural Heritage and thus the application should be declared invalid.
- The planning application has not been accompanied by a justification of the submitted design having regard to the historical context of the property in question.
- No details of the extent or methodology of the proposed works to the building fabric have been provided.
- The proposed development, with particular reference to the inclusion of a new service door / delivery access onto Little Catherine Street, will exacerbate traffic congestion in the area.
- No details have been provided of the proposed car parking arrangements.
- The inclusion of a bin storage area within the stairwell which provides access to the proposed apartment units does not comply with the Building Regulations and would present an unacceptable fire risk.
- No ventilation has been provided of the proposed bin storage area.
- The proposed shop unit does not include for a bin storage area and no locations for same have been identified. In the absence of a designated area to the front of the building for the storage of bins on collection day, the haphazard storage of such bins may interfere with employee / customer access to the premises.

- The entrance doorway to the stairwell serving the proposed apartment units does not comply with TGD Part K (M) of the Building Regulations.
- The intended use of the proposed preparation area is unclear and clarity is required in respect of any proposed cooking of meats on site.
- Further details are required as regards any proposed extraction units in addition to wall and floor finishes.
- No details have been submitted of a grease trap.
- Inadequate provision has been made for staff accommodation whilst the proposed W.C. does not comply with ambulant / disability requirements.
- The proposed butcher shop would have a detrimental impact on the economic vitality and viability of similar businesses in the surrounding area.
- Inadequate details have been provided of the signage and lighting proposals which could have a detrimental impact on the visual amenity of Little Catherine Street.
- Aspects of the proposed apartment accommodation do not comply with the necessary standards.

4.0 Planning History

4.1. On Site:

PA Ref. No. 05770281. Was granted on 24th October, 2005 permitting Roy O'Hanlon permission to carry out the following (1) removal of doorway to William Street elevation and installation of display window in its place and (2) construction of new shopfront and doorway to Little Catherine Street elevation.

4.2. On Adjacent Sites:

PA Ref. No. 05770521. Was granted on 22nd February, 2006 permitting Gable Lock permission for a change of use to the basement, ground floor and first floor from dry cleaners to shop use, a new shopfront, extensions and alterations, at 61 William Street, Limerick.

PA Ref. No. 148. Was granted on 11th April, 2014 permitting John Canty permission for a new shop front to include new canopy, new entrance door, two side hung windbreakers, removable timber box hedge screening and minor works to internal layout, at Bean A Ti, 1 Little Catherine Street, Limerick.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. 11770128. Was granted on 7th November, 2011 permitting Enzo Rocca permission to erect a new shop front at 'Enzo's Cafe', William Street, Limerick.

5.0 Policy Context

5.1. National and Regional Policy:

The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015' (which update the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2007') provide detailed guidance and policy requirements in respect of the design of new apartment developments. Notably, where specific planning policy requirements are stated in the document, the Minister intends that such requirements must take precedence over policies and objectives of development plans, local area plans or strategic development zone planning schemes. Furthermore, these guidelines apply to all housing developments that include apartments, whether public or private. The updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types and sizes – including households with a child or children, students, older people and an increasingly mobile workforce. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.

5.2. Development Plan

Limerick City Development Plan, 2010-2016:-

Land Use Zoning:

The proposed development site is located in an area zoned as 'ZO.1 (A) City Centre Retail Area (CCRA)' with the stated land use zoning objective 'To provide for the

protection, upgrading and expansion of higher order retailing, in particular comparison retailing, and a range of other supporting uses in the City Centre retail area’.

Explanatory Note: The City Council is committed to the reinforcement of the City Centre role in the retail hierarchy by facilitating the development of a significant quantum of floor-space to meet projected demand. Retailing is prioritized in this area but not to the exclusion of other land use types. Other uses such as residential, hotel, office and cultural and leisure facilities etc. which complement the retail function of the CCRA and promote vibrancy in the City Centre are also permitted, subject to the policies to promote City Centre retailing.

Other Relevant Sections / Policies:

Chapter 4: Retail:

- Policy R.1:* It is the policy of Limerick City Council to include the Mid-West Retail Strategy in current and future development plans together with appropriate objectives that will secure its proper implementation.
- Policy R.2:* It is the policy of Limerick City Council to have regard to the Retail Planning Guidelines for Planning Authorities, in determining planning applications for retail development.
- Policy R3:* It is the policy of Limerick City Council to ensure that Limerick City Centre remains as the primary retail location within the Mid-West Region. In this regard the City Council will require all out of City Centre large retail proposals to demonstrate that they will not impact negatively on the vitality and viability of the City Centre by means of a sequential test.
- Policy R8:* It is the policy of Limerick City Council to support the provision of modern convenience goods stores of an appropriate scale, and associated retail and service units to enable these centres to meet the day to day needs of their local catchment population.
- Policy R9:* It is the policy of Limerick City Council to require that all applications for retail development are accompanied by a retail

needs assessment which in the case of larger developments located outside the city centre include a sequential test.

Chapter 10: Built Heritage & Archaeology:

Part III: Conservation of the Built Heritage:

Policy BHA.11: Re-Use & Refurbishment of Structures of Architectural Heritage Merit & Protected Structures:

It is the policy of Limerick City Council to positively encourage and facilitate the careful refurbishment of the Structures of Architectural Heritage merit and Protected Structures for sustainable and economically viable uses.

Chapter 13: City Centre:

City Centre Retail Area (CCRA):

Limerick City Council is committed to the reinforcement of the City Centre's role in the retail hierarchy by facilitating the development of a significant amount of floor-space to meet projected demand and projected retail unit size. Retailing is prioritised in this area but not to the exclusion of other land use types. Other uses such as residential, hotel, office, cultural and leisure facilities etc., which complement the retail function of the CCRA and promote vibrancy in the City Centre are also permitted, subject to the policies to promote City Centre retailing. It is essential that an appropriate mix of comparison and convenience shopping is provided in the CCRA so as retain a vibrant and unique experience for shoppers. In this regard all applications in the CCRA will be assessed in respect of the type and format of retailing proposed and its impact on the overall vibrancy and vitality of the city centre.

Policy CC.2: City Centre Retail Area:

It is the policy of Limerick City Council to provide for the protection, upgrading and expansion of higher order retailing, in particular comparison retailing, and a range of other supporting uses in the City Centre retail area.

Expanding the Residential Offer:

The 2030 Economic and Spatial Plan highlights the decline in the City Centre population, in particular in owner occupation. A pilot scheme is recommended to demonstrate the potential to refurbish the existing historic building stock to provide high quality family accommodation. Furthermore, the Government's "Living Cities Initiative" should be fully supported.

The plan also highlights the potential contribution that residential accommodation provided by third level institutions can make to the vitality and vibrancy of the City centre.

Policy CC.7: Expanding the Residential Offer:

It is the policy of Limerick City and County Council to develop a pilot project to demonstrate the potential of the City centre Georgian area to support modern family living in particular owner occupation.

Policy CC.8: Expanding the Residential Offer:

It is the policy of Limerick City and County Council to actively support and implement the Living Cities Initiative.

Chapter 16: Development Management:

Architectural Heritage:

When making a planning application for permission to restore, refurbish, demolish, develop or for a change of use of protected structures and other buildings of significant heritage interest, the following information should be submitted with each application:

- An Architectural Assessment Report as per the 'Architectural Heritage Protection Guidelines', 2004.
- A comprehensive schedule of proposed work as per the above guidelines

Part III: Development Management:

Residential Development:

Apartment Development:

In the case of residential accommodation over shops or other business premises, a separate access should be provided for the upper floor accommodation where the ground-floor commercial use consists of restaurants/takeaways, public houses, dry cleaners or printing shops, with apartments above, then proper sound-proofing, ventilation and storage must be built into the design of the building.

5.3. Natural Heritage Designations

The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Lower River Shannon Special Area of Conservation (Site Code: 002165), approximately 350m west of the site.
- The River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), approximately 600m southwest of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The property in question is included in the National Inventory of Architectural Heritage (Ref. No. 21513024) and is considered to be of interest from an architectural heritage perspective, however, the description of the proposed development contained in the public notices makes no reference to the inclusion of the subject property in the NIAH despite the requirement under Article 18(1)(d)(iii) of the Planning and Development Regulations, 2001, as amended, that *'where the application relates to development which would consist of or comprise the carrying out of works to a protected structure or proposed protected structure, an indication of that fact [is to be included in the planning notice]'*. Therefore, the subject application does not comply with the necessary legislative requirements and should be declared invalid.
- Whilst it has been asserted that the owner (Mr. Enzo Rocco) of 'Enzo's Café' has consented to the storage of refuse bins associated with the proposed development within the laneway to the rear of his property, it is submitted that

Mr. Rocco does not own the lane in question and thus the letter of consent supplied by the applicant is invalid.

- The Local Authority has previously encountered considerable difficulty with the historic use of the laneway to the rear of the subject site for the storage of bins and the lack of control / management of same. Accordingly, the storage of any additional bins in this area will only serve to exacerbate the problem.
- Due to the proposed bin storage arrangements, occupants of the apartment units will have to exit the building in order to deliver their refuse to the laneway. It is considered that such an arrangement is neither practical or feasible and is likely to result in refuse being left outside the entrance to the proposed apartments along Little Catherine Street.
- The entrance doorway to the stairwell serving the proposed apartment units does not provide for level access and thus does not comply with TGD Part K of the Building Regulations.
- It is questionable whether or not the proposed grease trap will be emptied on a daily basis (and the waste removed from the site) once the premises commences trading.
- The proposed basement level staff accommodation only provides for what appears to be a unisex changing area. No showers or changing areas have been indicated and only 1 No. W.C. is to be provided which will not comply with ambulant disability requirements.
- There are already a number of premises (including butcher's shops) which sell meat products in the immediate surrounds of the application site and, therefore, there are concerns that the proposed development will give rise to an excessive concentration of such outlets which would have a detrimental impact on the retail vitality and viability of these existing businesses.
- The subject application has not been accompanied by a 'retail needs assessment' as per Policy R9 of the Limerick City Development Plan, 2010-2016 and if such an assessment had been carried it would have shown that an additional butcher shop at this location would place undue strain on the

economic viability of existing businesses by increasing the concentration of such premises.

- Whilst it is accepted that on-street car parking may partially satisfy the demands of customers of the proposed development, William Street does not have a significant amount of car parking spaces available due to the extent of bus bays and loading bays. In addition, the subject application has failed to address the issue of staff car parking. Furthermore, from the appellant's own experience, it is apparent that there is a deficiency in parking provision in the locality whilst customers do not use long-stay private parking when collecting meat purchases.

6.2. Applicant's Response

- The subject property has not been designated as a protected structure in the Limerick City Development Plan, 2010. Furthermore, despite a total of 475 No. structures being suggested as candidates for inclusion in the Record of Protected Structures in 2006, only 118 No. of those properties were subsequently listed for protection in the current Development Plan and the application site was not included in same. In addition, there is no statutory protection afforded to candidate structures.
- The subject building occupies the entirety of the application site / landholding folio and, therefore, there is no external space on site for the storage of refuse. However, the applicant has obtained the consent of a neighbouring property owner to place the bins associated with the proposed development to the rear of the latter's building along Limerick Lane in a manner similar to other businesses in the area.
- The subject proposal should not be prohibited from storing refuse bins along Limerick Lane. The existing building was in almost constant occupation for decades in the absence of any on-site external bin storage area and has established a precedent for the storage of refuse in the laneway.
- The refuse / bin requirements of the proposed development will be minor as the majority of the commercial waste / refuse arising from the new shop will be transported to the applicant's factory premises in the Raheen Industrial

Estate every evening for processing. The proposed bin storage along Limerick Lane will cater predominantly for the 3 No. apartments.

- The subject proposal seeks to provide a viable and mixed-use development within a city centre location and actively promotes the 'living over the shop' concept. The main entrance to the premises will be onto a pedestrian street whilst there are public transport stops with 25m of the site. Accordingly, it is considered that the proposed development represents a good use of the existing building fabric.
- The applicant does not retain ownership of the area beyond the gable elevation of the existing building and therefore cannot install access ramps at this location.
- Every effort has been made to provide a fully occupied, sustainable and varied use of an existing vacant building in Limerick City Centre whilst taking account of the following policy provisions:
 - *To promote the development of mixed uses to ensure the creation of a vibrant urban area, working in tandem with the principles of sustainable development, transportation and self-sufficiency.*
 - *Policy CC.7: Expanding the Residential Offer: It is the policy of Limerick City and County Council to develop a pilot project to demonstrate the potential of the City Centre Georgian area to support modern family living in particular owner occupation.*
 - *Policy CC.8: Expanding the Residential Offer: It is the policy of Limerick City and County Council to actively support and implement the Living Cities Initiative.*
- The applicant has worked in conjunction with the Health Service Executive in order to ensure a layout that satisfies the necessary standards / requirements. The intention is to use all available technologies and advancements, such as air-conditioned cutting areas and display cutting areas, to provide the best possible products to customers.
- The applicant's current premises is coming to the end of its ability to serve the needs of the business and the HSE was in favour of the existing shop

relocating to a new premises with market-leading facilities and product flow i.e. product would be delivered through a service door to the rear of the building, prepared in the centre of the building, and sold through the front.

- It is the applicant's intention to continue to work with the HSE to ensure that the new premises meets its requirements and offers the best product possible to customers.
- With regard to the proposed access arrangements and the staff facilities, it is submitted that cognisance must be had to the context and nature of the existing property, particularly as the existing basement level is not wheelchair-accessible and as the proposed staff W.C. involves the repurposing of an existing bathroom.
- The Guide to the Safety, Health and Welfare at Work (General Application) Regulations, 2007 state that a workplace is permitted to have a minimum of 5 No. staff to one bathroom and in this regard it is submitted that the proposed shop (once operational) will employ 5 No. individuals.
- The major cutting and preparation of meat will occur at the applicant's plant in the Raheen Industrial Estate whereas the trimming and presentation of the meat for sale will be carried out within the preparation area of the proposed shop.
- The staff W.C. includes a lobby area which may be used for changing whilst the proposal also includes for a small tea-making facility in the basement. In addition, it should be noted that the proposed development site is located in the city centre and the applicant's long-employed staff all live within the city limits.
- In response to the concerns raised in the grounds of appeal as regards economic vitality and viability, it is submitted that the applicant's business has operated from within Limerick City Centre for over a century and is established longer than any other butcher's providers in the area. It is also considered that competition and choice will serve to increase footfall thereby generating business for all parties provided the product offered is worthy of same.

- The proposal involves the relocation of the applicant's business from one premises to another along the same street.
- The provision of car parking is not considered to be necessary as the area is well served by public transport and as there are multiple public car parks in the city centre.
- It is unsustainable and detrimental to development / mixed-use in the city centre to demand car parking for all minor development applications.
- It is considered that the subject appeal is of a frivolous and vexatious nature and that it is intended to deny economic development and to delay the opening of the applicant's new premises. Accordingly, it should be dismissed pursuant to Section 38 of the Planning and Development Act, 2000, as amended.

6.3. **Planning Authority's Response**

None.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The nature of the grounds of appeal
- The principle of the proposed development
- Overall design and layout
- Impact on built heritage
- Traffic implications
- Retail impact assessment

- Appropriate assessment
- Procedural issues

These are assessed as follows:

7.2. **The Nature of the Grounds of Appeal:**

- 7.2.1. With regard to the suggestion that the Board may wish to dismiss the subject appeal pursuant to the provisions of Section 138(1) of the Planning and Development Act, 2000, as amended, on the basis that the said appeal is *‘vexatious, frivolous or without substance or foundation’* or has been *made ‘with the sole intention of delaying the development’*, having considered the grounds of appeal, I am satisfied they raise legitimate material planning considerations and thus I propose to assess same accordingly.

7.3. **The Principle of the Proposed Development:**

- 7.3.1. The proposed development site is located in an area which is zoned as *‘ZO.1 (A) City Centre Retail Area (CCRA)’* with the stated land use zoning objective *‘To provide for the protection, upgrading and expansion of higher order retailing, in particular comparison retailing, and a range of other supporting uses in the City Centre retail area’*. Within these areas it is the stated policy of the Development Plan to prioritise retailing although it should be noted that this is not intended to exclude other land use types such as residential, hotels, offices, and cultural & leisure facilities etc. which complement the retail function of the CCRA and promote the vibrancy of the City Centre. Accordingly, I am satisfied that the overall principle of the proposed development is acceptable within this land use zoning.
- 7.3.2. Further credence is lent to the proposed development by reference to Chapter 13: *‘City Centre’* of the Development Plan which highlights the decline in the City Centre population and recommends the refurbishment of the existing historic building stock in order to provide high quality family accommodation (Policy CC.7: *‘Expanding the Residential Offer’*). The Development Plan also seeks to actively support and implement the Government’s “Living Cities Initiative” (Policy CC.8: *‘Expanding the Residential Offer’*).
- 7.3.3. Therefore, on the basis of the foregoing, I am satisfied that the refurbishment of this city centre property is to be welcomed and that it will make a positive contribution to

the rejuvenation of the wider area through the re-use of an otherwise vacant property.

7.4. **Overall Design and Layout:**

- 7.4.1. The proposed development involves the refurbishment of an existing shop unit and in this regard it is notable that the works in question will not give rise to any additional floorspace or result in any change to the building footprint (other than the minor alteration arising from the erection of the new shop front onto Little Catherine Street). Accordingly, as this aspect of the proposal effectively involves the remodelling of the internal layout of an existing retail space, I am satisfied that the overall design and layout as submitted is acceptable and will not give rise to any significant planning considerations. Furthermore, it is my opinion that the ancillary development works, including the provision of a new shop front, the erection of new signage to the front and side elevations, the insertion of a new service / delivery doorway onto Little Catherine Street, and the repointing of external brickwork where necessary etc., are of a relatively minor nature and respect the prevailing character of the existing building.
- 7.4.2. With regard to the provision of 3 No. one-bedroom apartments over the first, second and third floor levels of the existing building, it is clear that certain aspects of these units will not accord with the requirements of the *'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015'* and in this regard I would refer the Board to the schedule provided by the applicant in response to the request for further information which details the various accommodation proposed relative to the standards set out in national guidance. For example, it is apparent that the floor area of the bedroom proposed within Apartment No. 2 does not meet the minimum floorspace requirement whilst there is a complete absence of any private (or public) open space for the proposed apartment units. However, in my opinion, there must be an acknowledgment that the proposed development involves the refurbishment of an existing building and that this serves to limit the ability of the developer to adhere to the required standards. Indeed, Sections 5.8 & 5.9 of the Guidelines state the following:

'These guidelines are intended to apply to new apartment developments. While it is an objective to achieve these standards in refurbishment schemes, this will

not always be possible, particularly in relation to historic buildings, some urban townscapes and 'over the shop' type conversion projects. Planning authorities will need to weigh up compliance with "new build" intended standards in favour of the strong desirability from a planning perspective of securing effective usage of underutilised accommodation, including upper floors.

The requirements of the guidelines can therefore be used as a benchmark for assessment in refurbishment schemes, but depending on individual circumstances, certain elements should be applied flexibly by the local authority or An Bord Pleanála in response to an acceptable design solution for which a case is made by an applicant, subject to appropriate application of the relevant Building Control standards'.

- 7.4.3. Having reviewed the submitted information, whilst noting some deficiencies in the accommodation proposed, it is my opinion that the proposal, on balance, represents an appropriate form and scale of development given the on-site constraints. More particularly, I would suggest that as certain aspects of the proposed apartments will exceed the minimum guideline requirements that this will serve to compensate somewhat for other shortfalls (e.g. the overall floor area and the aggregate area of the living / dining / kitchen rooms of Apartment No. 2 both exceed the specified minimums thereby balancing the deficiency in the bedroom area). With regard to the absence of any open space provision, I am inclined to suggest that cognisance should be had to the city centre location, the fact that the proposal involves the refurbishment of an existing property on a confined site, and the availability of a wide variety of services and amenities in the surrounding area. Moreover, the proposal would also find support in promoting the 'living over the shop' concept and the 'Living Cities Initiative' thereby serving to address, in part, the fall in the city centre resident population. Accordingly, given the site context and the nature of the development proposed, I am satisfied that the overall design of the apartment units achieves an appropriate balance and that the proposal as a whole will make a positive contribution to the area through the redevelopment of a prominent city centre property.
- 7.4.4. In respect of the specific concerns raised in the grounds of appeal as regards waste management and the adequacy / suitability of the proposed bin storage arrangements, whilst I would accept that the proposal to store bins within Limerick

Lane to the rear of the property is not ideal, it should be noted that the limitations of the application site with regard to bin storage (primarily due to the confined nature of the site and the extent of the building footprint) are not new issues and that problems as regards same are likely to have arisen during the former uses of the property as a shop, public house and hotel. Accordingly, I am inclined to suggest that regard should be had to the historical usage of the property and any associated storage of bins etc. given that the proposed development could perhaps be considered to involve a less intense use of the site with a lesser demand for external storage. It is also of relevance to note that each of the proposed apartment units will be provided with internal storage and that the applicant has submitted proposals for the regular off-site disposal of waste arising from the proposed butchers shop. Therefore, on balance, I am amenable to the submitted proposal, subject to the inclusion of a suitable condition pertaining to waste management in the event of a grant of permission.

- 7.4.5. In relation to the appellant's assertions as regards the adequacy of the proposed staff accommodation etc. for the butcher's shop, in my opinion, such issues are essentially matters which are subject to other regulatory control / legislative provisions and thus are not pertinent to the consideration of the subject appeal.

7.5. **Impact on Built Heritage:**

- 7.5.1. In relation to the potential impact of the proposed development on built heritage considerations, it is of relevance in the first instance to note that the existing building is not included in the Record of Protected Structures as set out in the Limerick City Development Plan, 2010, has not been formally designated as a 'proposed protected structure', and is not located within an Architectural Conservation Area. However, notwithstanding the foregoing, it is apparent from a review of the available information that the Planning Authority has particular concerns with regard to the potential built heritage implications of the proposed works given the identification of the existing building on site in the National Inventory of Architectural Heritage (Ref. No. 21513024) as being of 'Regional' importance by reason of its architectural and artistic qualities (Please refer to Policy BHA.11: *'Re-Use & Refurbishment of Structures of Architectural Heritage Merit & Protected Structures'*). In this respect it is also worth noting that the appraisal of the existing building contained in the NIAH refers to the structure as *'displaying a wealth of original features including early sash*

windows and an attractive shopfront' and also states that *'With its stuccoed side elevation and prominent position, this building stands out as one of the most intact on William Street'*.

- 7.5.2. Having reviewed the *'Architectural Heritage Impact Assessment & Conservation Specifications'* of the proposed development as submitted in response to a request for further information issued by the Planning Authority, it is clear that the existing structure makes a positive contribution to the overall historic character / streetscape of the wider area and that the architectural significance of the site extends primarily to its exterior or features shared by both the exterior and interior (i.e. the building envelope and the window openings and frames) given that the interior to the property has been substantially altered and no longer displays any features of architectural interest.
- 7.5.3. On balance, I would concur with contents of the *'Architectural Heritage Impact Assessment'* and, accordingly, I am satisfied that the proposed development will not have an undue impact on built heritage value of the existing building and accords with the objectives of Policy BHA.11 of the Development Plan.

7.6. **Traffic Implications:**

- 7.6.1. Given the restricted configuration and nature of this city centre site (in addition to the availability of public transport in the immediate vicinity), in my opinion, it is abundantly clear that the provision of on-site car parking is neither practical nor feasible and, therefore, it would be entirely appropriate in this instance to address any additional demand on public parking facilities arising as a result of the proposed development by way of a development contribution towards the provision of same by the Local Authority. In this respect it should be noted that an allowance should be made for the parking requirements of the existing retail unit and the overhead accommodation on site.

7.7. **Retail Impact Assessment:**

- 7.7.1. The proposed development involves the refurbishment of an existing ground floor retail unit (and associated floorspace at basement level) within a city centre location on lands zoned as *'ZO.1 (A) City Centre Retail Area (CCRA)'* with the stated land use zoning objective *'To provide for the protection, upgrading and expansion of higher order retailing, in particular comparison retailing, and a range of other*

supporting uses in the City Centre retail area'. Accordingly, whilst I would acknowledge that the subject application has not been accompanied by a 'retail needs assessment' pursuant to the requirements of Policy R9 of the Limerick City Development Plan, 2010, on the basis that the submitted proposal will not give rise to any additional retail floorspace and instead involves the remodelling of an existing shop unit on suitably zoned lands within a sequentially preferable city centre location, in my opinion, the submission of a retail needs assessment is unwarranted, particularly as the proposed development would accord with the wider strategic aims set out in local, regional and national policy as regards supporting retail development in city centre locations.

- 7.7.2. With regard to the assertion in the grounds of appeal that the surrounding area is already adequately served in terms of premises selling meat products (including butcher's shops), in addition to the suggestion that the introduction of another such outlet could potentially have a detrimental impact on existing / established competing business interests in the area, I would refer the Board to Paragraph 23 of the *'Retail Planning, Guidelines for Planning Authorities, 2005'* which specifically states the following:

'It is not the purpose of the planning system to inhibit competition, preserve existing commercial interests or prevent innovation. In interpreting these guidelines local authorities should avoid taking actions which would adversely affect competition in the retail market'.

- 7.7.3. Therefore, on the basis of the foregoing, it is clearly not within the remit of the planning system to interfere with competition in the retail sector or to seek to preserve established commercial interests and thus I do not propose to comment further on the appellants' concerns in this regard.

7.8. **Appropriate Assessment:**

- 7.8.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.9. **Procedural Issues:**

7.9.1. **The Adequacy of the Public Notices:**

Concerns have been raised in the grounds of appeal as regards the validity of the subject application on the basis that the description of the proposed development as set out in the public notices makes no reference to the inclusion of the subject property in the National Inventory of Architectural Heritage (Ref. No. 21513024) and thus fails to comply with the relevant legislative requirements.

With regard to the foregoing, I would draw the Board's attention to Article 18(1)(d)(iii) of the Planning and Development Regulations, 2001, as amended, which states that *'where the application relates to development which would consist of or comprise the carrying out of works to a protected structure or proposed protected structure'* an indication of that fact is to be included in the planning notice. In this respect it is of relevance to note that there is no legislative requirement for a planning notice to include any reference to a structure being included in the National Inventory of Architectural Heritage.

In addition, it should be noted that the subject site is not included in the Record of Protected Structures contained in the Limerick City Development Plan, 2010, nor would it appear to have been formally designated as a proposed protected structure. By way of further clarity, I would advise the Board that although the report of the Architectural Conservation Officer has stated that the property in question was the subject of a Ministerial Recommendation under Section 53 of the Planning and Development Act, 2000, as amended, and that it is the intention of the Planning Authority to process the property for entry into the Record of Protected Structures as resources permit, it would appear from Part III of Appendix II of the Development Plan that the subject property was purposely previously not included in the Record of Protected Structures pursuant to the aforementioned Ministerial Recommendation (unlike other properties). Whilst I would acknowledge that it appears to be the intention of the Planning Authority to incorporate those currently excluded structures which are the subject of a Ministerial Recommendation into the Record of Protected Structures (as staff resources permit) and that these are seemingly referred to as 'candidate' protected structures, there is no statutory protection afforded to such 'candidate' structures in the absence of them having been formally designated as

'proposed protected structures' for inclusion in the Record of Protected Structures pursuant to Section 55 of the Planning and Development Act, 2000, as amended. Therefore, given that the subject site is neither a 'protected structure' or a 'proposed protected structure' there is no requirement to refer to same in the planning notices.

7.9.2. Compliance with the Building Regulations:

In reference to the appellant's concerns as regards adherence to the Building Regulations etc., it is my opinion that such issues are essentially building control matters which are subject to other regulatory control / legislative provisions and thus are not pertinent to the consideration of the subject appeal.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the city centre location of the site, the land use zoning of the site, the design and scale of the proposed development, to the nature and character of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not adversely impact on the vitality and viability of the city centre, would offer a satisfactory level of residential amenity to future occupants, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 28th day of July 2017, 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. Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. The proposed shopfront shall be in accordance with the following requirements:-

- a) no signs shall be installed other than those hereby permitted,
- b) the proposed signs shall only comprise lettering a maximum of 0.3 metres in height, which shall be either handpainted, raised plaster, or individually mounted lettering fixed individually and directly to the facade or to the fascia,
- c) plastic, neon, internally lit signs or internally illuminated fascias are not permitted,
- d) any lighting shall be discreet in nature, plans and particulars of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development,
- e) the erection of any external roller shutters is not permitted,
- f) no adhesive material shall be affixed to the windows of the shopfront, and
- g) no display of goods or advertising or storage of goods shall take place outside the premises.

Reason: In the interests of the visual amenity of the subject building and of the streetscape.

4. No awnings, canopies, roller shutters or additional external lighting shall be erected or displayed on the premises or within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of visual amenity and to protect the character of the streetscape.

5. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity

6. Details of any fans, louvres, ducts or other external plant shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

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

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

8. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation

from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

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

Robert Speer
Planning Inspector

11th January, 2018