



An  
Bord  
Pleanála

## Inspector's Report ABP 306589-19.

### Development

Repair, refurbishment, maintenance and upgrade works to roofs, windows and brickwork; structural repairs to stabilise the building; reconfiguration of internal layout to provide to retail/cafe units at ground floor and office use on upper floors, repositioning of entrance doors on Nassau Street and installation of new staircase to serve upper floor office accommodation and basement plant, services and storage. New shopfronts to Nassau Street and Frederick Street South. All associated site development works.

### Location

17 – 19 Nassau Street, Dublin 2.  
(Protected Structures.)

### Planning Authority

Dublin City Council.

### P. A. Reg. Ref.

4415/19

### Applicant

Ternary Ltd.

### Decision

Refuse Permission.

### Type of Appeal

Third Party x Refusal

### Appellant

Ternary Ltd

### Observer

Butlers Chocolates Ltd.

### Date of Inspection

27<sup>th</sup> March, 2020.

### Inspector

Jane Dennehy

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## 1.0 Site Location and Description

- 1.1. The site which, is located on the south side of Nassau Street and the corner of South Frederick Street overlooking Trinity College on the north side. It has a stated area of 110 square metres and is that of Nos 17, 18 and No 19 Nassau Street which are mid eighteenth century, four-storey over basement Georgian buildings beneath low slate hipped roofs behind the parapet line within a terrace and the total stated floor area is 427 square metres. No 19 appears to be of earlier construction with the area to the rear along the Nassau Street frontage initially serving as its rear yard. It also has had some historical connectivity with the adjoining house to the south side facing onto South Frederick Street.
- 1.2. At ground floor level there are three retail units: Lapis, is located at Nos 17/18 which have been amalgamated, and a subdivided unit within it is occupied by Butler's Chocolates. To the west there is a window display and entrance to a small lobby providing for two staircases to upper floors of No 19 at the rear and No 17 to the front some of the original elements of which survive. At No 19, the adjoining corner site building with frontage onto Nassau Street and South Frederick Street there are shop fronts on both elevations, with a shop entrance off Nassau Street and a separate entrance with timber doorcase to a small lobby and modern staircase for the upper floors at the southern end of the South Frederick Street frontage. Significant alterations, interventions and repair and structural support works to the buildings have taken place.
  - 1.2.1. Immediately to the east side at No 16 Nassau Street is a further individual four-storey over basement Georgian buildings within the terrace with retail use at ground floor level. The Setanta Centre is to the east of it and in it the ground and first floors are occupied by the Kilkenny Shop and office space is overhead on the top three floors. Buildings along the east side of South Frederick Street to the south of the application site are also Georgian town houses included on the record of protected structures.
  - 1.2.2. Further to the east at the northern end on the west side of Kildare Street, is the former hotel and adjoining buildings which are subject of the concurrent application which is also subject to underdetermined appeals before the Board. (PL 306595 refers.)

- 1.2.3. According to the NIAH inventory for No.17-18 Nassau Street (NIAH. Reg. Ref. 50100085) is of Architectural Interest with a Regional rating and is described in the inventory as an; *“attached three-bay four-storey former house over concealed basement was built c.1740-1760 as part of a five-bay block (Nos.17-19). The buildings are now in retail use with offices over and have remnants of a shopfront dating from 1922 and a replacement shopfront dating c.1980 to the ground floor. This is a relatively large former house which forms part of a block of Georgian buildings at the junction of Nassau and South Frederick streets. It forms an unequal pair with its neighbour to the east. Despite the loss of historic fabric its Georgian proportions and fenestration is evident and contributes to the character of the area.”*
- 1.2.4. According to the NIAH inventory for No.19 Nassau Street (NIAH. Reg. Ref. 50100084) is of Architectural Interest with a Regional rating and is described in the inventory as a; *“corner-sited two-bay four-storey former house was built c.1750 as part of a five-bay block along Nassau Street (Nos.17-19), with a two-bay elevation to the west (along South Frederick Street). The building is now in retail use with offices above and has an altered wraparound shopfront dating from 1900. This former house neatly bookends two terraces of houses with relatively intact facades on Nassau and South Frederick streets. Its Georgian fenestration is apparent and enhanced by the retention of varied timber sash windows. The doorway giving access to the upper floors has a simple, pleasant door-case with a similar pilaster also appearing in the shopfront. The foliate console elsewhere in the shopfront is of artistic interest. The building forms an unequal pair with its neighbour to the west.”*

## 2.0 Proposed Development

- 2.1.1. The application lodged indicates proposals for works stated to facilitate the use of the three buildings as two commercial units at ground floor level, in retail or café use and as interlinked office use on the upper floors.
- 2.1.2. The works involved comprise:
- reconfiguration of the internal layout;
  - repair, refurbishment and upgrade work to the roofs, windows and brickwork,
  - structural stabilisation works,

- relocation of entrance doors,
- installation of new staircase,
- provision for basement plant services and storage;
- erection of shopfronts on Nassau Street and South Frederick Street elevations and,
- associated site development works .

2.1.3. The application is accompanied by a “combined structural condition survey”, a flood risk assessment, engineering assessment report and a mobility management plan, all of which are prepared by Waterman Moylan Engineering Consultants, an architectural heritage impact statement prepared by van Dijk, Architects, an architectural design statement by Henry Lyons Architects, and a planning statement.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

By order dated, 10<sup>th</sup> January, 2020 the planning authority decided to refuse permission based on two reasons outlined in brief below:

- 1 Serious injury to planform legibility, the urban grain and special character of the buildings, loss of historic fabric resulting in contravention of Policy Objectives CHC 2 (a) (b) and (c ) and Policy Objective 11.1.5.3 of the CDP. (See para 5.below)
- 2 Undesirable precedent for amalgamation of buildings which are protected structures in the Georgian Core of the city.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports**

The **Planning Officer** indicated a recommendation for refusal of permission based on the advice and recommendations of the Conservation Officer. (Outline details of her report follow below.)

3.2.2. The **Conservation Officer** indicated a recommendation for refusal of permission because the proposed works contravene Policy CHC2 (a) (b) and (c) and Policy 11.1.5.3 of the CDP in that the proposed development is unacceptable due to serious injury to the legibility of the historic floor plans, historic urban grain, special architectural character and, due to unacceptable loss of historic fabric based on the to the proposals for:

Removal of the staircases and replacement with one generic staircase,

Reconfiguration of floor plans at all levels,

Amalgamation of the historic building plots

Replacement of shopfronts with generic contemporary shopfronts,

The conservation officer states that there is no element of conservation gain within the proposals, interference with the street pattern and fine urban grain due to the consistent narrow plot widths around the area considered to be as significant as the structures themselves, unacceptable proposals for openings in party walls without adequate justification, loss of historic fabric, particularly with regard to the staircases to be removed and the internal walls at ground level between Nos 17 and 18, and the removal proposed for the existing shopfronts which may contain fabric dating to the 1920s, (according to the NIAH inventory.)

3.2.3. The report of the **Drainage Division** indicates no objection subject to conditions,

### 3.3. **Prescribed Bodies**

3.3.1. The report of **Transportation Infrastructure Ireland**, (TII) indicates a request for inclusion of a Section 49 development contribution, (unless exemptions are applicable) should permission be granted.

### 3.4. **Third Party Observations**

3.4.1. The issues raised on one or both of two submissions indicate objections on architectural conservation grounds relating to lack of justification on a conservation basis for works involving interference with planform, architectural character and the shopfronts. Issues as to the accuracy of the descriptions in the notices and as to lack of consultation with leaseholders are also raised.

## 4.0 Planning History

- 4.1.1. Under P. A. Reg Ref. 2871/01 permission was granted for alterations and permission for retention of window displays. (Reference is made to this prior grant of permission in the appeal submission.)
- 4.1.2. Permission was refused for a 900 x 900, hanging sign, at 4000mm above street level under P A. Reg. Ref. 3303/13.

## 5.0 Policy Context

### Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective Z5: *to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity*

The three buildings subject of the application and several structure in the vicinity in the area are included on the record of protected structures.

The site location comes within the Area of a site of Archaeological Interest and close to the area of the South Georgian Core in the city

It is the policy under Objective CHC1:

*“To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city”.*

It is the policy under Objective CHC2:

*“To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:*

- (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest.*

*(b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances.*

*(c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.*

*(d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure*

*(e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works*

*(f) Have regard to ecological considerations for example, protection of species such as bats.*

*To promote changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.”*

Under Section 11.5.1.3, detailed policy guidance is set out in respect of proposals for and preparation of applications involving works to buildings included on the record of protected structures.

The relevant statutory guidelines issued under Section 28 of the Planning and Development Act, 2000 as amended are: *Architectural Heritage Protection: Guidelines for Planning Authorities*, (DOEHLG, 2005) (the statutory guidelines.)



## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. An appeal was received from Stephen Ward on behalf of the applicant on 6<sup>th</sup> February 2020 attached to which are copies of:

- a supplementary conservation report,
- a timberworks analysis for No 19 Nassau Street,
- a Fire Safety Appraisal,
- a method statement for brick restoration,
- a method statement for conservation and repair of sash windows,
- a shopfront structural report, incorporating proposals for a new structure to support shop front and structure overhead,
- extracts from documentation in connection with the grant of permission under P. A. Reg. Ref. Ref. 2871/01 for modifications to a previously approved shopfront,
- extracts from Roque's Map,
- historic photographs,
- bye law documentation for Nos 17 and 18 Nassau Street and,
- OS maps. (1838 – 1936)

6.1.2. The appeal includes details of proposals for a revised shopfront design and accompanying architect's statement. It is stated that this revised proposal, could be provided for by way of compliance with a condition if permission is granted. Alternatively, the applicant is also willing, if it is considered necessary to have the proposals submitted in response to a section 131 notification along with publication of new notices if deemed necessary. It is also submitted that the planning authority should have taken the opportunity to issue a request for additional information and the only issues of concern to the planning officer are conservation matters, that the proposed development involves substantial investment in the heritage of the city and safeguarding of the buildings into the future which should be encouraged and, that

there are no objections from heritage organisations, the two objections being solely grounded in property concerns.

6.1.3. The submission includes some remarks on the distinction, between 'material contravention' and 'contravention' having regard to section 37 2 (b) (ii) and (iii) of the Planning and Development Act, 2001 as amended and the CDP in relation to the provisions of Policy Objective CHC2 (a) (b) and (c) having regard to Reason 1 for the decision to refuse permission. It is stated that the reasoning for rejection of the applicant's view that the proposed development is compliant is not clearly stated. It is also submitted that the application is compliant with section 9.6 of the RSES for the East and Midlands Region and, para 7.2.2 Architectural Heritage Protection: Guidelines for Planning Authorities, (DOEHLG, 2005) (The relevant extracts are reproduced in the appeal.)

6.1.4. According to the appeal:

- Contrary to the assertions of the conservation officer there is planning gain. Due to the poor condition of the buildings gains by way of stabilisation works proposed include, repairs and restoration to roof slates, brick work and windows materials. The proposed interventions are not widespread and wholesale; they are well thought out and justified. The works will re-establish authentic room size at upper level by removal of stud partitions and the staircase to upper floors at No 19 which has a negative impact on room dimensions. The sole objective is not just to facilitate lettable space and no wholesale removal of original spine walls is proposed. Single connecting doorways (and steel beams) are to be provided at each floor between Nos 17/18 and No 19 and these interventions which provide for a single floorplate are justified. With the positioning of the central stairs the plot widths will be more visible.
- A section of the wall facing Frederick Street South between the glazed section of the shopfront and entrance door for the upper level of No 19 is to be removed. Ventilation mechanisms are essential, but the applicant will be willing, by condition to install an alternative mechanism. There are two, not three shops at ground level because the Butlers shopfront should be discounted.

- The retention of the staircase at No 19 is accepted as not being an original by the Conservation Officer (who refers to it as 'polite') so its retention undermines conservation principles and is not justified. Its removal will re-establish the room dimension.
- The retention of the staircase at No 18 is not justified in that from the first floor upwards it is of modern construction with mere fragments of the original remaining. The sensitive overriding conservation benefits of the overall development far outweigh the retention of the fragments. A written and photographic record will be made prior to removal.
- It is unlikely that a Fire Safety Officer would agree that their safe passage along the existing staircases, as is indicated in the Fire Safety Report provided with the appeal.
- The doorway from South Frederic Street dates from the 1970s and is of no merit.
- The conservation gains are in replacement of fibre cement slate with heritage grade sate brick and mortar to the facades, rainwater goods, window joinery and replacement of existing inappropriate joinery, in the structural stabilisation works.
- It is evident that the Butler's outlet is shoehorned into the frontage of a pre-existing single shop across the frontage. The shopfronts are of low quality and the timber analysis report prepared further to opening up works submitted with the appeal indicates that the shopfront for No 19 is of 1970s construction with the fascia made from softwood boarding on soft wood farming.
- Shopfronts shown in photographs for Nos 17 and 18 are post 1970 with stall risers recently replaced and the central door moved to the eastern end of the facade providing a separate entrance for the Lapis unit and with the central area of the original shopfront being remove to provide for the shopfront for the Butler's outlet. There are two different options for shopfronts with the door serving the upper floors centrally positioned so that the plot widths are clearly distinguished. The existing shopfronts are of negative impact with regard to conservation merit. It is been established that the rear of the fascia for Lapis which is unoriginal is badly corroded and remedial action is essential to

address a precarious structural condition of the beam as indicated in Shopfront Structural Report included with the appeal. The grant of permission for alterations and permission for retention of window displays under P. A. Reg. Ref. 2871/01 is evidence of the interventions to the shopfront

- The application will make the physical demarcation between the plot widths of Nos. 17 and 18 and No 19 more pronounced, and it is submitted that contrary to the statement of the conservation officer, the shopfronts do not date from the early 1900s and that the correct pattern is in two shopfronts the reestablishment of which is proposed.
- With regard to amalgamation the proposed linkage is only a 900 m wide doorway between Nos 17/18 and No 19 at each level, served by the proposed single staircase is proposed with minimum intervention to party walls. These proposals provide for retention of legibility of plots and accords with section 11.5.1.3 of the CDP and the statutory guidelines. It does not compromise the original planform, which is discouraged, but is not outrightly banned in the CDP and the interventions to the walls with the existing dimensions and volumes unchanged are acceptable.
- The proposal is fully compliant with Policy Objective CHC2 (a), (b) and c) in the CDP. With regard to Policy Objective CHC2 (a) the conservation officer and planning officer do not acknowledge the planning gains in their reports, not least the urgently needed support works to pillars, lintels and steel to prevent building collapse and restorative, replacement and repair works to joinery, roof slates and facades.
- With regard to Policy Objective CHC2 (b) it is pointed out that a conservation impact assessment was undertaken by the accredited conservation architect involving opening up works and incorporating method statements for brick and timber restorative works.
- With regard to Policy Objective CHC2 (c) reference is made to the claims made in the application and appeal as to minimal intervention to sensitive historic fabric, to the argument as to retention of planform, volumes dimensions and hierarchies and, to the information gained through the

opening up works undertaken. The proposal strikes a balance between conservation of heritage and new uses for old buildings as opposed to “no change” policy. Illustrations to facilitate comparison of existing and proposed floor plans are provided on the basis of which it is claimed that planning gain is achieved by maintenance of the distinction between the two properties is maintained by placing the proposed staircase off Nassau Street.

- The provisions of section 11.5.3.1 of the CDP are an elaboration on Policy Objective CHC2 and the conservation officer in her report is selective, biased and she relies on unhelpful extracts. The application for the proposed development is compliant with regard to the details provided in the application documentation, demonstration as to minimum interventions, retention of original fabric where possible and demonstration that the development is highly sensitive to the planform and hierarchy of spaces is an amalgamation that does not compromise the original plan form or adversely affect integrity and special interest and with regard to the limited breaches in art walls by way of the single doorway connections,
- The proposed development also addresses Policy Objective CHC 6 of the CDP with regard to retrofitting sustainable measures providing for encouragement of support works to upgrade performance of existing building stock incorporating good design and standards. This is addressed in the application by locating plant in the basement and the venting without adverse effect to the special interest, even though a section of wall at the ground floor on to Frederic Street South is to be lost to facilitate the basement level plant and its vents.
- The proposed development complies with national policy having regard to the statutory guidelines in particular paras 7.2 where by a protected structure should evolve and adapt to meet changing need maintaining its special interest and 7.3.1 with regard to retaining historic buildings in active use and change of use where minimal changes to and loss of fabric and interest is involved. Reference is also made to the inventory descriptions for the buildings with regard to special interests which it is stated are protected and recognised in the proposed development.

6.1.5. In concluding remarks, it is submitted that the proposed development is fully justified.

## 6.2. Planning Authority Response

6.2.1. A submission was received on 5<sup>th</sup> March 2020 in which the planning officer refers to the recommendations of the conservation officer against the proposed amalgamation of buildings. He states that amalgamation at the ground floor level at Nos 17 and 18 may be acceptable but that the other proposed interventions and replacements proposed, having regard to the information in the appeal are not acceptable.

6.2.2. The original proposal for the shopfront which spans the two buildings is unacceptable to the planning officer whereas the revised design shown in the appeal is regarded as a more acceptable solution.

## 6.3. Observations

6.3.1. A submission was lodged by Manahan Planners on behalf of Butlers Chocolates, occupant of the ground floor of No 18 Nassau Street. According to the submission:

- Butlers Chocolates was not consulted by the applicant who it is contended, clearly intend to terminate the lease held by Butlers Chocolates. The termination of the lease will be opposed vigorously both through the planning system and courts.
- The application is invalid in that the statutory notice details misleadingly purport that the proposals are for repair. The description does not include details of the proposal to close the access to the upper floors which are on Frederick Street and move them to the Nassau Street frontage. If it is decided to grant permission, a Judicial Review will be sought.
- The proposed interventions and rearrangement of the internal layout to facilitate the modern office layout should not take priority over the conservation imperative to retain the internal layout and fabric.
- The buildings are likely to have been built as individual buildings so, on conservation grounds, the proposed changes are not in keeping with the original historic layout of three individual ground floor units and an entrance off South Frederick Street.

- The information provided in the appeal by the applicant does not address these concerns.

6.3.2. It is therefore stated that the conservation officer's assessment is fully supported, and it is submitted, in the strongest terms, that permission should be refused on conservation-based grounds.

## 7.0 **Assessment**

7.1. The issues raised in the appeal and in the observer party's submission are considered under the following subheadings along with some additional matters below.

Planning Gain.

Party Wall openings between Nos 17/18 and, No 19.

Staircase Removal at Nos 17/18 and No 19 Nassau Street.

Basement

Shopfronts.

Mechanical and Electrical

Observer Submission – Legal Issues

Environmental Impact Assessment Screening.

Appropriate Assessment

### 7.2. **Planning Gain.**

7.2.1. Good planning and historic building conservation theory and practice provides for achievement of a delicate balance between conservation gain and the interventions necessary to facilitate the protection and viability of a structure as is prescribed in Policy CHC2 and the accompanying elaborations in section 11.5.1.3 of the CDP. There is no dispute that stabilisation, maintenance repair works if implemented in accordance with appropriate methodology and good conservation practice involves significant investment. However, it is considered that there is no persuasive case that the buildings would be at risk and cannot remain viable and intact without the

extent and range of interventions proposed to provide for the proposed amalgamation, floorplate sizes and internal layout and circulation. The proposed interventions it is acknowledged, increases the ranges of options for future use and occupancy as lettable space but it is not accepted that the survival and future viability and use of the buildings is dependent on them as is discussed in the following subsections.

### **7.3. Party Wall openings between Nos 17/18 and, No 19.**

7.3.1. The argument in the appeal that removal of party walls and installation of beams is a much more radical intervention than the proposed openings to facilitate insertions of 900 mm wide doorways to facilitate linkage at each upper level between the buildings is acknowledged. However apart from the breaches and historic fabric loss involved which is insensitive, the intervention is also unwarranted should it be deemed that the amalgamation of the buildings is unacceptable. The position of the planning authority as to there being no justification for amalgamation of No 19 with Nos 17 and 18 at the upper floors is supported, bearing in mind that the view that it has not been established that buildings are suitable for commercial use or other uses consistent with the zoning and specific objectives of the CDP without a requirement for the proposed internal interventions to the upper floor party wall.

### **7.4. Staircase Removal at Nos 17/18 and No 19 Nassau Street.**

7.4.1. The case made for the removal of the staircase at Nos 17/18 is not accepted in that it is not agreed that features remaining, namely the swan neck handrail and bannisters, treads and risers can be regarded as of being of marginal conservation merit although potentially suitable for salvage. The point made in the conservation officer's report as to the conservation merit overall of the staircase within the building especially having regard to her view in that the non-original elements take the form of the original is notable. Entire removal of the historic features and later elements is contrary to the legibility of the historic planform and is unwarranted.

7.4.2. The conservation officer's observation as to the likelihood that the original staircase for No 19 had a half landing, and as to acceptance of the modern existing staircase referred to as being 'polite' is functional for historic and for future independent access at No 19 from South Frederick Street is supported. While the modern staircase does not feature a half landing, as is believed to have been the case with



the original, it otherwise reflects the historic internal layout. Removal would be in conflict with the recognition of No 19 as an individual building independent of the adjoining buildings at Nos 17 and 18 Nassau Street. The front elevation in proportions and detail relates well to the presentation of the façade at ground level and to the adjoining building to the south with which, as recorded in the applicant's submissions, there is a significant historical relationship with No 19 and in the contribution to the streetscape along South Frederick Street.

- 7.4.3. As in the case with regard to the proposed interventions to the party walls, it is considered that there is no justification for the proposed removal of either staircase, the staircase within Nos 17/18 itself being a feature of conservation interest, in that there is no justification, with regard to functionality and internal circulation if the proposals for linkage and amalgamation at the upper floors is rejected.

#### 7.5. **Basement**

- 7.5.1. The proposed installation of the plant at basement level for which some interventions and a ventilation grille is proposed venting is noted. It does appear that the more appropriate options for ventilation, such as ventilation through the chimneys or through the shopfronts referred to in the Conservation Officer report are feasible.

#### 8.0 **Shopfronts.**

- 8.1.1. The wraparound shopfront, at No 19 although significantly altered dates from the 1900s and according to the NIAH inventory remnants of a 1922 shopfront are present at Nos 17/18 where the replacement shopfront is stated to date from the 1980s. The views of the conservation officer, as to some relationship with the long history of retail use at the ground floors dating back to the eighteenth century and as to the lack of recognition of the historic urban grain in the proposed replacement with generic and contemporary shopfronts are accepted. The proposed contemporary shopfronts are relatively generic and neutral but there is no recognition of or, contribution to enhancement of the vertical emphasis that is a dominant feature of front facades along Georgian terraces. The observations in the shopfront structural report and timber analysis, prepared further to opening up and inspection of the pre-existing shopfront and supporting elements provided with the appeal are acknowledged. Furthermore, it is also agreed that the shopfront presentation at

present across Nos 17 and 18 for Lapis and Butlers is unsatisfactory, as contended in the appeal.

- 8.1.2. It is considered that the planning authority, on the recommendation of the conservation officer correctly interpreted and applied Policy Objective CHC 2 and section 11.5.2.3 in concluding that the proposed replacement shopfronts would, (in conjunction with the proposed amalgamation) seriously injure the legibility of historic urban grain and would be insensitive to the architectural detail and character of the original structures. The supplementary option for shopfront design shown in the appeal is less insensitive than the proposals lodged with the planning authority at application stage.

## **8.2. Mechanical and Electrical**

- 8.2.1. The extent and nature of any proposals for mechanical and electrical installations associated with the proposed development are unclear based on the information available in connection with the application and appeal. Ducting within historic buildings involves significant opening up and is problematic from the perspective of preservation and protection of historic fabric and clarification in this regard would be warranted in advance, in the event of possible favourable consideration.

## **8.3. Observer Submission – Legal Issues.**

- 8.3.1. The issues raised in the submission made on behalf of Butlers, the current occupant of the retail premises within Nos 17 and 18 Nassau Street at ground floor level with regard to its consent to the application being lodged and as to entitlements relating to possible termination of its leases are matters to be resolved through the legal remit. Similarly, issues as to the validity of the application can be followed up through the legal system. It is considered that no party has been precluded from full participation in the planning process in connection with the current application.
- 8.3.2. The planning and architectural heritage issues raised in the submission have been taken into account, within relevant subheadings in the foregoing assessment

## **8.4. Environmental Impact Assessment Screening.**

Having regard to the nature of the proposed development and its location comprising works to existing historic buildings in the city centre, removed from any sensitive locations or features, there is no real likelihood of significant effects on the

environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **8.5. Appropriate Assessment Screening.**

- 8.5.1. Having regard to the location and to the scale and nature of the proposed development comprising works to existing historic buildings in the city centre, no Appropriate Assessment issues arise, and the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

- 9.1. It has been concluded that the proposed development it is acknowledged, increases the ranges of options for future use and occupancy as lettable space but it is not accepted that the survival and future viability and use of the buildings is dependent on the measures proposed in the application or that they can be justified based on planning gain or architectural heritage conservation merit. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld. Draft Reasons and Considerations are set out below.

## **10.0 Reasons and Considerations**

Having regard to the special architectural heritage interest of the existing Georgian townhouses on the narrow plots at a prominent central city location and which are included on the record of protected structures it is considered that the proposed amalgamation and reconfiguration and integration of the floorplates in conjunction with removal of sensitive historic fabric and features functional to the internal historic planform and circulation within the buildings, would undermine and seriously injure the legibility and integrity of the buildings, their plots and their urban grain as a group, would involve insensitive intervention to and loss of historic fabric, and would seriously injure the architectural character and integrity of the structures. The proposed development would therefore be in conflict with Policy Objectives CHC2 (a), (b) and (c) and the provisions of section 11.1.5.3 of the Dublin City Development Plan, 2016-2022 according to which amalgamation including breaches in party walls which compromises historic planform and adversely affects integrity and special

interest of the structure is unacceptable, would set undesirable precedent for similar development and, would be contrary to the proper planning and sustainable development of the area.

**Jane Dennehy**  
Senior Planning Inspector  
28<sup>th</sup> April, 2020.