



An  
Bord  
Pleanála

## Inspector's Report ABP 312603-22

<b>Development</b>	Hotel, retail, café/restaurant, build to rent apartments, cultural building and associated works.
<b>Location</b>	Nos. 36-41 Henry Street, 1-9 Moore Street, 3-13 Henry Place, Clarke's Court & Mulligan's Lane, Dublin 1. Protected structure.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2861/21
<b>Applicant</b>	Dublin Central GP Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	<ol style="list-style-type: none"><li>1. 3<sup>rd</sup> Party v. Grant</li><li>2. 1<sup>st</sup> Party v. Condition</li></ol>
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. Peter Hickey, Bridget &amp; Tony Mooney</li><li>2. Moore Street Traders Committee</li><li>3. The Save 16 Moore Street Committee</li></ol>

4. Moore Street Preservation Trust
5. Dublin One Business Alliance
6. Diarmuid Breatnach
7. Troys Family Butchers Ltd.
8. Colm O'Murchu
9. Mary Lou McDonald TD
10. Dublin Central GP Ltd.

**Observer(s)**

1. Cllr Donna Cooney
2. National Conservation Group
3. Relatives of the Signatories of The 1916 Proclamation
4. Michael Brendan Mulvihill & Proinsias O'Rathaille
5. Moore Street Preservation Society
6. Dublin Town
7. Gerry Adams
8. Shane Stokes

**Date of Site Inspection**

01/09/22

**Inspector**

Pauline Fitzpatrick

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## 1.0 Introduction

- 1.1. The Board is advised that this comprises one of three appeals currently before it pertaining to part of a larger site referred to as *Dublin Central Development*. The said larger site is made up of 3 no. urban blocks equating to 2.2 hectares bounded by O'Connell Street Upper and Henry Place to the east, Henry Street to the south, Moore Street to the west and O'Rahilly Parade and Parnell Street to the north. A masterplan for the overall site has been prepared by the applicant. The masterplan provides for a mix of uses including retail, cafes/restaurants, offices, residential, hotels and cultural uses. It entails new pedestrian links from O'Connell Street to Moore Street and Henry Street to Moore Street, in addition to two open spaces/squares. The overall development site is divided into 6 sites. The proposal subject of this appeal comprises Site 3.
- 1.2. The two concurrent appeals with the Board are for Sites 4 and 5 as delineated in the masterplan. File refs. ABP 312642-22 (2862/21) and ABP 313947 -22 (2863/21) refer respectively.
- 1.3. Sites 3, 4 and 5 subject of the appeals pertain broadly to the eastern side of Moore Street as far as Moore Lane and Henry Place to the east, O'Rahilly Parade to the north and Henry Street to the south.

## 2.0 Site Location and Description

- 2.1. The site, which has a stated area of 0.33 hectares (net), comprises the southernmost section of the *Dublin Central Development* site entailing the majority of an urban block. It is bounded to the south by Henry Street, to the north and east by Henry Place and Moore Street to the west. It comprises of Nos. 36-41 Henry Street, 1-9 Moore Street, 3-13 Henry Place and the lanes known as Clarke's Court and Mulligan's Lane (also referred to as Mulligan's Court).
- 2.2. The buildings facing onto Henry Street are 4 storeys over basement with those onto Moore Street being 3 storeys, some with basement. Buildings onto Henry Place entail industrial buildings/warehouses. The two main streets of Moore Street and Henry Street accommodate retail units at ground floor level. A number along Moore Street have been subdivided. The upper floors are, in the main, underutilised with many along Moore Street in a state of dilapidation.

- 2.3. Nos. 3-13 Henry Place flank an 'L' shaped service lane and is predominantly used for deliveries to businesses on Henry Street, Moore Street and O'Connell Street. It is lined by 1 – 4 storey structures in varying states of repair accommodating small workshops, stores, rear and emergency entrances.
- 2.4. The interior of the site originally had a number of lanes and archways leading to small courts (Clarke's Court, Mulligan's Lane, Moore Place etc.) and backyards to the buildings fronting onto the larger streets. Save for the entrance to Clarke's Court these external rear spaces and access routes were gradually filled in and are no longer evident.
- 2.5. The site is bounded by the rear of properties that front onto Henry Street and O'Connell Street to the south-east and east and the rear of properties on Moore Street and O'Connell Street in addition to Henry Place and Moore Lane to the north.
- 2.6. Moore Street is occupied by the Moore Street Market with traders' stalls flanking both sides of the road. The western side of Moore Street has undergone material change arising from redevelopments including the Ilac shopping centre.
- 2.7. The red site boundary subject of the application includes two smaller areas to the north for the purposes of facilitating the construction phase. These include the demolition/removal of a length of 20<sup>th</sup> century boundary wall to Moore Lane at the rear of Nos. 50-51, 52-54 Upper O'Connell Street which is a protected structure and inclusion of part of a vacant site at No.14 Moore Lane.

### 3.0 Proposed Development

- 3.1. The application is accompanied by two suites of documents. The 1<sup>st</sup> relates to the masterplan for the overall *Dublin Central Development* site and the 2<sup>nd</sup> to the proposed development of the subject site (Site No. 3 as labelled in the said masterplan).
- 3.2. The application was lodged with the planning authority on the **01/06/21** with further plans and details submitted **19/10/21** following a request for further information dated 28/07/21 with revised public notices submitted 09/11/21.
- 3.3. As amended the proposal entails -

3.4. Demolition of: -

- No. 38 Henry Street
- The rear of Nos. 39 and 40 Henry Street (façade to be retained)
- No. 41 Henry Street
- Nos. 1-7 Moore Street
- Nos. 1-10 Henry Place

3.5. New Build: -

Approx, 15,842 sq.m. (gross) in two blocks with a new pedestrian passageway in between connecting Henry Street and Henry Place.

3.5.1. Block 3A (Eastern Block) Fronting Henry Street and the new passageway

- 150 bedroom hotel up to 9 storeys in height with basement
- 2 no. retail units

3.5.2. Block 3B (Western Block) Fronting Henry Street, Moore Street, Henry Place and new passageway ranging in height from 1 to 7 storeys with basement.

- 79 Build to Rent (BTR) units comprising:
  - 14 no. one bed studios
  - 56 no. one bedroom apartments
  - 9 no. two bedroom apartments
- 9 retail units
- Building for cultural/gallery use with restaurant/café to replace No.10 Henry place.

3.6. A 7-year permission is being sought.

3.7. A request for further information was made on the 28/07/21 seeking details on:

1. Replacement of No.41 Henry Street
2. Consideration of a laneway access from 38 Henry Street to Henry Place at ground level only



3. Impact of Block 3A height on surrounding historic area and ACA and consideration of reduction
4. Contextual elevation drawings
5. 3-dimensional scaled model
6. Clarification of quantum of amenity space for residential component.
7. Single aspect north facing residential units
8. Windows in hotel and apartments overlooking each other
9. Location of roof plant
10. Daylighting to certain apartments
11. Cycle parking

3.8. The application is accompanied by the following documents, some of which were amended/supplemented by way of further information:

- Planning Application Report
- EIAR
- Architectural Heritage Impact Assessment
- Architectural Design Statement (incl. Schedule of Accommodation)
- Archaeological Impact Assessment
- Housing Quality Assessment
- BTR Management Plan
- Draft Section 47 Agreement
- Part V Allocation
- Sunlight, Shadow and Daylight Analysis Report
- Landscape Planning Report
- Building Lifecycle Report
- Energy and Sustainability Statement
- Servicing Management Plan

- Lighting Planning Report
- Engineering Assessment Report
- Basement Impact Assessment
- Preliminary Risk Assessment
- Structural Report
- Subterranean Construction Method Statement
- Flood Risk Assessment
- Hydrological and Hydrogeological Qualitative Risk Assessment
- Transport Assessment – Vol. 1
- Travel Plan
- Preliminary Construction Traffic Management Plan
- Outline Construction and Demolition Management Plan
- Telecommunications Report
- Commercial Rationale Report
- Appropriate Assessment Screening Report

## **4.0 Planning Authority Decision**

### **4.1. Decision**

Grant permission for the above described development subject to 32 conditions. Of note:

Condition 6: Development to be revised as follows:

- (a) Full height laneway from Henry Street to Henry Place shall be provided through the removal of No.38 Henry Street as per details submitted by way of FI.
- (b) Top two floors of the upper section of Block 3A to be omitted and the plant area to be relocated or adequately screened.

Conditions 7 & 9: Conservation and archaeology requirements including:

7 (c) The applicant to seek to retain, as far as practically possible, the 18<sup>th</sup> and 19<sup>th</sup> century fabric particularly the external facades of Nos. 5-8 Henry Place.

9(a) Protection of National Monument and temporary exclusion zones around it and other areas of significance.

Condition 10: Transport and access requirements.

Condition 16: Specific use of any retail, restaurant or café units to be agreed in writing prior to occupation.

Condition 28: The duration of the permission to be 5 years.

Condition 30: Developer/owner requested to ensure protection of the Moore Street Casual Trading Area as far as practicable during construction and to provide support and liaise with the Casual Traders and/or representatives where trading is no longer possible or relocation is necessitated.

## **4.2. Planning Authority Reports**

### **4.2.1. Planning Reports**

The **1<sup>st</sup> Planner's** report dated **26/07/21** notes:

- The site presents a mix of both opportunity for significant regeneration and constraints due to the restrictions afforded by the dense surroundings within the O'Connell Street ACA.
- The planning authority acknowledges and respects the deep-rooted history of the site and wider area but also recognises that it would be contrary to the principles of regeneration to allow parts of the site to remain vacant, idle and degrade further when an opportunity for meaningful redevelopment presents itself.
- There is no doubt that a development of this scale even on site 3 alone, independent of the wider masterplan, will result in some form of impact on the wider area.
- Notwithstanding the historical importance of protected structures within the ACA the importance of the laneways and non-protected structures cannot be undermined.

- The modulation of the overall site whereby the massing of the development has been broken down into a number of smaller elements respecting historic plot widths and the scale of the existing surrounding environment is welcomed.
- Given the extent of the site the overall design of the various blocks responds satisfactorily to their surrounding environment. The retention of a number of facades along Henry Street demonstrates an appreciation of historically important features which define this particular terrace.
- The replacement building at No.41 is not considered to be of exceptional design quality and requires further consideration.
- It is considered that the retention of the facades of Nos. 39-40 and retention of Nos. 36-37 Henry Street, with modifications, will be sensitively achieved having regard to the information and methodologies set out in the application.
- There are reservations about the height of Block 3A. It will be one of the more prominent buildings, not only in the masterplan area but the wider development area. Whilst there have been a number of similar developments approved in the last number of years, the hotel's sensitive location within the backdrop of O'Connell Street presents challenges in terms of its ability to effectively and sensitively integrate into its receiving environment. Rationalisation of the hotel height recommended.
- The principle of the new laneway is acceptable in principle given the overall planning gain anticipated from the opening up of the urban block and subsequent creation of new urban spaces and additional retail floor area. It will filter pedestrians into these laneways and, in doing so, activate the laneways bringing vitality and vibrancy to the area. In addition, improvements to the public realm, including the provision of new public spaces within the wider masterplan site, will further contribute towards placemaking and creating the potential for a destination. Pedestrian connectivity is a significant barrier to the area at present. The feasibility of a ground level entrance, only, rather than demolition of No.38 should be explored.
- Whilst the retention and repurposing of all buildings across the site would undeniably be of benefit, the requirements of modern living and

accommodation standards, together with the level of intervention required to bring some of the almost derelict buildings back into use prohibits this.

Having regard to the condition of some of the buildings, there is considered to be little merit in retaining some of the structures, particularly those with no formal designations other than falling within the boundary of the ACA. Their retention is not warranted particularly the outbuildings to the rear of the site. Notwithstanding, regard is had to Policy CHC5.

- The retention of Nos 1-7 Moore Street presents prohibitive challenges in terms of achieving an acceptable standard of residential amenity for future occupiers. Whilst they present a consistent and rhythmic presentation to the streetscape, this will be replicated within the new development without resulting in pastiche. Their replacement is considered to broadly comply with Policy CGC5.
- The White Building is understated but appropriately detailed. Its location offers wayfinding and brings this part of the site back into meaningful use whilst respecting the history of the site. Conditions to be attached requiring historical information to be provided.
- Hotel windows directly oppose residential windows and balconies located on the eastern elevation of Block B, some within 6.4 metres. Each use has a right to some form of privacy. Mitigation measures required.
- Clarity on the amount of amenity space serving the residential component required.
- 2 no. of the apartments (B-1-13 and B-2-17) fall below the minimum standards in respect of the aggregate floor area for living/dining/kitchen areas. Although the units do not benefit from private amenity due to their location within the existing fabric of 8-9 Moore Street, they are considered acceptable due to the fact that the floor areas exceed the minimum requirements by more than 10% and are dual aspect.
- Applicant to revisit single aspect north facing studios particularly on the lower floors.
- The view that balconies serving apartments would have a negative and detrimental impact on the facades of Henry Street and Moore Street

elevations is accepted. Juliet balconies and French doors are an acceptable alternative. The additional space in the units is an appropriate compensation.

- The mix of units and the location would not cater for the demographic requiring a childcare facility.
- There are a number of instances where the target Average Daylight Factor cannot be achieved with alternative, compensatory design solutions set out. There are concerns regarding apartment B-03-07 which substantially underperforms in terms of daylight availability. Amenities would be substandard.
- Revised plans showing the cycle parking required.
- The proposed development post construction will offer a significant opportunity for the street markets to rejuvenate and flourish arising from additional footfall drawn through the area through a combination of new pedestrian routes and an eventual Metro entrance to the rear of Moore Street.
- The principle of a 7-year permission is a concern. A 5-year permission is sufficient.

A request for further information recommended.

The **2<sup>nd</sup> Planner's** report dated **12/01/22** following further information notes:

- In accordance with Policy CHC5 the planning authority would only consider the redevelopment of this part of the site where the benefits are clearly beneficial and far reaching. It is considered that the establishment of a new, refined street edge at a revised density and scale which will enhance the vitality of the area, allows for favourable consideration of the proposals in this instance.
- The revised treatment to site of No.41 Henry Street is a significant improvement.
- In isolation the loss of any building fabric is regrettable. Substantial efforts have been undertaken to retain and reuse a range of buildings including facades which is considered to mitigate against the loss of fabric within this part of the site.

- In terms of the laneway access at No. 38 Henry Street and justification provided, on balance its removal to provide for an open, unobstructed entrance to the site is the most appropriate option. In arriving at this decision, the planning authority has taken into consideration a range of relevant matters including the 2008 permission which required the application to continue the approximate line of Moore Lane southwards to meet Henry Street roughly at right angles through Nos. 37/38/39 Henry Street. In addition, as per the O'Connell Street and Environs statement, it is an objective to develop new pedestrian linkages to increase levels of pedestrian movement.
- The reduction in the height of Block 3A is not considered to impact on the overall scale of the building. The concerns derive not necessarily from the height of the structure, itself, but from the architectural quality of those parts of the building which are visible above the historic parapet heights of the buildings along the west side of O'Connell Street and the impact this has on the setting of the street. The planning authority remains concerned that the inappropriate proportions and fenestration patterns to the upper levels do not respect the setting of the surrounding ACA or the protected structures to which they form the backdrop. A further reduction in the height through the removal of the top two storeys will be required. This will require some rationalisation of the height between the lower section of Block 3A, including the proposed screened plant area which may require relocation, details of which can be agreed by way of condition.
- Having regard to the contextual elevation drawings, in combination with the typical elevation drawings across the site, the planning authority is satisfied that the proposed development is sufficiently setback and is of an appropriate scale and height in relation to the GPO to the south to ensure the setting is not adversely impacted.
- The quantity, quality and location of the amenity space serving the residential component is acceptable.
- Amendments to apartment fenestration considered to be acceptable. The internal amenity will be to an acceptable standard.
- Whilst recognising the benefits of retaining existing building fabric there is the need for a catalyst for the sensitive redevelopment of the wider site.

Submissions received in relation to the demolition of parts of the site considered to be more sensitive and historically valuable are noted and acknowledged, however the planning authority considers that the historically and architecturally sensitive parts of the site are nominated for retention, whilst others e.g. the terrace along Moore Street propose a revised treatment which respectfully incorporates elements of the existing terrace at an increased scale, tapering down in height towards Nos.8-9 Moore Street.

- The careful balance of the need to preserve the historical environment with the need and desirability to achieve economic and social objectives has been central to the assessment of the application which is considered to be of importance to the city as a whole. It is recognised that not all objectives can be achieved in isolation without some impact on others and the planning authority therefore considers that the proposal, as amended and subject to conditions, represents the most balanced, progressive, sustainable and appropriate scheme of redevelopment for the site.

A grant of permission subject to conditions recommended.

#### 4.2.2. Other Technical Reports

**1<sup>st</sup> City Archaeologist's** report dated **12/07/21** recommends that a project archaeologist be employed and sets out a series of conditions to be attached should permission be granted.

**Engineering Department – Drainage Division** in a report dated **12/07/21** has no objection subject to conditions.

**1<sup>st</sup> Conservation Officer's** report dated **19/07/21** notes:

- The historic lanes are significant in terms of retaining the memory and understanding of the 1916 Battlefield and the key locations that reflect the evacuation routes taken by the Volunteers. Their legibility should be retained.
- While it is accepted that the poor condition, presentation and underuse of the existing secondary streets and lanes is a deterrent to their effective use and the proposal to introduce a new lease of life and animation into the area is



welcomed, there are serious concerns that the present character and scale of the existing urban blocks and connections may be eroded and may lose their modest and human scale.

- As significant demolition is proposed to facilitate the construction of the Metrolink station at O'Connell Street and its hinterland, it would be preferable for more of the historic structures across the remainder of the *Dublin Central Development* site to be retained to act as a counterbalance.
- The proposed demolitions would result in a substantial and regrettable loss of architectural and historic building fabric, a significant loss in terms of the legibility and understanding of the historic urban grain of the site and would have a subsequent significant impact on the special and unique architectural character of the area. The refurbishment and reuse of the existing building stock with potential for a new build residential or hotel development behind is much more preferable to the demolition of buildings.
- The proposed loss of No.38 Henry Street to facilitate a new laneway is problematic. It is unwarranted. Dublin has a tradition of arched openings within terraces of buildings. A revised proposal that would provide laneway access at ground level, only, is recommended with the building retained and reused.
- It is regrettable that the proposal includes the proposed façade retention of Nos. 39 and 40 Henry Street rather than their adaptive reuse. Façade retention as a strategy is generally not supported. The loss of this historic fabric is significant. There are concerns that the reason for the proposed façade retention is to maximise the number of units on site rather than consideration of the built heritage of the historic buildings themselves. Applicant should be requested to reconsider.
- The demolition of No.41 will result in the loss of the canted corner bay which is mirrored in No.42 opposite. There are concerns that the proposal does not sufficiently address the corner of Moore Street/Henry Street. Recommend the applicant be requested to address same and potential to retain No.41.
- The proposal to demolish No.1 -7 Moore Street is regrettable. It is acknowledged that these buildings are in disrepair and have suffered

extensively from neglect and decay. It is also acknowledged that in order to activate this site and provide a sustainable use to the upper floors there will be an element of loss. However, the loss of the facades and the legibility of the laneway at Clarke's Court is substantial and regrettable. Further amendments to alleviate this loss recommended.

- The increase in building height from 2-4 storeys to 7-8 storeys is excessive and will have a fundamental and significant impact on the character of the historic streets and lanes. The height should be reduced. The photomontages show the impact.
- The applicant shall submit an annotated drawing supported by photographic survey that sets out the provenance of the remaining historic fragments and should seek to retain, as far as practically possible, these fragments within a revised proposal for the site.
- A record survey of all surviving historic fabric along the boundaries of the laneways and road and pavement surfaces to be prepared and all historic materials to be retained and enhanced in their original locations, as far as possible, to ensure that the legibility, patina and authenticity of the setting is respected.

Further information recommended.

The **2<sup>nd</sup> Conservation Officer's** report dated **07/01/22** following further information notes:

- The concerns regarding demolition and erosion of the legibility of the laneways and battlefield are reiterated.
- It is reluctantly accepted that in order to provide the anticipated numbers of residential apartments on the site there would need to be loss of building fabric.
- Should permission be granted a detailed and accurate record of the buildings to be demolished should be required.
- The demolition of No.38 Henry Street is not supported. Access at ground level, only, recommended.

- The concerns regarding the height of the new build reiterated. The reduction proposed in the FI is minimal and would make little difference. Block 3A should be reduced by 2 storeys.
- The public space at the junction of Moore Lane and Henry Place should be omitted.

A grant of permission subject to conditions recommended.

**1<sup>st</sup> report from Transportation Planning Division** dated **20/07/21** notes:

- In the event that the remaining masterplan area does not come forward for development, each site should have its own residential travel plan which, in turn, can be updated accordingly.
- Revised plans showing bicycle parking required.

Further information recommended.

**2<sup>nd</sup> report from Transportation Planning Division** dated **05/01/22** following further information considers the details provided on bicycle parking to be acceptable. No objection to the proposal subject to conditions.

**Environmental Health Officer** in a report dated **20/07/21** recommends a construction management plan which is compliant with the Air Quality Monitoring and Noise Control Unit's Good Practice for Construction and Demolition.

#### 4.3. Prescribed Bodies

**Transport Infrastructure Ireland** in a letter dated **01/07/21** has no observations to make. The site falls within the Section 49 levy scheme for Light Rail. If the scheme is not exempt a condition should be applied. The **2<sup>nd</sup> letter** dated **16/11/21** following further information states that its position remains the same.

**An Taisce** in a report dated **05/07/21** considers that there are a number of positive aspects to the scheme. It has a number of concerns including (a) southward extension of the axis of Moore Lane out to Henry Street. It would interfere with and change the nature and sequence of the historic pattern of streets and lanes in this location. Its omission recommended; (b) demolition of c.1918 redbrick and limestone Moore Street building frontage between the corner of Henry Street and Henry Place; (c) achievement of appropriate consultation with the families and relatives of those

who partook in The Rising on how the development impacts on the national monument at Nos. 14-17 Moore Street and the wider 'Battlefield Site'. Proposed development should not inappropriately dominate these smaller 19<sup>th</sup> century buildings and ensure their sensitivities and meaningful incorporation; (d) the scale and mass should not have an overbearing visual impact on the O'Connell Street ACA and should protect its historic roofline and silhouette to the greatest possible extent.

**Department of Housing, Local Government and Heritage** in a letter dated **05/07/21** notes:

*National Monument*

- Agreement in writing with the Department and OPW to ensure that no damage occurs to the national monument.
- Project Archaeologist to monitor the temporary exclusion zones around the monument and other areas of significance. Extent of exclusion zones to be agreed with the planning authority and the Department.

*Archaeological Heritage*

- Conditions detailed should permission be granted addressing archaeological mitigation project and archaeological monitoring testing and excavation.

*Architectural Heritage*

- The proposed demolition of No.38 Henry Street to create so called 'permeability' on the street block is considered unnecessary.
- No. 41 Henry Street has a canted corner bay which is echoed by that at No.42 on the other side. This element of urban design would be lost with its demolition.
- The demolition of all or part of Henry Street and Moore Street terraces is unwarranted. They form an important part of the streetscape and have historical significance as part of the reconstruction of Dublin City after The 1916 Rising.
- It is considered that many of the landmark buildings on the site are capable of refurbishment and adaptation. The planning authority is requested to

consider whether an alternative design would allow for the retention and sensitive adaptation for reuse of significant existing structures.

**Faite Ireland** in a letter dated **05/07/21** considers that the development would contribute positively to the Dublin tourism brand by supporting the following objectives (a) quality urban design and placemaking, (b) strengthening the night time economy, (c) orientation and navigation and (d) building in hotel room capacity. The development will also assist the sustainable growth of tourism by attracting more visitors to the north of the city and has the potential to support further regeneration of the north inner city including Parnell Square Cultural Quarter.

**Irish Water** in a report dated **13/07/21** recommends further information requiring the applicant to liaise with it to determine the requirements for the proposed abandonment of the foul sewer that runs through the site.

#### 4.4. **Third Party Observations**

Objections to and submissions in support of the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those raised in the appeals and observations received by the Board which are summarised in section 7 below.

### 5.0 **Planning History**

There is an extensive planning history within the site pertaining to individual buildings/sites in addition to an extensive history in the vicinity. I refer the Board to the summary provided in the Planning Authority's Area Planner's reports on file.

I note the following to be of particular relevance:

**PL29N.232347 (2479/08)** – permission granted in 2010 for redevelopment of the majority, but not all of the site covered by the *Dublin Central Development* masterplan, including demolition of buildings, provision of retail, residential, office, gallery/cultural and commemorative centre in buildings ranging from 3 to 6 storeys over 3 levels of enclosed basement parking in addition to 2 no. new streets and 3 no. public spaces. The permission was for seven years. An extension of the duration of the permission was granted under reg.ref. 2479/08 X1 for a further five years. It expired in May 2022.

## 6.0 Policy Context

### 6.1. National Policy and Guidelines

Regard is had to:

- National Planning Framework
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)
- Architectural Heritage Protection Guidelines for Planning Authorities, 2011.

### 6.2. Regional Policy

*Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019*

It includes the Dublin Metropolitan Area Strategic Plan (MASP)

To achieve the vision the MASP identifies a number of Guiding Principles for the sustainable development of the Dublin Metropolitan Area including:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

### 6.3. Local Planning Policy

At the time of writing this report the Dublin City Development Plan 2016 remains in force. A draft 2022 Development Plan is within the public realm. The plan is due to be made at the beginning of November and to come into effect on 14/12/22.

In the current plan the site is within an area zoned Z5, the objective for which is to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.

#### **6.3.1. Residential**

The relevant policies with respect to housing are QH1, QH3, QH5-8, QH10, QH11, QH13, QH16-19, QH24, QH25.

Of note:

QH6 – to encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, which are socially mixed in order to achieve a socially inclusive city.

QH7 – to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH17 – to support the provision of purpose built, managed, high quality private rented accommodation with a long term horizon.

#### **6.3.2. Retail**

The relevant policies with respect to retailing are RD6, RD12-17, RD22-23.

Henry Street is a category 1 street and Moore Street is category 2.

Of note:

RD6 – to promote and facilitate the major contribution of retail and other services to the vitality and success of the city, as a significant source of employment, a focus of tourism, as an important recreational activity and as a link with other cultural and recreational activities.

RD13 – to affirm and maintain the status of the city centre retail core as the premier shopping area in the State, affording a variety of shopping, cultural and leisure attractions and having regard to relevant objectives set out in the Retail Core Framework Plan (2007).

RD23 – to facilitate an increase in the amount of retail floor-space to accommodate higher order comparison goods retailing and including, where appropriate, the provision of larger shop units in the city centre retail core.

#### 6.3.3. *Enterprise*

The relevant policies with respect to the city economy and enterprise are CEE1-EE5, CEE12, CEE15-16, CEE18, CEE22.

Of note:

CEE12 - (i) to promote and facilitate tourism as one of the key economic pillars of the city's economy and a major generator of employment and to support the provision of necessary significant increase in facilities such as hotels, aparthotels, tourist hostels, cafes and restaurants, visitor attractions, including those for children.

CEE18 - (vi) To recognise the unique importance of Moore Street Market to the history and culture of the city and to ensure its protection, renewal and enhancement, in co-operation with the traders as advocated by the Moore Street Advisory Committee Recommendation relating thereto.

#### 6.3.4. *Cityscape*

The relevant policies with respect to Shape and Structure of the City are SC7, SC16, SC17, SC20, SC21, SC25.

Of note:

SC7 – to protect important views and view corridors into, out of and within the city, and to protect existing city landmarks and their prominence.

SC17 – to protect and enhance the skyline of the inner city and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city .... in particular all new proposals must demonstrate sensitivity to the historic city centre.

#### 6.3.5. *Conservation*

The relevant policies with respect to conservation are CHC1, CHC4, CHC5, CHC9, CHC11, CHC15, CHC17, CHC20, CHC37.

Of note:



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.

CHC4 – to protect the special interest and character of all Dublin’s conservation areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
2. Reinstatement of missing architectural detail or other important features.
3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.

Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area,
2. Involve the loss of traditional, historic or important building forms, features and detailing including roofscapes, shopfronts, windows and other decorative detail,
3. Introduce design details and materials such as uPVC, aluminium and inappropriately designed or dimensioned windows and doors,
4. Harm the setting of a Conservation Area,
5. Constitute a visually obtrusive or dominant form.

The site is within the O’Connell Street and Environs ACA. The designation is due to the rich architectural character and heritage of the O’Connell Street area which is

generated not only by the landmark buildings or the more significant protected structures.... the special character is built up by the interaction between these important buildings and the ordinary building stock, as well as the stock of historical and cultural memories and associations attached to these buildings and public spaces.

New developments should respect the established scale of the existing built fabric – including height, massing, proportions and plot width.

CHC5 – to protect Protected Structures and preserve the character and setting of ACAs. The City Council will resist the total or substantial loss of:

- Protected structures in all but exceptional circumstances (and will require the strongest justification, including professional input with specialist knowledge so that all options receive serious consideration)
- Non-protected structures which are considered to make a positive contribution to the character and appearance of an ACA, unless it can be demonstrated that the public benefits of the proposals outweigh the case for the retention of the building.

Demolition behind retained facades may be considered on non-protected structures, depending on the significance of the structures, where it will secure the retention of façades which make a significant contribution to local townscape, where it will maintain the scale of original rooms behind principal façades and where the demolition is considered otherwise acceptable having regard to the above policy considerations. Where an existing structure is considered to make a neutral or negative contribution to an Architectural Conservation Area, the City Council will encourage:

1. Its demolition and replacement with a high-quality building with enhanced environmental performance, or
2. Where appropriate, its improvement, recladding or refurbishment to improve both its appearance and environmental performance.

In all cases, demolition will only be permitted where:

1. Any replacement building will be of exceptional design quality and deliver an enhancement to the area and improvement in environmental performance on-site, taking into account whole life-cycle energy costs.

2. Firm and appropriately detailed proposals for the future re-development of the site have been approved and their implementation assured by planning condition or agreement.

CHC17 – to co-operate with and facilitate the state in its presentation of the National Monument at 14-17 Moore Street on a joint venture basis.

CHC20 – to support the retention and refurbishment of the cultural quarter associated with 1916 on Moore Street.

The following objective is noted:

CHC030 - To develop a 1916 Historic Quarter, including Moore Street, with its National Monument and historic terrace, an appropriately developed street market, the GPO and Parnell Square, creating an integrated historic, literary and commercial focus for the north city centre and providing potential for tourism and to prepare a Development Brief for the Moore Street Area which addresses the above.

#### 6.3.6. *Development Standards: Design, Layout, Mix of Uses and Sustainable Design*

Section 16.10.17 Retention and Re-Use of Older Buildings of Significance which are not Protected.

The re-use of older buildings of significance is a central element in the conservation of the built heritage of the city and important to the achievement of sustainability. In assessing applications to demolish older buildings which are not protected, the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city. Where the planning authority accepts the principle of demolition a detailed written and photographic inventory of the building shall be required for record purposes.

#### 6.4. **Natural Heritage Designations**

None in the vicinity.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

#### 7.1.1. **Peter Hickey and Bridget and Tony Mooney** (street traders operating on Henry Street).

The submission can be summarised as follows:

- Whilst the redevelopment of the area is welcomed, they will be directly affected during demolition and construction phases. It is feared that it will not be possible to continue trading for the duration.

#### 7.1.2. **Moore Street Traders Committee** (submission by William Doran accompanied by supporting detail on its behalf).

The submission can be summarised as follows:

##### Permission Duration

- Moore Street traders will not be able to trade during construction. They will have to leave for up to 15 years.
- The Board is requested to uphold condition 28 and limit the duration of the permission to 5 years.

##### Construction

- The store and street traders of Moore Street have enjoyed a mutually beneficial trading relationship which will be lost if the traders are displaced during construction works.
- Condition 30 requesting the developer to protect the Moore Street Casual Trading Area is unenforceable. It is inappropriate for the planning authority to attach a planning condition in relation to 3<sup>rd</sup> parties trading on land outside the curtilage of the site.

- It is possible for the development to be constructed without impact on the established and normal street trade on Moore Street. It requires the Board to craft condition(s) to ensure same.
- Noise during construction will deter shoppers from stopping at the stalls.
- Condition 20 addressing noise during construction is unhelpful and useless in practical enforcement terms. The Board attached a condition on file ref. ABP 303566-19 which had a real, enforceable and positive impact. Such a condition is recommended in this instance.

#### Alternative Access

- The proposed access would cause serious disruption to the city.
- The developer has a large site fronting onto O'Connell Street which would facilitate access and egress to the site (diagram showing potential construction route provided in support).
- Lands in the applicant's and city council's ownership could be made available to allow for construction traffic egress from Moore Lane.
- Condition 10 needs to be strengthened or replaced controlling access/egress to a specific route that does not impact on the Moore Street traders.

#### **7.1.3. The Save 16 Moore Street Committee**

The submission, which is accompanied by supporting detail, can be summarised as follows:

#### Procedural Issues

- The proposal to lodge 3 applications is misleading as to the overall plans for the area.
- The Ministerial consent for works in proximity to the national monument at 14-17 Moore Street has not been submitted.
- The model was not displayed for public consideration.
- The further information request was not adequately addressed.
- Online procedures to lodge an objection with the planning authority is not fit for purpose.

### Cultural and Built Heritage

- The application does not reflect the historical importance of the area or its place in Irish history.
- The appellant supports and endorses the High Court declaration that the site in question satisfies the criteria for full protection and preservation as a site of national importance.
- It includes the appropriation and invasion of the curtilage of the national monument and protected structures. It is out of context, contrary to Venice Charter principles and international guidelines on the protection of history and heritage.
- It fails to address the disturbance of ground and the impact of construction traffic in proximity to the national monument.
- It does not secure, protect or secure all 1916 elements on site.
- It will alter and interfere with lines of historic streets and laneways directly linked to The Rising. It will alter the evacuation route taken by volunteers.
- The Myles/Shaffrey Battlefield Report that identified 1916 elements visible from the public realm has been ignored.
- Without an assessment of the proposed protected structures by appropriately qualified persons an informed decision cannot be made.
- The proposal does not adequately recognise Moore Street as an architectural conservation area.
- It does not recognise the importance of below ground archaeology.
- The proposal fails to have regard to the Ceathrú Chultúir 1916 Bill, The Moore Street Renewal and Development Bill, the recommendations of HQ16 The Citizens Plan for Dublin, Part 1 and Lord Mayor Forum Report and the Kelly Report 2016. It does not comply with the recommendations of The Moore Street Advisory Group or those of the Department of Housing, Local Government and Heritage's in its report on the application.

### Development Plan

- The application does not comply with Z5 zoning provisions or policies CEE 18(vi), CHC 20 or CHCO 31.

#### Hotel

- An hotel with the removal of The Bottling Stores at Henry Place is inappropriate to the history of the location. The hotel is out of scale.

#### 7.1.4. **Moore Street Preservation Trust**

The submission, which is accompanied by supporting details, can be summarised as follows:

#### Cultural and Built Heritage

- The High Court judgement as to the historical significance of the area and the national monument is noted.
- The proposal would have a negative impact on the national monument. There is a lack of any 'Battlefield Site' approach to the application and overall masterplan.
- No letter of consent from Minister for works in proximity to the national monument.
- The site, which is 1 of 6, will have a detrimental impact on the area including the laneways due to the overall scale of the proposal relative to the low scale Moore Street terrace. The importance of the laneways and non-protected buildings within the ACA boundaries cannot be undermined. The development, inclusive of the large-scale demolition of buildings, would have a negative impact on what should be an historical and cultural quarter commemorating the events of 1916.
- The conditions attached to the grant of permission seeking further details is inappropriate where it entails works close to the national monument and protected structures.
- The hotel and removal of the Bottling Stores is inappropriate.
- A number of buildings that pre-date the Easter Rising survive on Henry Place.

- Buildings at 36-41 Henry Street and 1-9 Moore Street are recorded by the NIAH as being of regional significance. They should be on the Record of Protected Structures.
- The demolition of buildings is contrary to the ACA statement. It would result in a substantial and regrettable loss of architectural and historic building fabric, a significant loss in terms of legibility and understanding of the historic urban grain and would have a subsequent significant impact on the special and unique architectural character of the area.
- Facade retention at Nos. 39-40 Henry Street is generally not supported by the City Council as set out in section 11.1.5.8 of the development plan. Section 3.10.2 of the Architectural Heritage Protection Guidelines also noted. The reason for the proposed façade retention is to maximise the number of units on site rather than consideration of the buildings' heritage.
- The proposal to replace No.41 Henry Street and demolish No.38 Henry Street fails entirely to take account of the unified architectural character of these buildings and of the reciprocal relationship of No.41 with that on the other side.
- The proposal suggests a significant lack of awareness or understanding of the relevant ICOMOS Conservation Charters. There is no evidence of any great understanding of the principles of 'Place', 'Cultural Significance' or 'Cultural Heritage'.
- The site is within a zone of high archaeological potential. There was little assessment of the implications of the proposal. An inordinate number of questions remain unanswered as evidenced by the condition addressing archaeology.
- The Council should require that its own archaeology, conservation and heritage departments take the main role concerning any on-site building works at the developer's expense.
- There is an absence of any justification that would support a material contravention of development plan policies CHC1, CHC2, CHC4, CHC5, CHC29, CHC37 and CHC43.

### Alternatives



- In 2021 the appellant produced a conservation plan for the Moore Street area including an architectural model. It meets all the recommendations of the Advisory Group to the Minister, the Development Plan objectives, the aims of the Moore Street Renewal Bill and European and International guidelines and charters.
- The developer could have focussed the project on the existing Henry Place rather than introducing a new passageway.
- Any decision would run the risk of undermining the democratic process of the Ceathrú Chultúir 1916 Bill at committee stage in the Dáil. It also runs contrary to the aims and objectives of same and The Moore Street Renewal and Development Bill.

#### Procedural and Other Issues

- The piecemeal approach to the development of the overall site is inappropriate.
- The lodgement of several applications is unfair and interferes with citizens' rights.
- The revised public notices do not make reference to the model submitted. Notices lack detail on extent of demolition works.
- The model includes development permitted at Jervis Street not yet constructed. Its inclusion distorts the context.
- The grant of permission ensures that the scheme is overwhelmingly reliant on the completion of the design through planning conditions. This ensures that the public has no say in the final design.
- Adverse impact on Moore Street market and independent businesses on Moore Street. Condition 30 passes the problem to the developer and is inappropriate.
- Impacts of extended construction period on traders are understated.
- It would completely change the street market character of Moore Street.
- The residential component does not meet the requirements of the area.

- The 7-9 storey complex is unattractive and poorly designed.
- Issues of daylight and sunlight need to be addressed.
- Up to date traffic surveys should be undertaken.
- Narrowing of footpaths contrary to development plan provisions.
- Application makes little contribution to the concept of day to night areas.
- Need for a hotel is queried.
- No letter of consent from City Council permitting interference with and development of streets, lanes and footpaths in public ownership.
- Issues arising in planning authority's online system.

**7.1.5. Dublin One Business Alliance** (submission by DMOD Architects on its behalf)

- Adverse impact of site contingencies and construction activities on existing Moore Street businesses.
- Adverse impact of the construction access.
- Adverse impact of the scale and duration of the construction phase on the trading environment which would likely result in the failure of their businesses.
- The applicant failed to engage with or address the legitimate concerns of the independent store traders.
- Condition 11 which deals with noise and air pollution is generic and difficult to enforce.
- There are technical flaws in the application which undermine the legitimacy of the decision. The planning authority failed to ensure the proper planning and sustainable development by allowing the *Dublin Central Development* site to be subject to a series of separate applications, some of which have not been submitted. These applications are interdependent in terms of construction traffic and waste management.
- Condition 10 attached to this permission and condition 21 attached to 2862/22 cannot be satisfied as they depend on the outcome of a separate application under ref. 2863/21 which has yet to be determined.

- Condition 30 does not reference or give consideration to the independent store owners on Moore Street.

#### 7.1.6. **Diarmuid Breathnach**

The submission can be summarised as follows:

##### *Cultural and Built Heritage*

- The planning authority's decision runs contrary to the recorded decisions of Dublin City Council elected representatives to conserve the buildings in the '1916 Terrace'.
- The proposal destroys a site of historical significance and arguably of world historical heritage importance.
- The Heritage Impact Assessment statement fails to adequately assess or record the surviving historic fabric in the entire Moore Street terrace or take into account the curtilage of the National Monument. It contradicts the previous developer's statement which said that No.18 contained pre-1916 elements.
- The design, scale and massing would seriously detract from the setting and character of both the O'Connell Street Conservation Area and the proposed protected structures on the site and is contrary to Section 11.1.5.3 of the development plan and policies C1, C2, C4 and C6.
- It is contrary to the provisions of Section 11.1.5.3 of the development plan in failing to complement the special character of the protected structures on and adjoining the site or retaining the traditional, proportionate relationship with returns, gardens, mews structures etc.
- It would contravene development plan policies CHC29, CHC37 and CHC43 in relation to the protection of the cultural and artistic use of buildings in established cultural quarters.
- On completion of the project Moore Street will effectively become a laneway which completely undermines the historical significance of the street and the heritage of the market.

- The planning authority did not take into consideration the tourism value of a historical cultural quarter in the city centre. Kilmainham Gaol cited as an example.

#### Impact on Adjoining Property

- The businesses along Moore Street will be wiped out or seriously affected. They are unlikely to return. The independent businesses were not consulted by the applicant.
- The removal of the only fresh food street market will destroy an important social amenity and institution.
- Negative impact on residents in Greeg Court.
- The noise mitigation measures will not have any real impact.

#### Mix of Uses

- The planning authority should have taken into consideration alternatives presented.
- The proposal will add to the over concentration of hotels in the area. It is contrary to the Z5 zoning. It will reduce cultural space in the city centre and will impact on its night time culture.
- The proposal contains no provision for social or affordable housing.

#### Access and Traffic

- The proposal will entail huge disruption for private and public transport. The EIAR does not adequately assess the environmental impact of the construction traffic over a 15-year period.
- No traffic management report submitted.
- Clarity is required on the proposed access and egress into Moore Street/Lane and the safety issues that will arise for shoppers.

#### Procedural and Other Issues

- A lot of requirements are left to be resolved by condition and deprives 3<sup>rd</sup> party comment.
- No provisions made for debris/dirt from construction vehicles.

- Displacement of rodents.

#### 7.1.7. **Troy Family Butchers Ltd.**

The submission, which is accompanied by supporting detail, can be summarised as follows:

##### Alternatives

- There are viable alternatives to the redevelopment of the area including the Ceathrú Chultúir 1916 Bill.
- Culture as an economic development creator has been highlighted in government economic plans.
- The site development has the potential to be a leading attractor in the tourism industry and significant contributor to the economy. It can be the catalyst for establishing a new vibrant part of Dublin, allowing for the expansion of the city centre's overall visitor appeal.
- The area as a living museum and plans drawn up by The Preservation Trust detailed.
- The area could become an alternative food market.

##### Impact on Businesses and Adjoining Property

- The fact that the street is in a state of neglect is a consequence of bad planning and management by those with responsibility for the street.
- The market and the proposed development are not compatible.
- The market will be forced to close. The idea that they can trade during the construction phases is not realistic. The construction phase will result in loss of business and jobs.
- Condition 30 does not make reference to business traders on Moore Street.
- The aim post construction is to attract footfall to the new retail square behind the Moore Street Terrace away from existing businesses, which contradicts the view that all businesses will benefit in the long term. The concerns of how it will impact on the traders have not been addressed.

- The creation of a new shopping location will reduce footfall in other locations and retail outlets will suffer. The area is oversubscribed with shopping centres.
- The building of the Metrolink cannot be an argument for the 6 million inflated projected footfall. It is queried what attraction will attract this footfall.
- Widescale demolition of historic terrace buildings does not have to occur for the retail aspect to be improved. The applicant needs to improve its rental policies, the City Council needs to ensure the required standards are implemented and the Department of Housing, Local Government and Heritage needs to address the dereliction of the National Monument.
- Restoration works should be carried out on each unit on a one-by-one basis to avoid disruption to the existing market and businesses.

#### Access and Traffic

- The application is not accompanied by an up-to-date traffic management plan and is reliant on surveys carried out a decade ago by the Luas cross city project. The Luas has brought about many traffic flow changes that has resulted in major traffic congestion around the city. The proposed arrangements will result in further congestion. A new traffic management plan is required.
- Traffic congestion will arise and will impact on access in the vicinity including the Rotunda hospital.
- The only access to site 5 which is to be the construction compound for the overall development is via Moore Street onto O'Rahilly Parade which would result in Moore Street being constantly blocked by heavy construction vehicles with resultant noise and air pollution. It would turn the existing shopping district into a construction site for an inordinate amount of time. O'Rahilly Parade is used by pedestrians to access Moore Street from Parnell Street, Moore Lane and Henry Place. Construction traffic would create an unsafe pedestrian environment.
- How construction traffic will be managed has not been considered correctly. The proposal does not have a realistic option for the parking/stacking of

construction vehicles. Use of site 5 as a holding bay will not be sufficient and will not resolve or mitigate the construction traffic congestion.

- The designation of O’Rahilly Parade as a service entrance will be extremely disruptive, will undermine footfall and cause traffic chaos.
- There are significantly higher volumes of delivery traffic to existing units than the delivery report suggests.
- O’Rahilly Parade and Moore Lane are constantly used by delivery vehicles.
- The developer has failed to explain how delivery access to Moore Lane service yard, Cole’s Lane service yard and Henry Place will be maintained.
- The developer has not explained how Moore Street traders will safely access and egress to and from their storage unit located in the Ilac Centre service yard on Moore Street North.
- The applicant has not addressed how traffic from the underground car park of Greeg Court apartment block, which is only accessible via Moore Street, will be accommodated.
- The proposal to make the delivery route Moore Street/O’Rahilly Parade/Cole’s Lane and Henry Place a pedestrian zone after 11am would be disastrous for businesses who have always received deliveries along same outside of those hours.
- The loss of the car park on Moore Lane will have a significant adverse impact on traders in the area.
- Conditions addressing traffic and submission of a traffic management plan precludes 3<sup>rd</sup> party comment.

#### Cultural and Built Heritage

- The proposed development would undermine the Museum proposed for 14-17 Moore Street.
- The proposal will destroy the heritage of the area. It will lose its value as the most important street in the state.

- The revitalisation of an intact Battlefield Site would, by itself, be the memorial which could become a location for walking tours, interactive signage or participatory tourist experience.
- The proposal entails demolition of buildings which are currently being added to the list of protected structures. The Department of Housing, Local Government and Heritage in its submission called for their retention.
- Consideration should be had to the curtilage of the National Monument. Consent would be required from the Minister to carry out works in the curtilage.
- A full multidisciplinary conservation master plan survey of the whole Battlefield Site should be carried out.
- Moore Street Terrace has many pre-1916 elements. Many reports confirm same. It is queried why no state-based survey of the site was conducted. This is required.
- The building heights are out of context, will dwarf the National Monument and will impact on the O'Connell Street skyline.

#### Development Plan Provisions

- The proposal contravenes policies and objectives of the development plan relating to heritage, retail, streetscape, tourism, building height and built environment.
- The proposal would be contrary to the Z5 zoning by reducing the cultural space within the city, impacting on its night time culture and facilitating the over concentration of hotel and retail developments. The city centre does not need further office space or retail.

#### Procedural and Other Issues

- The proposal to seek 6 separate permissions for the overall site is queried.
- Metrolink has not been confirmed.
- Conditions are reliant on the developer adhering to them without any full-time independent conservation architect being appointed to monitor the works.

#### **7.1.8. Colm O'Murchu**



The submission can be summarised as follows:

### Alternatives

- There are better alternatives for the area such as the Ceathrú Chultúir 1916 Bill.
- The area could be developed as a cultural quarter. The buildings could be restored and regenerated on Moore Street whilst the implementation of the metro would accommodate visitors to the area. This would support the success of the cultural quarter in the same way private investment flooded into the Titanic Quarter in Belfast.

### Impact on Businesses and Mix of Uses

- Moore Street is run down by design as a result of bad management.
- Moore Street needs more mixed usage in its current retail and street market.
- The proposal is contrary to the City Council's plan to revitalise the market.
- The plan does not strengthen, reinforce or integrate with the existing street market or independent businesses.
- Impact of construction noise and air pollution on residents and businesses is understated. It is likely that the market and businesses will be lost through the lengthy construction phases. The impact on the market and independent businesses has not been resolved.
- Adverse impacts on independent businesses and market traders should be addressed by conditions.
- The city centre does not need more retail space.
- The construction period will cause serious traffic congestion. It will impact on access to sites in the vicinity including hospitals. A condition seeking a traffic management plan by way of condition precludes 3<sup>rd</sup> party comment.
- The proposal would be contrary to zoning objective Z5 by reducing the cultural space in the city centre, impacts on its night time culture and facilitating an over concentration of hotel and retail uses.

- No affordable housing is provided.

### Cultural and Built Heritage

- The extent of demolition completely contradicts the applicant's rationale of sensitive development. It would be contrary to development plan policies advocating minimum intervention to protected structures. It would have a negative and irreversible impact on their integrity and significance.
- The developer should not be allowed to state whether a building is worthy of protection or not. All Moore Street terrace buildings should be independently assessed to establish if they contain pre-1916 elements. The demolition will impact on built heritage around the storey of 1916, whether the buildings are pre-1916 or not.
- Heritage Impact Assessment Statement fails to adequately assess or record the surviving historic fabric along Moore Street or take into account the curtilage of the designated National Monument. It also contradicts the previous development's assessment which said No.18 contained pre 1916 elements.
- The fabric of the laneways will be irrevocably altered. The proposal will result in the loss of the value and status of the most important street in the state.
- The proposal will dwarf the National Monument and the protected structures in the area.
- The Department of Housing, Local Government and Heritage recommended against the extent of demolition. The planning authority failed to take same into consideration.
- Market traders and independent businesses have established themselves as an integral part of the cultural infrastructure.
- It would seriously detract from the setting and character of the O'Connell Street ACA contrary to development plan policy.
- Threat posed to the protected structures from the construction process.

### Design

- The design is not of a sufficiently high quality to justify the adverse impacts on the entire north inner city and is completely out of context with the area.
- The heights are inappropriate and would be contrary to development policy SC1. Heights should be limited to four storeys. It would visually impact O'Connell Street.
- It would detract from the special character and distinctiveness of the conservation area and will constitute a visually obtrusive and dominant form around Moore Street and O'Connell Street.
- Inadequate drawings and images of interfaces with protected structures and impact on immediate context and skyline.

#### Other Issues

- Clarity is required on the access and egress into Moore Street/Lane and the safety issues for pedestrians.
- Rodent displacement arising from construction.

#### **7.1.9. Mary Lou McDonald TD**

The submission can be summarised as follows:

#### Cultural and Built Heritage

- There is no recognition of the National Monument within the context of the terrace of houses that were held and occupied by volunteers in 1916 or of the historical importance of the area.
- There are no references or reports on the buildings that are currently in the process of being added to the list of protected structures.
- There is no reference to the requirement for Ministerial Consent for work in proximity to the National Monument.
- The condition attached that the developer engage its own archaeology and conservation consultant is unacceptable.
- The eradication of the historic grain of the area's laneways and streets is contrary to the principle of reurbanism.

- The further information ignores the findings of the Shaffrey/Myles Battlefield Report that identifies surviving pre-1916 built fabric visible from the public realm.
- The permission ignores the City Council policy in relation to the preservation of Moore Street in its entirety, the recommendations of the City Council Moore Street Advisory Committee and The Lord Mayor's Forum and successive motions of elected City Council members including that Moore Street become an ACA and that the terrace be added to the list of protected structures.
- The permission ignores the objectives of the Dublin City Development Plan and International Guidelines and Charters on the protection of Heritage and History and fails to address or accept the findings of the High Court and Court of Appeal that buildings or structures, the preservation of which are of National Importance, are deemed National Monuments.
- It ignores An Bille Um Ceathrú Chultúir 1916 currently under consideration by the Oireachtas and The Moore Street Renewal and Development Bill placed before the Seanad.
- The Board should consider the Moore Street Preservation Trust's alternative masterplan.

#### Development Plan Provisions

- The proposal is contrary to the development plan objectives and Z5 zoning seeking to create a city that will facilitate socially inclusive neighbourhoods in a coherent, sustainable manner for the benefit of the city and to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity.

#### Procedural Issues

- The piecemeal planning application approach is inappropriate. The public plaza is split across 2 applications. 6 applications, in effect, prohibits citizens from exercising their statutory right to engage due to the monetary cost that would be involved. This approach could be deemed vexatious.
- The further information request has not been addressed.

- No reference was made to the architectural model on public display. The model was required by further information.

#### Access and Traffic

- Seeking a traffic management plan by way of condition offers no protections to independent businesses and market traders and precludes 3<sup>rd</sup> party comment. They have suffered years of disrupted trade arising from Luas works.
- The works will impact significantly on hospitals in the vicinity.

#### Impact on Businesses and Adjoining Property and Mix of Uses

- The development will be the death knell for the Moore Street market. The condition requiring the developer to support and liaise with market traders is nonsensical.
- The amenity space for the build to rent units is minimal.
- No provision is made for affordable homes.

#### 7.1.10. **1<sup>st</sup> Party appeal against condition 28** (duration of permission limited to 5 years)

Submission by Stephen Little & Associates on behalf of the applicant refers and can be summarised as follows:

- The planning authority did not give any weight to the complex inter-relationship of the construction management between sites 3, 4 & 5 to deliver such a large city centre regeneration project.
- The Masterplan needs to be delivered in stages to suit the constraints of the site. The 5 major constraints that have dictated this strategy are:
  - Restricted access arising from the surrounding road network and the narrow, existing lanes within the overall site.
  - Restricted access arising from two major pedestrianised streets flanking the overall site.

- Protected structures and non-protected structures proposed to be retained.
- Neighbours including residents and local businesses.
- The scale and nature of construction works to be undertaken.
- The Board is referred to the Construction Stage Sequencing set out in the Masterplan Outline Construction and Demolition Management Plan accompanying the application. It highlights the interdependencies between each of the project phases and illustrates why a multi-phase project of this nature requires additional time to complete. It illustrates the construction stage sequencing from site 3 moving north. Henry Place which runs between sites 3 and 4 will need to be closed and this area will become a servicing point for both sites 3 and 4. Should there be any delay in the Metrolink enabling works Henry Place must continue to remain a servicing area until such time that construction works move further north through the masterplan.
- The Board is referred to the Supplemental Programme Statement which sets out additional modelling of predicted timelines which supports the 7-year permission duration. It should be read in conjunction with the Programme Report in Appendix A of the Masterplan Outline Construction Management and Demolition Plan.
- The Metrolink enabling works are anticipated to run in parallel to the construction programme of sites 3 and 4. Any delays to the enabling works would have a knock-on impact on the delivery of site 3. Whilst the enabling works will be delivered by the developer, many of the risk factors that could impact its delivery are out of the control of the developer i.e. delay to getting an enforceable Railway Order.
- There are a number of protected structures which will need to be carefully managed. Ministerial Consent will be required for any works being carried out in proximity to the National Monument.
- Although site 3 is physically separated from the other masterplan sites and capable of being developed independently of the final wider road and public realm works to be delivered, it is expected to become a seamlessly integrated part of the masterplan.

- Section 42 of the Planning and Development Act 2000 as amended by S.I. No 456 of 2021 came into effect on 09/09/21. The amendment means that extension of duration of permission on commercial, economic or technical grounds has been removed. An extension of duration of permission is only available where substantial works are carried out. As per Section 42(8) of the Act there is now no mechanism for extension of duration of permission should an EIA or AA be required.
- Given the nature and scale of site 3 within the overall context of the masterplan, screening out the need for EIA where substantial works may be completed, while not insurmountable, is by no means certain. This presents an intolerable risk for the applicant given the complexity of the regeneration of a significant city centre site.
- Where the entirety of site 3 is not completed within the 5-year period there is a risk that its completion would require permission to retain and complete the work. Retention permission cannot be sought for development requiring EIA.
- Alternatively, where it becomes apparent that the permitted development cannot be completed within 5 years and new permission is sought prior to its withering, it is likely to benefit from an additional 5 years rather than 2 years hereby sought. It would also be necessary to seek such permission at least 2 years before the permission lapses to account for the application and appeal periods and any other unforeseen challenges.
- The 5-year period for the complex development adds significantly to uncertainty, cost and viability risk to the project and thus to its prospects of being realised.

## 7.2. Applicant Response to 3<sup>rd</sup> Party Appeals

2 no. submissions by Stephen Little & Associates on behalf of the applicant in response to the above 3<sup>rd</sup> Party appeals, can be summarised as follows:

### Built Heritage

- It is fully appreciated that the site is historically sensitive. The proposal strikes a reasonable and appropriate balance between the need to respond positively

to the architectural built and cultural heritage, whilst also delivering implementable urban renewal.

- Extensive structural survey and construction methodology work has been carried out to ensure that the extent of existing buildings and basements to be retained and demolished is understood.
- All buildings proposed to be retained will be appropriately propped and supported during the construction phase.
- The strategy for proposed demolition across the site has been thoroughly investigated and justified. This was accepted by the planning authority.
- The proposed development, having regard to expert conservation advice, makes reasonable provision for the appropriate and practicable integration of historic building fabric and street pattern, in accordance with the governmental guidance and statute in relation to conservation.
- There are no protected structures within the site. The Draft Dublin City Development Plan 2022 does not include any new additions to the RPS within site 3.
- A comprehensive assessment of the impact of the proposal on O'Connell Street ACA was submitted with the application. This included an assessment of the building height within the context of the Building Heights Guidelines. The application was accompanied by a Landscape and Visual Impact Assessment. The proposal is fully justified.
- The extent of the National Monument is as set out under PO No. 1/2007. The High Court ruling that the extent of the National Monument encompassed the battlefield beyond 14-17 Moore Street was set aside by the Supreme Court decision. The said decision stated that it was not within the jurisdiction of the courts to designate a national monument.
- Nos. 14-17 Moore Street are not within the site. Ministerial Consent is a separate process and will be entered into prior to any works to or adjacent to the National Monument. No works are proposed to or adjacent to the National Monument at Site 3.



- Consideration has been given to the protection of the National Monument in the Site 3 Outline Construction and Demolition Management Plan and would have been assessed and considered in the EIAR.
- Prior to demolition of any existing buildings an external survey control system is to be established around the site, including all protected structures, retained buildings, retained facades and the National Monument.

#### Archaeology

- The application is accompanied by an Archaeological Impact Assessment with Chapter 15 of the EIAR addressing Cultural Heritage.
- The Department of Housing, Local Government and Heritage in its submission on the application was satisfied with the approach to archaeology and recommended a condition to be attached.
- Given that site 3 is already developed it is not possible to carry out subsurface archaeological testing prior to the opening up or demolition of the existing buildings.

#### Design, Scale and Layout

- The Board is referred to the MOLA Architectural Design Statement accompanying the application which provides a clear illustration and description of the design context and evolution of Site 3. It covers the topics of building form, height and massing, architectural expression and materiality amongst other detailed design matters. The Architectural Design Statement submitted by way of further information sets out a comprehensive design response to the concerns raised by the planning authority in respect of design considerations of No. 41 Henry Street, justification for the demolition of No. 38 Henry Street to create a new permeable passageway and building height reduction in Block 3 A.
- The application is accompanied by a Landscape Planning report.
- The proposal respectfully responds to the site characteristics and context and will make a significant, positive contribution to the rejuvenation of this area of Henry Street/Moore Street/Henry Place.

#### Proposed Uses

- The ground floor plan in Blocks 3A and 3B largely comprise high quality retail 'shop' units with an element of licensed café/restaurant and a cultural use also proposed, activating all street and lane frontages.
- The upper floors of Block B comprise residential accommodation with associated residential amenity areas split between ground and 6<sup>th</sup> floor levels.
- The upper floors of Block 3A accommodate hotel bedrooms. A hotel restaurant/café and external terrace at roof level has the potential to offer panoramic views over the city, although this may be compromised with the requirement to omit two floors by way of condition in the planning authority's decision.
- The mix of uses are in accordance with the Z5 land use zoning. They are appropriate for the creation of a vibrant and active city centre streetscape.
- The net additional retail/commercial floor space at c. 2,216 sq.m. is not significantly higher than the existing retail/commercial uses at c.1,719 sq.m.
- The proposal is significantly different to the previous permission at this site. It retains street facing retail and café uses and the existing street pattern formed by Henry Street, Henry Place and Moore Street. Further, external street permeability and tight urban grain is provided by the proposed new passageway.
- The site is suitable for Build to Rent units being centrally located and within walking distance of key employment, retail, leisure and other services in Dublin city centre.
- A Part V proposal that accompanied the application has been accepted by the planning authority.

#### Construction/Traffic Management

- The Board is referred to the Outline Construction and Demolition Management Plan which accompanies the application.
- On appointment of a contractor the plan will be updated and agreed with the planning authority.
- It is acknowledged that the site, given it is a restricted city centre site, will result in some nuisance during construction.

- Chapter 11 of the EIAR addressing Noise and Vibration sets out detailed mitigation measures which shall be implemented.
- The Preliminary Construction Traffic Management Plan provides a guide as to how construction traffic will be managed as part of the construction works.
- It is normal practice that the Construction Traffic Management Plan is a live document which is updated throughout the construction period to take account of any changes to the surrounding road network and/or other factors that might influence construction traffic. Condition 10 to this effect is attached to the decision.

### Construction Access

- Two construction routes to the site have been identified, both via Parnell Street. The 1<sup>st</sup> would be via Summerhill and the 2<sup>nd</sup> is via Dorset Street and Dominick Street Lower. At pre planning stage the planning authority noted that construction access via O'Connell Street would be very challenging, in particular due to disruption to public transport facilities and, thus, would not be favoured.
- Two alternative access scenarios via Parnell Street were developed in detail based on clockwise and anti-clockwise circulation around the block bounded by Moore Street, O'Rahilly Parade and Moore Lane. Inbound access from the majority of construction vehicles is proposed from Parnell Street to Moore Street/O'Rahilly Parade and outbound departures from Moore Lane to Parnell Street. The preferred option was selected on the basis of a number of local constraints including:
  - The lack of a stacking lane on Parnell Street in advance of the left turn into Moore Lane should there be a delay entering Moore Lane,
  - The restricted width of the left turn from Parnell Street around Conway's public house into Moore Lane which could cause delays due to the slow deliberate turning for vehicles across a busy restricted area,

- The relatively easy right and left turn from Parnell Street to Moore Street,
  - The availability of a stacking area for the right and left turns from Parnell Street into Moore Street,
  - Local traffic management on Moore Lane would require the presence of temporary traffic signals and/or flagmen at different locations and at different times to facilitate vehicles passing depending on the movements in progress.
- Arrivals are proposed from Parnell Street via Moore Street and O’Rahilly Parade. Some limited departures are proposed to O’Connell Street Upper via Henry Street up to 11h00 after which it becomes restricted to pedestrians only. The remaining departures are proposed to Parnell Street via Moore Lane.
  - Arising from the restricted junction at both ends of O’Rahilly Parade an alternative part time access from Parnell Street via Moore Lane is also proposed. The access would be for long vehicles, only, and would operate in the mornings up to 11h00.
  - Long vehicles travelling south of Moore Lane would require the presence of temporary traffic signals and/or flagmen at different locations at different times depending on the movements in progress.
  - Traffic and other movements on the road network during the construction phase will be managed by carrying out the works in a number of stages to a sequence to be prepared in conjunction with the City Council and implemented by the main Contractor.

### Conditions

- The implementation of the mitigation measures set out in the EIAR will ensure best practice measures are implemented. Various technical criteria and limitations are set out in these mitigation measures.
- The implementation of the individual Outline Construction and Demolition Management Plan is not dependent on the commencement of works on the other sites.

### Impact on Market Traders

- The applicant has met with Moore Street traders both directly and via the Government appointed Moore Street Advisory Group (MSAG). The MSAG proposed a process be established to address trading issues arising during the construction phase. The applicant is committed to participating in that process under the leadership of Dublin City Council as owner and licensor of the street market.
- As per condition 30 the applicant is committed to participating in the process under the leadership of the City Council as the owners and licensor of the street market.

### Procedural Issues

- The contention that the overall proposals are unclear is not accepted.
- The reasoning for lodging separate applications was set out in the planning application report accompanying the application. The key factors are phasing and construction constraints, viability and issues around metro enabling works. Being able to progress the development in individual stages within the masterplan area means that the risk of delay on one site can be absorbed and progress can be made on other elements that can proceed independently.
- The EIAR and AA Screening consider the individual and cumulative/in combination effects of the project.
- There is no requirement in the Planning and Development Regulations 2001, as amended, to reference the model submitted by way of further information in the public notices.
- Many 3<sup>rd</sup> parties made further submissions on foot of the revised public notices and had reviewed the material on file which clearly referenced the fact that a model was submitted.

### Alternatives

- The applicant has made a planning application on lands in its ownership and it is this development the Board is being asked to assess. Alternative proposals/projects by 3<sup>rd</sup> parties have no bearing on the assessment.

### 7.3. Planning Authority Response

None received.

### 7.4. Observations

Observations have been received from:

1. Cllr Donna Cooney
2. National Conservation Group
3. Relatives of the Signatories of The 1916 Proclamation
4. Michael Brendan Mulvihill & Proinsias O'Rathaille
5. Moore Street Preservation Society
6. Dublin Town
7. Gerry Adams
8. Shane Stokes

7.4.1. The **submissions** in **opposition** to the proposal can be summarised as follows:

#### Cultural and Built Heritage

- All remaining 1916 heritage should be retained and protected. The demolition proposed is unacceptable. The buildings are in the process of being added to the list of protected structures.
- The proposal does not take account of the historical importance of the buildings and area. The entire terrace represents not just the history of 1916 but also the cultural history of Dublin before and after that, including the long tradition of trading in the area. The importance of the laneways and non-protected buildings within the ACA boundaries cannot be undermined. The original footprint and integrity of the urban form should be maintained and restored. The integrity of the historical lanes should be protected.
- The manner in which commemoration has been conceptually addressed is problematic in terms of both materiality and the underlying approach.
- The loss of historic fabric of Moore Street is significant as is the demolition of the existing buildings at Nos. 38 and 41 Henry Street. The applicant's

response of a revised corner treatment at No.41 and to retain the demolition of No.38 fails to take account of the unified architectural character of these buildings and of the reciprocal relationship of No.41 with its sibling across the entrance from Henry Street to Moore Street.

- The demolition of buildings is contrary to the statement for the ACA.
- There is little in the way of a comprehensive and correct interpretation and assessment of the buildings on a building by building basis nor is there any assessment of the historic morphology of the subject lands. In particular, there is no appraisal of the structures and plots under the relevant 'Categories of Special Interest' (Architectural, Historical, Archaeological, Artistic, Cultural, Scientific, Technical or Social) which is of relevance considering the overall setting of the street and its special interest.
- There is no coherent methodological approach in the form of a Heritage Impact Appraisal detailing the impact of the proposed development upon the heritage environment. As a consequence, the important process of mitigation of adverse impacts of the development has not been addressed.
- A full study of the historic street surfaces should be undertaken.
- The proposal encroaches on the curtilage of the National Monument and protected structures. The proposal will have an adverse impact on the proposed Museum.
- The proposal suggests a significant lack of awareness or understanding of the ICOMOS Venice Charter, Washington Charter, Burra Charter and Australia Charter. There is no understanding evident of the principles of 'place', 'cultural significance' or 'cultural heritage'.
- The scale of the development, including the 9-storey building, is overbearing and out of context with the locality. The reduction in the height of the hotel does not adequately address the impact of the building on the skyline. It would seriously detract from the setting and character of O'Connell Street ACA.
- The proposed new laneway is inappropriate. There are other, viable permeability alternatives.

- The proposal is, in part, contrary to the Special Planning Control Scheme.

#### Alternatives

- Support the implementation of the recommendations of the Securing History Report of the Moore Street Advisory Group to Minister O'Brien.

#### Impact on Businesses and Adjoining Property

- The proposal will adversely impact on the Moore Street market and independent businesses. The condition requiring the developer to ensure protection of the market trading area, as far as it is practicable, is inappropriate.
- The construction period will have an adverse impact on existing retail and residents.
- The impact of the construction phase on air and noise has not been properly assessed.

#### Proposed Uses

- The need for the hotel is queried. Its location is inappropriate.
- A more appropriate mix of uses including affordable homes and cultural, retail and community uses should be considered.
- Lack of public green space and sustainable green infrastructure.

#### Procedural Issues

- The public notices did not give the full nature and extent of the development.
- There was no public notification of the three-dimensional scale model which was submitted following the further information request for same.
- The proposal must be considered in tandem with the other proposed developments. The lodgement of 3 separate applications is confusing and misleading. The piecemeal approach to the development of the overall site is inappropriate and unfair to the public who cannot see the scale of the overall 'masterplan' development. It requires planners to consider a development out of context with plans for the wider area. No clear overall masterplan has been presented despite the submission made.



- Only the planning authority can prepare a masterplan. There should be a strategic framework which relates to the physical, social and economic context of the site and its surroundings.
- The duration of the permission should not extend beyond the 5-year period.
- The extensive conditions attached to the decision preclude 3<sup>rd</sup> party participation and comment. Some lack detail and specificity.
- Inclusion of works to public lanes does not have the permission of the City Council.
- The City Council's involvement in discussions about a compensation scheme is inappropriate.
- The appropriate assessment does not mention loss of habitat for gulls. It is also possible that bats and birds may be present.

7.4.2. The **submission** in **favour** of the proposed development can be summarised as follows:

- The proposal is consistent with the vision set out in the Dublin One Project which was undertaken by Dublin City Council and Dublin Town in 2017.
- The proposal provides for increased connectivity and recreational areas.
- It will be a catalyst for further investment.
- The proposals are consistent with the aspirations of the Parnell Square district. It will create a cluster of cultural and tourist attractions on the north side of the city.
- The balance of office, residential, hotel, hospitality and retail uses will meet the current and projected city requirements.
- The proposed height and scale are appropriate and sympathetic to the district's-built heritage.
- The right balance has been achieved in the preservation of historic buildings and the addition of new attractions. It is sympathetic to the area's unique history.
- A 7 rather than 5-year duration of permission is considered appropriate.

## 7.5. Further Responses

The appeals were circulated for comment.

7.5.1. **Troy Family Butchers Ltd.** Submission in response to the 1<sup>st</sup> and 3<sup>rd</sup> Party appeals can be summarised as follows:

- The applicant cannot seek to benefit from submitting separate applications and then wish to have the said applications considered collectively.
- The current applications can only be governed by law that existed at the time of submitting the application.
- The applicant states that a delay in the railway order for the metro could affect the planning permission of a site that does not actually require any metro enabling works.
- The emphasis on conservation works taking time is disingenuous in the context of the extent of existing building fabric to be retained and that to be demolished.
- The construction works will be devastating for the north inner city.
- Agree with the other 3<sup>rd</sup> party appeals.

7.5.2. **Moore Street Traders** (submission on its behalf by William Doran) can be summarised as follows:

- The proposed development has an impact on the wider community and businesses within the environs of the proposed site. The extension of the duration of the permission is not appropriate.
- Should permission be granted for 7 years the developer should be prevented from making use of section 42 of the Planning and Development Act, 2000, as amended, to extend the permission further.

- The Board is requested to refuse permission or impose enforceable conditions which protect the livelihood of the traders and which allows them to continue trading uninterrupted on Moore Street with practical and sensible planning conditions to control noise and dust.

## 8.0 Planning Assessment

I consider that the issues arising in the appeal can be assessed under the following headings:

- Procedural Issues
- Planning Policy and Context
- Cultural and Built Heritage
- Design and Architectural Approach
- Access and Servicing
- Amenities of Adjoining Property and Moore Street Market
- Duration of Permission
- Prospective Amenities

### 8.1. Introduction

- 8.1.1. The masterplan which accompanies the application for information purposes represents the development envisaged by the applicant for the entire site known as *Dublin Central Development*. The lands are divided into 6 sites, 1, 2AB, 2C, 3, 4 and 5. In this regard I refer the Board to section 1.3 of the masterplan and Figure 3.2 of the EIAR which show the sites relative to each other. Those elements outside the planning application site boundaries for sites 3, 4 and 5 are not confirmed and remain an aspirational part of the masterplan overall vision. Whilst the detail of sites 1, 2AB and 2C are yet to be finalised the applicant states that it will remain broadly within the parameters delineated within the masterplan. Discussions have been ongoing with Transport Infrastructure Ireland to coordinate the interface between Sites 2AB and 2C and the proposed Metrolink Station below. An application for a

Railway Order for Metrolink has recently been lodged with the Board (ABP 317724-22).

- 8.1.2. Whilst each site is a discrete development, their context and interrelationship with the other sites is evident. As a consequence, certain issues such as access and servicing and public realm works should be considered holistically.
- 8.1.3. As noted above permission was granted in 2010 under ref. PL29N.232347 (2479/08) for redevelopment of the majority, but not all of the site covered by the *Dublin Central Development* masterplan, providing for demolition of buildings, provision of retail, residential, office, gallery/cultural and commemorative centre in buildings ranging from 3 to 6 storeys over 3 levels of enclosed basement parking in addition to 2 no. new streets and 3 no. public spaces. The permission was for seven years. An extension of the duration of the permission was granted under reg.ref. 2479/08 X1 for a further five years. It expired in May 2022.
- 8.1.4. At this juncture I would bring to the Board's attention that under the Urban Regeneration and Development Fund the 'North Inner City Concept Area 1' has secured €121.3 million in funding in March 2021. Sub-projects under this scheme which I consider to be of relevance to the proposed development and the wider masterplan redevelopment area include:
  - The allocation of €12.7 million towards the redevelopment of the National Monument at Nos. 14 -17 Moore Street
  - Moore Street Public Realm Renewal works
  - Markets and Public Realm study
  - Parnell Square Public Realm works.

## 8.2. Procedural Issues

- 8.2.1. Criticism has been levelled at the division of the overall masterplan lands into **separate sites**, each subject/to be subject of separate planning applications. Issues in terms of clarity as to the overall redevelopment proposals, the complexity of assessment in terms of the documentation provided and equity in terms of public participation and costs arising to engage in the planning process, have also been raised.

- 8.2.2. As noted previously the lands covered by the masterplan are divided into 6 sites of which 3 no. (sites 3, 4 and 5) are subject of concurrent appeals before the Board.
- 8.2.3. The rationale for the approach taken is based on the ability to progress the development in individual stages so that the risk of delay on one site can be absorbed and other elements can proceed independently. Viability in terms of providing for maximum flexibility to adapt funding streams, if required, is also stated to be a material consideration for the applicant, whilst the finalisation of the Metro Enabling Works (MEW) which form an integral component of Sites 2AB and 2C are subject to separate processes outside the control of the applicant.
- 8.2.4. As noted by the agent for the applicant in its appeal response there is no legal impediment precluding the lodgement of concurrent applications for development. Whilst there is no question that such an approach raises issues in terms of the financial burdens placed on 3<sup>rd</sup> parties arising from their engagement in the planning process both at application and at this appeal stage, on balance, I accept the reasoning put forward for the approach. Site 3 subject of this appeal comprises a discrete block in its own right by reason of its clear boundaries delineated by Henry Street to the south, Henry Place to the east and north, and Moore Street to the west. Coupled with sites 4 and 5 it will provide for the redevelopment of almost the full block to the east of Moore Lane. Sites 3 and 4 are anticipated to be developed first with the direction of construction working from south to north. Site 5 is to be cleared, being located on the main route for construction traffic to access/egress the overall masterplan area. It is proposed to act as the site compound to facilitate the development of the other sites and, as a consequence, would be developed last.
- 8.2.5. The adequacy of the **public notices** and absence of reference to the **3D model** submitted by way of further information has been raised by a number of appellants and observers. I consider that the nature and extent of the proposed development as described complies with the requirements of Articles 18 and 19 of the Planning and Development Regulations 2001, as amended. Reference is made to protected structures. This refers to the demolition/removal of a length of 20<sup>th</sup> century boundary to Moore Lane at the rear of Nos. 50-51, 52-54 Upper O'Connell Street, the latter which are so designated. The lodgement of the application and the revised public notices following further information predate the Notice of Proposed Additions to the Record of Protected Structures in the 2016 Development Plan dated July 2022. Nos. 4-8 Henry Place are proposed to be included. The Board is advised that the

current draft Dublin City Development Plan does not include any buildings/structures within the site in the list of protected structures. I also note that as per Article 35 there is no legal obligation to make reference to the model in the revised notices save to state that significant further information or revised plans, as appropriate, in relation to the application have been furnished to the planning authority.

- 8.2.6. Reference is made to **alternative plans** drawn up which are considered more sympathetic to the cultural significance of the area. I note that the documents and plans referenced include An Bille Um Ceathrú Chultúir 1916 currently under consideration by the Oireachtas, The Moore Street Renewal and Development Bill placed before the Seanad, the recommendations of The Moore Street Report – Securing History reports prepared by the Moore Street Advisory Group, the objectives of The Lord Mayor’s Forum - Lanes of History Report commissioned by Dublin City Council and the plan produced by Moore Street Preservation Trust.
- 8.2.7. I submit that the above referenced legislation has not been enacted and the referenced plans do not have any statutory basis. The site subject of this appeal is in private ownership with a development brought forward which is now before the Board for assessment. The other plans referenced by the appellants are not before the Board for comment or adjudication.
- 8.2.8. The application notes that the public roads and associated footpaths within the appeal site are in the charge of Dublin City Council. The development proposes to retain the existing lane/street network with no encroachment onto same. I note that consultation has been had with the relevant Transportation Planning Division regarding the proposed construction and access management which I will address in further detail in section 8.6 below.
- 8.2.9. The matters arising in terms of the planning authority’s procedures during its assessment of the application are not a matter for comment by the Board.

### 8.3. **Planning Policy and Context**

- 8.3.1. There is a suite of documents to which reference has been made by the applicant in setting the policy context of the proposed development.

#### National Policy

- 8.3.2. In a national context the proposal can be seen to accord with national policy as set out in the **National Development Plan 2021-2030 (NDP) and Project Ireland 2040 - National Planning Framework (NPF)** which seeks to secure the compact growth of urban areas and deliver higher densities in suitable locations. The proposal will deliver a high-density development in a strategic location in the city centre through a regeneration and redevelopment project (National Strategic Outcome 1) and will encourage more people and generate more jobs and activity within the city (National Policy Objective 11). As noted in the NPF Dublin needs to accommodate a greater proportion of the growth it generates within its metropolitan boundaries and to offer improved housing choice, transport mobility and quality of life. Regard is also had to National Strategic Objective 7 of the NDP which recognises culture as a key component of and contributor to the attractiveness, strength and sustainability of the built environment and to economic growth.

Regional Policy

- 8.3.3. The **Eastern and Midlands Regional Spatial and Economic Strategy** includes the Dublin Metropolitan Area Strategic Plan. The proposal can be seen to accord with the provisions of Regional Policy Objective (RPO) 4.2 in seeking the consolidation and intensification of infill/brownfield sites and to provide high density and people intensive uses within the built-up area of the city.

Local Policy

- 8.3.4. At the time of writing this report the **Dublin City Development Plan 2016** remains in force. In same the site is within an area zoned Z5 in the current City Development Plan, the objective for which 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 **mix of uses** including retail, café/restaurant, hotel, residential and cultural are all permitted in principle in such a zone.
- 8.3.5. Site 3 provides for 11 no. retail units varying in size with the larger floorplates onto Henry Street to accommodate comparison retailers adhering to its Category 1 Street designation. Smaller units are proposed along both Moore Street and the new passageway. The applicant is seeking a level of flexibility as to how these units will function with a range of uses stipulated in the public notices including shop, licenced restaurant and café with takeaway/collection facilities. The flexibility sought applies to a unit facing onto the new passageway in Block 3A and to 4 no. units in Block 3B,

three of which front onto the passageway. The suitability of the passageway to develop as a cluster of restaurant units adjacent to the hotel and cultural uses proposed in the vicinity would, in my opinion, assist in improving the potential for 'day to night' mix of uses which is lacking in the immediate vicinity to date. On this basis I have no objection to a certain level of flexibility in this instance but recommend that a condition be attached should permission be granted seeking planning authority consent as to proposed occupants to ensure an emphasis of sit-down restaurants rather than take away facilities.

- 8.3.6. Whilst a number of appellants and observers to the appeal query the need for **retail floorspace** and potential adverse knock-on impact on existing retail in the vicinity I note that the additional retail floorspace proposed relative to that existing on the site is not material. As noted above Henry Street is a category 1 street with Moore Street designated as category 2. The proposed retail component would be seen to comply with the city development plan policies pertaining to retail including RD6, RD13 and RD23 which promote and facilitate retail in the city centre including increase in the amount of retail floor space to accommodate higher order comparison goods.
- 8.3.7. The **hotel** is a permissible use under the Z5 zoning objective. It will assist in the overarching objective of this land use zone to provide a dynamic mix of uses which will sustain the vitality of the inner city. The development will also provide important infrastructure which will allow the tourist economy to develop and grow within the city centre which is also in accordance with the above stated development plan policy. The concentration of hotels in the vicinity should not, of itself, constitute grounds for refusal. As noted, the proposed use is compatible with the land use zoning objective for the area with no limits or caveats attached limiting the number or extent of such a use. The acceptability of the proposal is contingent on the overall quality of the development, its overall physical impact in the context of visual amenity and architectural heritage designations and its impact on amenities/development potential of adjoining sites. These aspects of the proposal are to be examined in the following sections of this report.
- 8.3.8. In terms of the housing tenure of the proposed residential component in the context of the **Build to Rent (BTR)** model, I note the city centre site, in close proximity to centres of employment, together with educational, sporting, cultural and commercial facilities. It is also in proximity to high quality public transport. I am satisfied that this is an appropriate location for such a BTR development and would be in



accordance with Policies QH6 and SN1 of the City Development Plan which seek to encourage and foster the creation of attractive, mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities and which contribute to the structure and identity of the city. The obligations in terms of Part V are to be met within the scheme.

- 8.3.9. The proposal includes a **cultural use** at No. 10 Henry Place referred to as the 'White Building' or 'White House' and will provide for a cultural/gallery venue with café at ground floor and exhibition space extending to the 1<sup>st</sup> floor.

#### Planning Policy and Context - Conclusion

- 8.3.10. Whilst the redevelopment of the site can be seen to accord with both national, regional and high level local planning policies with the mix of uses acceptable in principle providing an opportunity for significant regeneration, the sensitivity of the site and the constraints arising from the tight urban grain within which it is located, coupled with its cultural significance, will be material factors in the assessment of the proposal, especially in the context of the built heritage which I propose to address in sections 8.4 and 8.5 below. I propose to address compliance with other policies and objectives of the City Development Plan throughout my assessment.

### 8.4. Cultural and Built Heritage

- 8.4.1. Whilst the development provides for the retention and adaptive reuse of a number of the buildings within the site significant elements are proposed for demolition. The application is accompanied by a body of work on the survey and assessment of the buildings within the site undertaken by M. Molloy & Associates Conservation Architects which informed both the overall masterplan and the documentation accompanying the application for the subject site. The application is also accompanied by floor plans of the buildings as existing. I refer the Board to the **Conservation Plan for the Dublin Central Masterplan Area**, February 2021, the **Architectural Heritage Impact Assessment for Site 3**, May 2021 and **Chapter 15 of the EIAR**. The statement of significance for each of the buildings is based on the guidance provided in the **Architectural Heritage Protection Guidelines for Planning Authorities, 2011** with a diagram delineating the ratings provided in Figure 5.1 of the Architectural Heritage Impact Assessment. I also refer the Board to

Appendix 4A that accompanies the masterplan which sets out a Baseline Assessment of 1916 and 1922 Battlefields within the Dublin Central Masterplan as well as identifying what are considered to be significant buildings and places along the evacuation route. In addition, section 3.6 of the Architectural Heritage Impact Assessment notes that the contribution of the site to the urban battlefield of 1916 merits consideration in terms of adherence with the principles of certain international architectural heritage protection charters and standards. The charters of Venice 1964, Granada 1985, Washington 1987 and Burra 2013 are considered integral to the assessment of impact.

8.4.2. Within the appeal site the following are to be retained and adapted:

- Nos. 36 and 37 Henry Street
- Nos. 39 and 40 Henry Street (façades only)
- Nos. 8 - 9 Moore Street
- Nos. 11 -13 Henry Place

8.4.3. The following are to be demolished

- No. 38 Henry Street
- No. 41 Henry Street
- Nos. 1 - 7 Moore Street
- Nos. 1 -10 Henry Place

8.4.4. Many of the appellants and observers contend that the proposed development in demolishing part of the terrace along Moore Street, coupled with interference of the lines of historic streets and laneways which form part of the battlefield of The 1916 Rising, would result in the destruction of a site which is of significant national and international cultural and historic importance. The results of some of the architectural/structural investigations carried out and referenced above are contested.

8.4.5. The 1916 Rising was a seminal event in Irish history and the importance of the site and general area is not in dispute. I would submit that the significance and import of the area has been in the public consciousness for a significant period of time. Notwithstanding, to date, Nos. 14 -17 Moore Street only, are designated as a

**National Monument** (and protected structures). It does not include any other buildings on Moore Street or in the vicinity and does not extend to the surrounding streets and laneways. In 2018 the Supreme Court, in overturning a declaration that buildings and sites on and around Dublin's Moore Street are a 1916 Rising battlefield site comprising a national monument, stated that the High Court had no jurisdiction under section 2 of the National Monuments Act to declare the buildings and site to be a national monument. The responsibility for the designation of a National Monument is within the remit of the Minister, only. It is not within the remit of either the planning authority or the Board.

- 8.4.6. None of the buildings within the appeal site are **protected structures** in the current **City Development Plan 2016**. A number are included in the **National Inventory of Architectural Heritage**, all of which are given a regional rating. No. 4-8 Henry Place is a **proposed protected structure**.
- 8.4.7. In terms of **Nos. 36-41 Henry Street** the Inventory states that the buildings were rebuilt following the 1916 Rising and form part of a collection of early twentieth-century commercial buildings that gives the area its architectural character and uniformity. There was no change in the plot boundaries when they were rebuilt and they conform to a similar typology, that of a narrow floor plan, purpose built to display retail goods at ground and 1<sup>st</sup> floor level with residential above. I note that the Conservation Plan accompanying the application assigns Nos. 36-40 as being of significance with No.41 being of moderate significance.
- 8.4.8. In terms of **Nos. 1-7 Moore Street** the NIAH notes that these represent the reconstruction of much of Moore Street after the Easter Rising of 1916 with the terrace expressing a drop in scale from Henry Street to Moore Street. The terrace comprises of similar, three storey red brick fronted but not identical units. There is a common unifying identity in rhythm, height, cornices, parapets and external finishes reflecting their construction to a pre-determined set of façade design rules. The knowledge of the existence, condition and nature of basements under this building group vary. There are known basements under Nos. 1-2 and No.6. As per the Architectural Impact Assessment Report it is possible that many of the original basements were infilled during the reconstruction in 1917 but there is also the potential that concrete slabs were laid over basements rendering them inaccessible. The Conservation Plan assigns Nos. 1-6 as being of moderate significance with the stone arch to Clarke's Court in No.3 and No. 7 being of significance.

- 8.4.9. **Nos. 8 and 9 Moore Street**, are a pair of 3 storey brick fronted late 18<sup>th</sup> century buildings which are amalgamated on all levels into a single commercial property. They are the only two buildings between Henry Street and Henry Place to survive the 1916 Rising. Both are connected internally to Nos. 11-13 Henry Place. The Conservation Plan designates the buildings to be of high significance.
- 8.4.10. The **O'Brien's Mineral Waters/Goodall's Ireland Ltd.** is the only building on Henry Place (Nos. 11 -13) included in the NIAH and is assigned regional importance. It is a four bay two storey former warehouse. The Conservation Plan assigns it to be of significance.
- 8.4.11. **No. 3 Henry Place** which is a 3-storey concrete framed building is considered to be of limited/no significance.
- 8.4.12. **Nos 4 to 9 Henry Place**, comprising a mix of two and three storey commercial and industrial buildings are considered to be of moderate significance. As noted previously Nos. 4-8 is a proposed protected structure with the process to insert the buildings onto the 2016 Development Plan Record of Protected Structures initiated in July 2022. The City Council's conservation report prepared in support of the insertion states that the architectural character and significance of 4-8 Henry Place is diminished, with the exception of the remaining 19th century fabric to the ground floor elevations to the laneway. This is based on the substantial loss of historic fabric dating from the 1916 period as a result of a fire in 1956 that seriously damaged much of the premises, followed by another fire in 1982. It recommends that the ground floor façades, only, be included on the Record of Protected Structures primarily on the basis of their historical, cultural and social significance.
- 8.4.13. **No. 10 Henry Place**, a two bay, two storey, gable fronted building has been rebuilt a number of times since 1916. The Conservation Plan considers the built fabric to be of limited/no significance but the site of historic and social significance due its importance to the 1916 Rising.
- 8.4.14. The wall along the rear of **Nos 50-51 and 52-54 O'Connell Street** (the latter which is a protected structure) is not referenced in the NIAH. The wall is at a remove from the protected fabric and is not considered to inform it for the purpose of this application.
- 8.4.15. As noted previously none of the buildings are currently on the list of protected structures. As part of a separate process, 6 no. structures in the Moore Street area

have been the subject of recent statutory public display as proposed protected structures to be included in the Record of Protected Structures in the current 2016 Plan. A Chief Executive's Report is to be brought to the November City Council meeting for decision. As noted above Nos. 4-8 Henry Place within the site comprises one of the said proposed protected structures. The Board is also advised that the Record of Protected Structures has been reviewed by Dublin City Council as part of the preparation of the Draft Dublin City Development Plan 2022-2028. I have reviewed the current iteration of the Draft Plan within the public domain. No buildings within the site are listed thereon.

- 8.4.16. As noted previously many of the appeals consider that the entirety of the area including the laneways etc. should be listed for protection. The fact remains that this is currently not the case and the current iteration of the draft plan does not propose same. I note that the inclusion of buildings/structures on the list of protected structures is within the remit of the planning authority which would have due regard to the categories of special interest as set out in Part IV of the Planning and Development Act, 2000, as amended (repeated in Chapter 2 of the Architectural Heritage Protection Guidelines) when assessing buildings/structures. The Board has no role in this function.
- 8.4.17. Notwithstanding the fact that the bulk of the buildings have not been included as protected structures or proposed protected structures I acknowledge that **section 16.10.17** of the **Development Plan** supports the retention and reuse of older buildings of significance which are not protected and which are of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city. In this regard the question of whether or not it is appropriate to demolish the structures is a valid issue in any application for demolition. I will assess this in the context of the assessment of the design and architectural approach of the development in section 8.5 below.
- 8.4.18. In terms of **historic street surfaces** the GPR survey carried out noted a complete absence of stone setts on Henry Place with no surviving fabric of interest on the south and west perimeter of the block where the footpaths and carriageways of Henry Street and Moore Street have been repaved. Surviving features of interest along Henry Place and within the block, including stone kerb stones and a granite jostle stone, located in Clarke's Court, will be retained.

- 8.4.19. The site is within the **O'Connell Street Architectural Conservation Area**. Policy CHC4 states that development within or affecting a conservation area must protect and contribute positively to its character and distinctiveness, enhance its setting and must not harm original street patterns or other features which contribute positively to the special interest of the Conservation Area. Again, I will assess the acceptability of the proposal in terms of the ACA in the assessment of the design and architectural approach.
- 8.4.20. As noted above appellants and observers to the appeal make extensive reference to alternative plans drawn up which are considered more sympathetic to the area's historical and cultural context. As noted previously the said plans do not have any statutory basis with the legislation referenced not passed by the Houses of the Oireachtas. The only proposal before the Board for comment and adjudication is that subject of this application.
- 8.4.21. The site is partially within the **zone of archaeological potential** for Recorded Monument DU018 020 (Historic city) and is partially within the zone of archaeological interest in the city development plan. By reason of the fact that the site is covered by buildings and hardstanding archaeological investigations have not been carried out on the site. Due regard is had to the archaeological assessments undertaken in the vicinity. These are detailed in section 16.4.2 of the EIAR. They include testing carried out at Nos. 50 and 51 O'Connell Street, 40-41 O'Connell Street, Nos. 14-17 Moore Street/8-9 Moore Lane and 17-19 Moore Lane. A programme of archaeological monitoring with test excavations following demolition is proposed.
- 8.4.22. The proximity of the **National Monument** at Nos. 14 to 17 Moore Street is also noted. The area defined around the monument to ascertain impact as established by the National Monuments Service (see Figure 16.23 of the EIAR) does not extend to the subject site. The boundary wall to the rear of Nos. 50-51 and Nos 52-53 O'Connell Street which is to be demolished to facilitate construction access is 9 metres from the rear wall of the National Monument. Works to or in the vicinity of the said Monument will be required to secure the necessary Ministerial consent under Section 14 of the National Monuments Act 1930 (as amended). Although the site is outside the said defined area the Department of Environment, Heritage and Local Government in its report to the planning authority recommends conditions requiring agreement in writing with the Department and OPW to ensure that no damage occurs to the national monument and that a project Archaeologist be

retained to monitor the temporary exclusion zones around the monument and other areas of significance. The extent of exclusion zones is to be agreed with the planning authority and the Department.

- 8.4.23. As noted by the applicant the Irish Heritage Trust has been appointed by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media to undertake the scoping exercise for the commemoration of the evacuation route. The applicant therefore does not consider it appropriate to put forward definitive proposals but the landscape masterplan identifies high level/indicative proposals for a historic/commemorative trail. This approach is considered acceptable.

## 8.5. Design and Architectural Approach

### *Introduction*

- 8.5.1. The application is accompanied by an **Architectural Design Statement** with **chapters 12 and 15 of the EIAR** addressing landscape and visual and architectural cultural heritage respectively. The details provided by way of further information are accompanied by amended plans. The application is also accompanied by a booklet of photomontages to which specific regard and comment is made in the EIAR. I consider that the photomontages are representative of the main views available towards the site. Such photomontages are only a tool, albeit a useful tool, in assisting and informing an assessment of the potential effects of the proposal.
- 8.5.2. The site is defined by a tight urban grain and block structure with strong street lines, clearly delineated edges and prominent corners. A significant element of the block was destroyed in 1916 and was rebuilt soon after. I note that the interior of the site historically had a number of lanes and archways leading to small courts (Clarke's Court, Mulligan's Lane, Moore Place etc.) and backyards to the buildings fronting onto the larger streets. Save for the entrance to Clarke's Court these external rear spaces and access routes were gradually filled in and were gone by the 1950s.
- 8.5.3. The proposal entails the redevelopment of the site in two blocks to either side of a new north-south pedestrian way connecting Henry Street and Henry Place. The genesis of such connectivity appears to date back to the Board's assessment and adjudication of the previous proposal for redevelopment of lands under file ref. PL29N.232347 (2479/08) which, by way of a section 132 notice, it sought the

continuation of *the approximate line of Moore Lane southwards to meet Henry Street roughly at right angles, through No's 37/38/39 Henry Street.*

- 8.5.4. The purpose of the **passageway** is to break down the scale of the overall block allowing for active uses drawing footfall, providing for enhanced permeability through the scheme and enhanced connectivity to both the proposed Metrolink entrances and to the Parnell Square Cultural Quarter. It varies in width between 6 and 8 metres. Ground floor retail/restaurant units in addition to the hotel entrance at the corner with Henry Place are proposed along the passageway and will provide for a level of internal activation which would assist in enhancing the vibrancy of the area.
- 8.5.5. The network of historic lanes and streets enclosing the site are being retained. The introduction of this new passageway connecting Henry Street and Henry Lane does not, in my opinion, dilute this form.
- 8.5.6. To facilitate the said passageway No. 38 Henry Street is to be demolished. By way of further information, the options of retention of the upper floors of the building, thereby providing an archway to the new lane, are assessed with due consideration given to urban design, planning precedent, and servicing. I would concur with the conclusions that the various iterations of an archway considered (removal of ground floor only and removal of ground and 1<sup>st</sup> floor) are not successful in urban design terms, would not provide for an appropriate entrance to the new lane and would counter the primary objective of permeability and connectivity. In my opinion the imagery provided in support of the assessment demonstrate the shortcomings of the retention of the upper levels. The double height arch is particularly problematic, whilst the single height arch, although the least obtrusive, would preclude servicing arrangements and would be more prone to an environment where anti-social behaviour could arise. The demolition of the entire building would provide for an open, permeable, unobstructed street which would advance the policies seeking greater permeability and connection. On this basis the demolition of the building to allow for the realisation of the said objectives is considered acceptable.

#### *Block 3A*

- 8.5.7. **Block 3A** (to the east of the new passageway) comprises of a hotel and retail/restaurant. Nos. 36 and 37 Henry Street are to be retained and adapted with an additional floor proposed, recessed back, thereby maintaining the parapet. The ground and 1<sup>st</sup> floors are to be retained in retail use with the upper floors to form part



of the hotel. As noted, No. 38 is proposed to be demolished to allow for the new passageway.

- 8.5.8. The proposed development in terms of Block 3A requires the demolition of the buildings onto Henry Place within the site. The new build provides for a stepped approach to the increase in height with the highest section along the north portion of the site onto Henry Place. The entrance to the hotel is to be provided at the junction of Henry Place and the new passageway and will provide for a level of activity. A further retail/restaurant unit is proposed at ground floor level fronting onto the new passageway.
- 8.5.9. The design as originally proposed entailed a 9-storey component, 36.010 metres at its highest point. This is 8 metres higher than the 28-metre limit for commercial buildings in the inner city as set out in chapter 16 of the current City Development Plan. Whilst I note that the **Urban Development and Building Heights Guidelines for Planning Authorities (2018)** postdate the city development plan and I acknowledge that increases in height within the ACA and in the vicinity have been granted permission, I submit that the site in question has a more sensitive context. As evidenced in the photomontages accompanying the application this height is problematic as evident in views of the **GPO** and **O'Connell Street** from the east. The amended proposals entailing a 2.1 metre reduction to approx. 33.9 metres submitted by way of further information does little to reduce the impact. This, in my opinion, is reflected in the amended photomontages submitted. I would concur with the planning authority that the frame of the GPO and O'Connell Street would be adversely impacted upon. The omission of two floors as required by condition 6 (a) of the planning authority's decision to reduce the overall height to limit its impact on these views is entirely appropriate. I note that the applicant did not appeal the condition.
- 8.5.10. I note that **condition 7 (c)** of the planning authority's decision requires the applicant to seek to retain as far as practically possible '*the external facades of the hotel at Block 3A (at No. 5-8 Henry Place)*'. This appears to align largely with the recommendations of the City Council's conservation report prepared in support of the insertion of Nos. 4-8 Henry Place onto the record of protected structures. The ground floor facades, only are recommended to be retained. I note that the applicant did not appeal the condition. In the interests of architectural heritage a

comparable condition requiring the redesign of the hotel elevation onto Henry Place incorporating the retention of the ground floor façade to be appropriate.

*Block 3B*

- 8.5.11. **Block 3B** is bounded by the new pedestrian way to the east, Henry Street to the south, Moore Street to the west and Henry Place to the north.
- 8.5.12. The facades of Nos. 39 and 40 Henry Street are to be retained with new build to the rear up to 6 storeys with the top two recessed from the Henry Street elevation, again retaining the parapet. The ground and 1<sup>st</sup> floors are to be retained for retail. Whilst I acknowledge the reservations about such facadism I would concur with the applicant's view that in such limited instances the retention of the façade will assist in limiting the impact on the integrity of the terrace on the north side of Henry Street arising from the demolition of No.38 and will assist in the anchoring of the passageway with the retention of the features which define the terrace onto the pedestrianised street. The increase in height from Nos. 36-37 to 39 and 40 will allow for a transition from the four storeys of Nos. 34 and 35 Henry Street towards the new building at the corner of Henry Street and Moore Street.
- 8.5.13. The proposal entails the demolition of No.41 Henry Street to be replaced with the aim of creating a strong, prominent, corner building. It is to retain the footprint and profile of the building currently in place. I would concur with the planning authority's assessment that the building design as submitted with the application did not entail a high enough architectural quality. I consider that the amendments submitted by way of further information results in a new build which is more appropriate to the corner location.
- 8.5.14. The setbacks of the additional floors to the buildings on Henry Street will restrict the impact on views in the near ground. The increased height will be more evident in distant views from the western end of Henry Street with the building to No. 41 more prominent than what currently exists. This, of itself, is not fatal and I consider that the building design and the increase in heights towards the corner with Moore Street is appropriate to mark the important junction.
- 8.5.15. Block 3B entails the demolition of Nos. 1 - 7 Moore Street and its replacement with residential over retail/restaurant/cafe, 6 storeys in height, with the top two storeys to be recessed. This steps down to four storeys at Nos. 8 and 9 Moore Street which are to be retained with an additional floor to be added. The terrace will retain a

strong vertical emphasis with retail at ground floor level. As per the Architectural Heritage Impact Assessment the feasibility of the retention and adaptation of the buildings was examined but the constraints arising, including spatial constraints imposed by existing layouts, would result in substandard design outcomes in both the quality of the accommodation and access to same. The quantum of accommodation would also be limited and in economic terms would not be efficient. It is contended that the extent of interventions required would have a major impact on the architectural character of the buildings and negate much of the reasoning for retaining the fabric in the 1<sup>st</sup> instance. It was therefore concluded that it could not form part of the development strategy. I note that the previous permission under ref. PL29N.232347 (2479/08) entailed the retention of the front facades of the terrace, only, with new build behind.

- 8.5.16. Nos. 11-13 Henry Place is a two-storey brick and stone structure which currently links through to Nos. 8 and 9 Moore Street. It is to be adapted with a 3<sup>rd</sup> floor added. Its ground floor will be the main entrance and reception area to the residential building. I note that this was to be demolished under the previous permitted plan.
- 8.5.17. The existing building at No.10 Henry Place which postdates 1916 is not regarded, of itself, to have any architectural or historic interest. However, the pivotal location of the site, which terminated the north-south vista from Parnell Street and Moore Lane has significance in locational terms in the context of the evacuation route from the GPO and the Moore Lane battlefield. The existing building is to be demolished and redeveloped for the 'White Building' or 'White House'. The proposal is to rebuild the volume of the building which stood and was badly damaged in 1916. It is to be three storeys in height and is to have a cultural function.
- 8.5.18. There is no question that the demolition and replacement of the terrace onto Moore Street will alter the visual character of the street although it will replicate as far as practicable the historic pattern, plot widths and style of the terrace. It also provides for a step down in height allowing a transition from the height of the corner building at Henry Street and Moore Street towards the terrace to the north of which Nos. 14-17 Moore Street which are a **National Monument** form part.
- 8.5.19. I submit that the visual impact cannot be assessed in isolation and regard must be had to the receiving environment both existing and proposed. The visual character

of the area has already been materially altered with the inert, low-rise streetscape of the **ILAC centre** to the east with the more recent development along the northern sections of **Parnell Street** which are materially greater in height. This includes an apartment scheme (Greeg Court) over retail stepping up to 8 storeys on the western corner with a hotel over retail of a comparable height on the other corner. The proposed increase in height of the terrace when viewed from Henry Street would be framed by these developments and those developed along Parnell Street which terminate the view. When viewed from Parnell Street the increase in height of the Moore Street terrace, while changing the visual connection to Henry Street, does not remove it.

#### *Extent of Demolition*

8.5.20. There is no dispute that the level of **demolition** is material. Whilst there may be merit in a number of appellants' and observers' submissions that the current condition of the area is down to its management over a period of time, the fact remains that it has been degraded with extensive underutilised or vacant properties, many of which are in a deteriorating and poor condition which further detract from the area. I accept that the development of the site presents significant challenges due to its confined and restricted nature and that a balance needs to be achieved between maximising the development potential of this strategically important city centre location and its cultural heritage and built fabric. I submit that due weight needs to be given to the absence of buildings and fabric within the site deemed to be worthy of insertion onto the list of protected structures (save for proposed inclusion of Nos.4-8 Henry Place), and also to the limited extent of the boundary of the National Monument. Due regard must also be had to the 'Z5' zoning, its accessible city centre location, and local/national policies to increase building height and density in the pursuit of compact urban development.

8.5.21. Having considered the particular characteristics of the buildings and the site, I feel that there would be considerable challenges in achieving an appropriate quantum of development on the site while also retaining the character of the buildings in a meaningful way. Whilst the buildings to be demolished are indicative of the character and appearance of the ACA I consider that the public benefit of the proposal outweighs the case for their retention. I also consider that weight should be given to the proposed re-use and integration of the structures to be retained and which would have positive, regenerative impacts with the works considered to be of

high quality. I consider that it provides for an appropriate balance in preserving the urban heritage whilst simultaneously attempting to consider the need for modernisation.

8.5.22. The proposal could also act as a catalyst for further redevelopment and regeneration of the area. It provides for an appropriate increased density and scale within such a strategically important city centre site and will assist in improving and enhancing the vitality of the area. On this basis I do not consider that a refusal of permission on the grounds of the proposed demolition to be justified and I consider that the proposal can be seen to largely meet the criteria of and accord with the provisions of policy CHC5 of the development plan.

8.5.23. I acknowledge the general acceptance that new-build projects involve a higher level of **'up-front' embodied carbon** compared to refurbishment projects. It must also be acknowledged that new-build projects can be designed to be highly energy-efficient. The application includes an *Energy and Sustainability Statement* which states that the buildings are aspiring to meet a Net Zero Carbon strategy and will be constructed to meet or exceed the nZEB requirements, a matter which is ultimately dealt with separate to the planning code under the Building Regulations. The development has also set progressive targets for embodied carbon based on the LETI (London Energy Transformation Initiative) targets for 2030.

#### *Architectural Conservation Area*

8.5.24. The site forms part of the **O'Connell Street and Environs ACA**. Certainly, the extent of the demolition and new build will alter the character of the ACA at this location. However, I consider that the development largely respects the fine grain of the site's historic plots with a strong vertical emphasis proposed. The new build is contemporary in execution but with due cognisance to the established built fabric. The additional floors onto the existing buildings on Henry Street are recessed so that the existing parapet is maintained. The extension of the retail activity at street level will maintain the established character of both Henry Street and Moore Street. Improved connections are a stated objective for the ACA which the new passageway will address improving permeability. The existing street pattern and laneways are to be retained. As stated above I do not consider that the new pedestrian way would be detrimental to same. I consider that the proposed development, in its own right, will allow for the regeneration of this part of the ACA which has suffered extensive

underutilisation and vacancy with deteriorating built fabric. This has had a knock-on impact on the overall character of the ACA. On this basis I consider that the proposal can be seen to accord with the relevant policies and objectives of the City Development Plan.

#### *Design and Architectural Approach – Conclusion*

- 8.5.25. Whilst a number of appellants and observers consider that the precedent set by previous decisions in the vicinity should not be relied on to justify the current proposal, I submit that it cannot be assessed in a vacuum without reference to the evolving and changing cityscape in the immediate vicinity. As an entity the cityscape has evolved. The city continues to evolve with recent developments of varying heights sitting alongside the older city fabric. The site, itself, has been subject to significant change with a significant percentage of the buildings rebuilt after The 1916 Rising. It is within this evolving context that the development will sit. Over and above the more recent commercial and residential development at increased heights developed in the vicinity including the recently completed 9 storey hotel at Nos. 17-19 Moore Lane (3303/18 as amended by ABP 303553 and ABP 305470), there are existing permissions in the vicinity including a 7 storey aparthotel at No.30 Moore Street (3304/18), a 9 storey hotel at Abbey Street/Henry Street as part of the Arnotts development (3531/18), a mixed use development at the Jervis Centre (2479/20) and the mixed use development at Clerys up to 9 storeys high (3442/16). I would concur with the applicant that this sets a precedent for increased building height in the area in the context of proximity to protected structures and the O'Connell Street ACA. It is also worth noting the Parnell Square Cultural Quarter granted under ref. ABP 302881.
- 8.5.26. The proposal will deliver significant gain in redressing the current vacancy and decline along Moore Street and will provide for an enlivened streetscape with the ground floor units occupied by retail and café/restaurants. The new pedestrian passageway will also provide for activity therein. This will provide for a footfall and knock-on presence which will ensure vibrancy and passive surveillance. Such passive surveillance would be bolstered by the residential and hotel components.
- 8.5.27. In general terms, I note that the design concept aims to pick up on the key historic and architectural characteristics of the Dublin terrace in terms of scale, proportion, façade, rhythm, materiality and openings. I consider that the proposal would sit

comfortably in its context, while also reflecting the character of the existing buildings on site in terms of its materials and strong vertical emphasis.

8.5.28. I also consider that the development taken in the context of the concurrent proposals for the redevelopment of other sections of Moore Street and the adjoining laneways, coupled with the plans for a museum in the National Monument, holistically supports the provisions of development plan policy CHC20 which seeks to support the retention and refurbishment of the cultural quarter associated with 1916 on Moore Street and will not hinder the provisions of objective CHC030 which seeks to develop a 1916 Historic Quarter, including Moore Street, the GPO and Parnell Square, creating an integrated historic, literary and commercial focus for the north city centre and providing potential for tourism.

8.5.29. Whilst the buildings to be demolished have been recorded for the application the Architectural Heritage Impact Assessment recommends that a copy of the measured surveys and photographic records be submitted to the Irish Architectural Archive.

## 8.6. Access and Servicing

8.6.1. I refer the Board to the Transport Assessment – Volume 1: Sites 3, 4 and 5, Volume 3: Transport Assessment Overall Development, Chapter 13 of the EIAR, Preliminary Construction Traffic Management Plan and Outline Construction and Demolition Management Plan for Site 3.

8.6.2. Whilst reference is had to historic **traffic surveys** dating back to 2008 and restrictions in carrying out the necessary surveys to feed into the Traffic Assessment arising from the Covid pandemic, regard is had to traffic surveys carried out by TII in 2018 and a further survey carried out by Dublin City Council in February 2020. Both postdate the opening of LUAS and predate the Covid pandemic. I consider that these surveys provide a reasonable representation of the prevailing vehicular and traffic environment in the vicinity of the site. The traffic modelling is based on the City Council's survey.

8.6.3. In view of the city centre location of the site and proximity to quality public transport no **car parking** is proposed within the scheme. For the Board's information no parking is proposed within sites 4 and 5. 33 spaces, only, are proposed in Site 2. I note the capacity available in public car parks in the vicinity including Ilac centre, Arnotts and Jervis Street.

- 8.6.4. A total of **160 bicycle parking spaces** are proposed in site 3, dispersed throughout the scheme with 24 at basement level in Block 3A, 10 within the public realm in the new passageway and 126 within Block 3B serving the residential component (both resident and visitors). This is considered reasonable.

*Access and Site Servicing – Operational Phase*

- 8.6.5. The application is accompanied by a **Servicing Management Plan** which is informed by the Servicing Management Plan prepared for the overall masterplan site. Currently the retail units facing onto Henry Street and Moore Street (south of Henry Place) are serviced from same during 0600 and 1100 after which they are pedestrian zones. Henry Place bounding the site to the north and east is accessible 24 hours a day and is outside the pedestrian zone restriction. It is accessed from Moore Lane to the north.
- 8.6.6. A survey of existing vehicular activity in the area was taken on a Saturday in September 2018 and a Tuesday in October 2018 and reasonably reflect pre Covid loading and servicing patterns with the results provided in the said Servicing Management Plan.
- 8.6.7. In view of the absence of any car parking, coupled with the site's proximity to quality public transport, additional vehicular movements associated with the overall *Dublin Central Development* site would be very low equating to 45 arrivals and 29 departures in the AM peak with 10 arrivals and 28 departures in the PM peak. The greatest percentage would be delivery vehicles. For the overall masterplan site deliveries would be 17 in the AM peak hour (each way) and 2 in the PM peak hour (each way) with sites 3,4 and 5 accounting for 8 (each way) in the AM peak hour and 1 (each way) in the PM peak hour.
- 8.6.8. The servicing arrangements for site no.3 in summary are:
- The units onto Henry Street and Moore Street would continue to be serviced from same.
  - The units along the proposed passageway are to be served by a private access to be operated in a one-way direction from Henry Street to Moore Lane, restricted to the same hours as Henry Street and Moore Street (6am to 11am). A loading bay is to be provided along the passageway.
  - Henry Place is to retain the 24 access as existing.



8.6.9. On the realisation of the development on the overall masterplan site the servicing arrangements for the entire area will be altered to which a number of appellants have expressed concern due to the impact to businesses and residents in the area.

8.6.10. The masterplan for the overall lands proposes:

- Extension of pedestrian zone to include Moore Lane (south of O’Rahilly Parade) and Henry Place save for goods vehicles between 6am - 11am.
- O’Rahilly Parade to be widened and to be one way only (eastbound) with a loading area.
- Moore Lane to be one way northbound between O’Rahilly Parade to Parnell Street.
- Additional loading areas and public realm on Henry Place through purchase of Nos. 59 and 60 O’Connell Street.
- A delivery hub within site 5 is proposed at the junction of O’Rahilly Parade and Moore Street to cater for deliveries after 11am, intended mainly for use for Sites 2AB, 3 and 4 which are not in proximity to a 24-hr loading area. This is proposed to be used during the construction and operational stages
- The estate management company will oversee deliveries throughout the overall masterplan site.

8.6.11. Certainly, the realisation of the overall masterplan development will alter the current servicing arrangements for a number of existing retail/commercial units in the vicinity but access will be retained. Alterations to access along city streets is not an uncommon scenario and requires key holders to adapt to changing circumstances. A working group is to be set up made up of site management, management of adjoining properties and market traders’ representatives to co-ordinate regular deliveries.

8.6.12. I note that the Transportation Planning Division of the City Council has no objection to the proposed plans nor has expressed reservations as to the proposed reordering of the existing streets in the area of the overall masterplan site. The condition attached to the planning authority’s decision to grant permission requiring a review of the Servicing Strategy after 12 months is appropriate to allow for the incorporation of any amendments to ensure optimum servicing access arrangements.

### *Access and Site Servicing - Construction Phase*

- 8.6.13. Appellants and observers express serious concern as to the impact of the **construction phase** on the amenity and viability of commercial enterprises in the vicinity and impact on amenities of residential property. Their concerns are linked to the potential duration of the construction period associated with the development of all masterplan lands.
- 8.6.14. As noted, the application is accompanied by a Preliminary Construction Traffic Management Plan and Outline Construction and Demolition Management Plan which is informed by the equivalent documents prepared for the overall site covered by the masterplan. The constraints arising in terms of construction access for the appeal site are noted, namely that it is bounded by one of the primary pedestrianised retail streets to the south with traffic management measures in place in the surrounding road network.
- 8.6.15. The nature of the construction process is such that the traffic generated will comprise short periods of intense activity interspersed with longer periods of lower levels of truck movements into and out of the site. Section 4.4 of the preliminary plan details 3 periods where intensive activity is likely namely:
- Demolition of existing buildings and removal of demolition waste
  - Basement excavation
  - Erection of structural frames and cladding
- 8.6.16. The expected HGV movements is based on a construction program delineated in Figure 16 of the Transport Assessment and Figure 13.21 of the EIAR. As extrapolated from same the construction period of the overall *Dublin Central Development* site is programmed to extend over a period of 10 years with the major heavy construction expected to be carried out during the 1<sup>st</sup> four years. A 5-year construction period is estimated for sites 3 and 4. Between 65 to 95 arrivals and 65 to 95 departures per day are predicted. 12 construction related truck movements each way are expected in the AM peak hour of 0800 and 0900.
- 8.6.17. Following discussions with Dublin City Council a preferred haul route has been identified. In both instances traffic would enter from Parnell Street into Moore Street with an anti-clockwise circulation. Inbound access for the majority of the construction vehicles will be from Parnell Street to Moore Street/O'Rahilly Parade

with outbound departures from Moore Lane to Parnell Street. The preferred route has regard to a number of local constraints including: -

- The lack of a stacking lane on Parnell Street in advance of the left turn into Moore Lane should there be a delay entering Moore Lane
- The restricted width of the left turn from Parnell Street around Conway's pub into Moore Lane which could cause delays
- The relatively easy right and left turns from Parnell Street to Moore Street
- The availability of a stacking area for the right and left turns from Parnell Street into Moore Street.

8.6.18. An alternative part time access from Parnell Street via Moore Lane is also proposed for long vehicles with restricted operating hours before 11am.

8.6.19. Localised works are required at the junction of Moore Street and O'Rahilly Parade, at the junction of O'Rahilly Parade and Moore Lane and along Moore Lane to facilitate the construction traffic. Concerns as to the impact on nearby premises arising from these works has been raised. I note that the exact detail of the works will be subject to a separate Road Opening Licence Agreement and it is reasonable to assume that cognisance will be taken of all authorised development associated with adjoining businesses/buildings in formulating a workable layout to facilitate construction traffic movements. The Liaison Officer to be appointed will keep residents and businesses informed and address any issues that might arise.

8.6.20. Local traffic management on Moore Lane would require temporary traffic signals and/or flagmen at different locations and times to facilitate passing vehicles. Site 5 within the overall masterplan site which is the subject of a separate appeal to the Board under ref. ABP 313947-22 (2863/21) to the north of the appeal site is to be used as a construction compound. Stacking of lorries on the streets surrounding the development is not proposed with lorries to be held at a staging area located remote from the site until they are called in by radio. This would be normal procedure for large city centre development sites where space for lorries is restricted. The provision of this suitable staging location and controlled construction deliveries will ensure that the proposed one-way route at Moore Street will not impact upon the LUAS or impede access to the Rotunda Hospital.

- 8.6.21. The appointed contractor will be required to maintain access to all properties including the carpark serving the apartments at Greeg Court and those along Moore Lane with the necessary control measures to be put in place to minimise nuisance and manage waste.
- 8.6.22. The traffic impact assessment carried out calculated that the predicted construction vehicular movements represent 1% of the existing traffic flow per hour each way on Parnell Street during the peak periods. Whilst this is materially lower than the 5% threshold over which a transport assessment is required one was carried out to assess the impact on the operation of Parnell Street between O'Connell Street Upper and Dominick Street using the computer program TRANSYT. The predicted impact on the operation of Parnell Street is summarised in Table 13.16 of the EIAR. The highest changes in performance during the construction phase occur on Parnell Street (E) – Junction 1 and on Dominick Street Upper (N) – Junction 4, but both would continue to operate within capacity within the AM peak hour.
- 8.6.23. In response to the appellants' and observers' criticisms of the proposed plan and the potential alternative access from O'Connell Street the applicant advised that the option was not favoured by the planning authority and I would concur that such a route would be very challenging, in particular due to disruption to public transport facilities. The agreement of the city council for the construction traffic route will be required.

*Access and Servicing - Conclusion*

- 8.6.24. There is no question that due to the site constraints and location within a city centre site with a tight urban grain that construction traffic access and management will be a complex endeavour which will undoubtedly impact on the amenities of the area. Whilst I empathise with the local traders and residents as to the disruption that will arise and the potential for such works to be a deterrent to pedestrians and shoppers, noting the cited experiences with other projects constructed in the vicinity including LUAS, this is not sufficient grounds on which to preclude redevelopment of such a strategic site in the north inner city. I note the concerns regarding the longer term construction period envisaged to realise the full extent of the masterplan site. At the time of writing of this report applications for sites 3, 4 and 5, only, are before the Board for assessment. I refer the Board to my assessment in terms of the duration

of permission sought in this instance as set out in section 8.8 below and the relevant sections in the concurrent reports.

- 8.6.25. The control and monitoring of **noise, vibration and dust** on site is set out in section 7 of the Outline Construction and Demolition Management Plan prepared for Site 3. Conditions to address the issues arising would be standard protocol requiring the implementation of best practice.

#### 8.7. **Amenities of Adjoining Property and Moore Street Market**

- 8.7.1. The ability of **Moore Street Market Traders** to continue operating during the construction phase of the development is a valid concern and I accept the stated concerns have significant merit. However, the corollary is that redevelopment of the site necessitates construction works and traffic which, of themselves, will always bring an element of disruption. Whilst conditions limiting the impacts of the construction phase would be standard in such a development the need for the traders to cease trading at this location or relocate for a time, in my opinion, will be inevitable.
- 8.7.2. I also acknowledge the construction phase will also impact on the retail units along Moore Street and in the immediate vicinity with the potential to deter pedestrians and customers due to reduced shopping amenity.
- 8.7.3. I note that the **Moore Street Advisory Group (MSAG)** which reports to the Minister for Heritage and Electoral Reform in its report of June 2021 accepted that street trading on Moore Street is likely to have to cease for the duration of the construction works. At that juncture it noted that consultation with the traders and Dublin City Council did not identify a suitable, mutually agreeable relocation site for the traders. It also acknowledged that construction may impact on all businesses in the area. Given this set of circumstances the MSAG supports the establishment of a compensation fund for the street traders to be paid by the developers.
- 8.7.4. **Condition 30** attached to the planning authority's decision which requests the developer/owner to ensure protection of the Moore Street Casual Trading Area during construction, as far as practicable, and to provide support and liaison with the Casual Traders and/or representatives where trading is no longer possible or relocation is necessitated is, in my opinion, ineffectual and vague and does not meet the criteria to be considered when imposing a condition as set out in section 7.3 of

the **Development Management Guidelines for Planning Authorities (2007)**. In this regard I submit that the condition is not reasonable, is not relevant to planning, is not necessary in that its omission would not warrant a refusal of permission, is not precise and is not enforceable. I therefore recommend its omission.

- 8.7.5. Again, whilst the impact on traders is fully acknowledged and is regrettable this, for a certain period, is a required compromise so to secure the proper planning and sustainable development of the area. The Board has no role in terms of a compensation fund and it is not appropriate to comment on issues raised in a number of appeals and observations pertaining to same. I would also submit that it will be a matter for the said advisory group in conjunction with the local authority to advocate and encourage the re-establishment of the market on the completion of construction. The issue of the location and licencing of pitches is a matter for the local authority.

#### *Residential Amenity*

- 8.7.6. The extent of existing residential in the vicinity of site no. 3 is limited save for the 1<sup>st</sup> floor unit at No. 62 Moore Street opposite. The impact of the development on site 5 on residential units further north along Parnell Street is assessed in the respective report. The said residential properties would not be affected by the proposed development.
- 8.7.7. The **Sunlight, Shadow and Daylight Analysis Report** accompanying the application demonstrates that the proposed new build onto Moore Street would have a negligible difference in the number of daylight hours and would have no impact on the access to daylight for the bedroom windows in No.62.
- 8.7.8. The analysis also gives consideration of the impact of the proposed development on Site 3 to that proposed on Site 4 immediately to the north. In same the proposed amenity space serving apartments which is at 1<sup>st</sup> floor level, will receive at least 2 hours of direct sunlight over 80% of the area. The proposed public square which straddles Sites 4 and 5 was also assessed. It would attain good levels of sunlight through the year with over 90% of the space achieving 2 hours of sunlight on the 21<sup>st</sup> March.

## 8.8. Duration of Permission

- 8.8.1. The applicant is appealing **condition 28** limiting the duration of the permission to 5 years. 3<sup>rd</sup> parties have specific concerns regarding the 7-year permission sought in terms of the construction phase with respect to the impact on Moore Street market, businesses and residential units along Moore Street and surrounding areas.
- 8.8.2. The applicant's case is based on the need to deliver the masterplan in stages due to the overall site constraints which are stated to be:
- Restricted access arising from the surrounding road network and the narrow existing lanes,
  - Restricted access arising from the two major pedestrianised streets (Henry Street and Moore Street) flanking the overall site,
  - Protected and non-protected structures to be retained,
  - Neighbours including residents and local businesses,
  - The scale and nature of construction works to be undertaken.
- 8.8.3. The construction phasing strategy envisages a future build out from south to north progressing generally from Henry Street towards Parnell Street, commencing with sites 3 and 4.
- 8.8.4. It is stated that a construction programme of 5 years is expected for sites 3 and 4 but a contingency of a further 2 years is sought. As acknowledged in earlier sections of this assessment the complex nature of the redevelopment of the overall masterplan site with identified constraints are acknowledged and certainly the justification for a longer duration of permission on other parcel(s) within the overall masterplan plan site may have merit, however I do not consider that such constraints are applicable to site 3. The works entailed in the development, which is relatively small in area, and comprising retention of existing building fabric (including one which is a proposed protected structure), does not present any challenges that can be considered unique or exceptional and which would not be encountered in other inner city redevelopment sites. In addition, I note that the justification of the division of the overall site into 6 parcels is so as to allow sections to proceed without impediment should delays arise elsewhere. It will be within the remit of the developer to ensure

that the works are substantially complete within the normal 5-year permission duration. The strictures placed on the extension of duration of permission in terms of development subject of EIA is noted. The amendments to section 42 of the Planning and Development Act, 2000, as amended, came into effect on 9<sup>th</sup> September 2021. However, such a justification for an extension of duration is not considered appropriate or acceptable. I therefore concur with the planning authority's decision and recommend that the duration of permission in this instance be 5 years.

## 8.9. Prospective Amenities

### *Proposed Apartments – Qualitative Standards*

- 8.9.1. SPPR 7 and SPPR 8 of the **Sustainable Urban Housing - Design Standards for New Apartments, Guidelines for Planning Authorities, 2020**, specifically refer to Build to Rent (BTR) schemes. SPPR 8 states that there are no restrictions on dwelling mix with flexibility to be applied in relation to the provision of a proportion of the storage and private amenity space associated with individual units and in relation to the provision of communal open space, on the basis of the provision of alternative, compensatory communal support facilities and amenities. A Housing Quality Assessment report accompanies the application which was revised following amendments to the layout arising from the further information request.
- 8.9.2. The proposal consists of 79 no. units comprising: -
- 14 no. studio apartments (17.7%)
  - 56 no. 1 bed apartments (70.9%)
  - 2 no. 2 bed 3 person apartments (2.5%)
  - 7 no. 2 bed 4 person apartments (8.9%)
- 8.9.3. All units meet the minimum floor space requirements as set out in SPPR 3. 30 units exceed the said requirements reaching the minimum 10% area increase or higher.
- 8.9.4. 31 no. (39.2%) are dual aspect which exceeds the 33% minimum requirements of SPPR 4 for such a city centre site. Of the remaining 48 no single aspect units 5 no. have a single, northwest aspect. Unit nos. B-01-11, B-02-15, B-03-15, B-04-15 and B-05-16 refer. Whilst I accept that such a scenario is largely unavoidable in a dense, urban setting where a number of existing structures are retained 2 no. of the



units (B-01-11 and B-02-15) face onto the building to be retained at 11-13 Henry Place in which apartment units are also proposed. In response to the planning authority's further information request the applicant contends that the units are acceptable based on the fact that they exceed the minimum floor area requirements (38.52 sq.m.), are served by balconies and exceed the ADF of the BRE guidelines. To mitigate the potential for overlooking the fenestration to the apartments opposite (B-01-14 and B-02-18) has been altered with opaque glazing in the window openings facing the units and new window openings to the eastern elevation.

- 8.9.5. The minimum floor to ceiling heights comply with the requirements of SPPR 5. The number of units per floor per core as required by SPPR6 does not apply to BTR schemes. I note that each unit provides for the minimum storage requirements set out in Appendix 1.
- 8.9.6. In view of the site sensitivities in terms of conservation and streetscape, balconies are kept to a minimum on the Henry Street and Moore Street elevations. In these cases, Juliet balconies or French doors are provided with the recommended minimum area for private amenity space added to the overall apartment area. The units on the recessed upper floors have balconies or terraces. I consider the design solutions proposed to be appropriate.
- 8.9.7. In terms of communal open space, a 517.7 sq.m. roof garden is proposed exceeding the minimum requirement of 397 sq.m. By way of further information, it is confirmed that 299 sq.m. of internal communal and amenity support is provided with two amenity spaces of 34.2 sq.m. and 108 sq.m. to be provided adjacent to the roof garden.
- 8.9.8. The application is accompanied by a Sunlight, Shadow and Daylight Analysis Report. It relies on the standards in the following documents:
- BRE Report "Site Layout Planning for Daylight and Sunlight"; and
  - British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting.
- 8.9.9. I note that section 6.6 of the relevant Section 28 Guidelines **Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020** states that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like *(my emphasis)*

the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. In addition section 3.2 of the **Urban Development and Building Heights Guidelines for Planning Authorities December 2018** states that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like those referenced above. The guidelines note that where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

- 8.9.10. Whilst I acknowledge that subsequent to the preparation of the applicant's report a revised Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE209 2022) was issued in June 2022, I consider that appropriate and reasonable regard is had by the applicant to the above referenced statutory guidelines and the advice detailed therein. I have also had appropriate and reasonable regard to same.
- 8.9.11. As noted in section 1.6 of the BRE document the detail is advisory, it is not mandatory. Although it gives numerical guidelines it recommends that they be interpreted flexibly since natural lighting is only one of many factors in site layout design. The guidelines also note that in a historic city centre, or in an area with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.
- 8.9.12. In terms of daylight and sunlight to the proposed units the BRE Guidance with reference to BS8206 – Part 2 sets minimum values for ADF that should be achieved. These are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidelines notes that non-daylight internal kitchens should be avoided where possible, especially if the kitchen is used as a dining area too. If the layout means that a small, internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does

however, state that where a room serves a dual purpose the higher ADF value should be applied.

- 8.9.13. The proposed apartment layouts include a kitchen/living/dining room. As these rooms serve more than one function the 2% ADF should be applied.
- 8.9.14. As noted above the application is accompanied by a Daylight and Sunlight Assessment Report supplemented by further details received by way of further information. The former sets out the results of the Average Daylight Factor for the units within the proposed development. The target value of 2% was applied to living/kitchen/dining rooms and 1% to bedrooms. I am satisfied as to the veracity of the results in so far as is practical and that the units assessed within the study represent the worst-case scenario.
- 8.9.15. I note that in the original plans accompanying the application 2 no. units did not meet the target values, namely B-01-13 which achieves 1.8% in the kitchen/living and B-03-7 which attains 0.7% in the kitchen/living and 0.5% in the bedroom. The case made is that the spaces are behind a retained façade which limits the window sizes. Whilst the former with frontage onto Moore Street and Henry Place (1<sup>st</sup> floor 8 & 9 Moore Street) can be considered to be a marginal infraction which is considered appropriate in order to retain the façade on urban design grounds with the apartment being 16.3% larger than the minimum stipulated size for a 2 bed apartment (and noting that the living/kitchen is at the corner with windows on two sides), the latter fronting onto Henry Street (3<sup>rd</sup> floor No. 40 Henry Street) is materially below the target parameters. By way of further information, the redesigned space was adjusted to be 150mm lower to increase the ratio of glazing within the apartment and, in turn, the extent of glazing above the working plane as set out in BRE 209 methodology. This has improved the access to daylight for the two spaces to 2.10% for the living/kitchen and 1.4% for the bedroom. The spaces now meet the target values.
- 8.9.16. In terms of overshadowing a Shadow Plan have been produced. The proposed amenity space serving the apartments is at roof level and will receive almost 6 hours of direct sunlight on over 50% of the area which materially exceeds the 2-hour minimum requirement of the BRE guidelines.
- 8.9.17. Following the planning authority's further information request addressing the issue of overlooking between the apartment units fronting onto the new passageway and the

hotel rooms opposite, the internal floor plan has been reconfigured with adjustments made to the glazing treatment to mitigate for overlooking from the hotel rooms while maintaining adequate sunlight – daylight standards to residential units. The hotel’s fenestration has also been amended.

#### *Proposed Apartments Qualitative Standards - Conclusions*

- 8.9.18. On balance and having regard to the site constraints within such a city centre site with a tight urban grain I consider that the proposed development, as amended by way of further information, would provide for an adequate level of amenity of prospective occupants.

#### *Hotel – Prospective Amenity*

- 8.9.19. Section 2.2.2 of the BRE Guidelines state that they are intended for use for rooms in adjoining dwellings where daylight is required, but they may also be applied to any existing, non-domestic building where the occupants have a reasonable expectation of daylight. This would normally include schools, hospitals, hotels and hostels, small workshops and some offices. Again, I reiterate the fact that they are advisory and allow for flexibility in terms of their application as they are only one consideration in respect of the design and delivery of residential amenity.
- 8.9.20. The Sunlight, Shadow and Daylight Analysis Report, as amended by way of further information, gives consideration to the daylight in the hotel guestrooms with the application of the 1% ADF. 99% of the 152 bedrooms meet this target. The two bedrooms that do not (A-03-18 and A-03-19) are within a retained building onto Henry Street where the window area is limited.

### **8.10. Planning Assessment – Conclusion**

In conclusion, I would not subscribe to the view as espoused by a number of the objectors that the policies and objectives and strategic goals of the City Development Plan are contravened and would counter that the proposal, in its own right, and in the context of the wider redevelopment as proposed for what is referred to as the *Dublin Central Development*, will assist in the regeneration and redevelopment of an important, inner city site whilst endeavouring to protect important resources where cultural and built heritage is safeguarded. In view of the benefits of the proposed development and the retention of a quantum of historic fabric and its likely positive knock-on impact in terms of economic regeneration of this part of the city centre, I

consider the proposed development to be acceptable and conclude that it accords with national, regional and local planning policies, objectives and guidance.

## 9.0 Environmental Impact Assessment

### 9.1. Introduction

- 9.1.1. This section of the report comprises an environmental impact assessment of the proposed development. A number of the matters to be considered have already been addressed in the Planning Assessment above. This section of the report should therefore be read, where necessary, in conjunction with relevant sections of the said assessment.
- 9.1.2. Both the 2014 amended EIA Directive (Directive 2014/52/EU) and the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 are applicable.
- 9.1.3. In terms of the classes of development in Schedule 5 of the Planning and Development Regulations 2001, as amended, for which an EIAR is required, the site subject of this appeal, at 0.33 hectares, is below the 2-hectare threshold for urban development in a business district as set out in Class 10 (b). However, taken cumulatively with the other sites covered by the *Dublin Central Development* masterplan, equating to 2.2 hectares, the said threshold is exceeded.
- 9.1.4. An EIAR was submitted with the application which was amended in response to the request for further information. It provides for a holistic assessment of environmental impacts and applicable mitigation measures for sites labelled 3, 4 and 5. It also provides for an assessment of the overall development of the 2.2 hectare *Dublin Central Development* Site as envisaged in the prepared masterplan.

#### Content and Structure of EIAR

- 9.1.5. The EIAR, as amended, consists of 2 volumes, grouped as follows:

Volume 1: Written Statement and Non-Technical Summary

Volume 2: Appendices

- 9.1.6. In accordance with Article 5 and Annex IV of the EU Directive, the EIAR provides a description of the project comprising information on the site, design, size and other relevant features. It identifies, describes and assesses in an appropriate manner, the

direct and indirect significant effects of the project on the following environmental factors: (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape and it considers the interaction between the factors referred to in points (a) to (d). It provides an adequate description of forecasting methods and evidence used to identify and assess the significant effects on the environment. It also provides a description of measures envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects. The mitigation measures are presented in each chapter and are summarised in Chapter 18. Where proposed, monitoring arrangements are also outlined. No difficulties were encountered in compiling the required information although the restrictions arising from the Covid 19 pandemic and the carrying out of traffic surveys are noted.

- 9.1.7. I am satisfied that the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. I am also satisfied that the information contained in the EIAR complies with the provisions of Articles 3, 5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2011/92/EU and Article 94 of the Planning and Development Regulations 2001, as amended.
- 9.1.8. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality. I note the qualifications and expertise of the persons involved in the preparation of the EIAR set out at the start of each section.
- 9.1.9. I am satisfied that the information provided in the EIAR is sufficiently up to date and is adequate for the purposes of the environmental impact assessment to be undertaken.
- 9.1.10. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application and the appeal. A summary of the submissions made have been set out in section 7 of this report.
- 9.1.11. The main issues raised specific to EIA can be summarised as follows:
- Impacts on cultural heritage and loss of historic fabric.

- Landscape (townscape) impacts.
- Impacts on population and human health during the construction phase from noise, vibration, dust and traffic.
- Impacts on material assets from alterations to access and site servicing.

9.1.12. These issues are addressed below under the relevant headings and, as appropriate, in the reasoned conclusions and recommendation.

## **9.2. Consultations**

9.2.1. Details of the consultations entered into by the applicant as part of the preparation of the project are set out in section 1.9 of the EIAR. Submissions received during the course of the planning authority's assessment of the application, including submissions from prescribed bodies, are summarised in section 3 above with the 3<sup>rd</sup> party appeals and observations received by the Board summarised in sections 7.1, 7.4 and 7.5 above.

9.2.2. I consider that the requirements in terms of consultation have been adequately met by the applicant.

## **9.3. Vulnerability to Risk of Major Accidents and/or Disaster**

9.3.1. The requirements of Article 3(2) of the Directive include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disaster. The EIAR addresses this issue in Chapter 17.

9.3.2. During the construction and operational phases 15 no. possible risks were identified whereby the proposed development has the potential to cause/be impacted by a major accident/disaster (see Tables 17.5 and Table 17.6). Potential risks during the construction phase will be managed through the Construction and Demolition Management Plan (CEMP). In terms of the operational phase and fire risk the buildings have been designed to existing fire regulations requirements. Consideration is also given to the potential risk on the nearby Luas and proposed Metrolink from acts of terrorism and consequent impact on the appeal site. Whilst very unlikely to occur should such a scenario arise it would have very serious consequences. It is thereby classified as a 'medium risk scenario'.

- 9.3.3. The site is not connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO and so there is no potential effects from this source. The nearest site ('Upper Tier Establishment') is 2.5 km to the east.
- 9.3.4. It is considered that having regard to the nature and scale of the development itself, the risk of major accident and/or disaster during the construction and operational phases is considered low in accordance with the risk evaluation methodology and I am satisfied that this issue has been addressed satisfactorily in the EIAR.

#### 9.4. Alternatives

- 9.4.1. Article 5 (1) (d) of the 2014 EIA Directive requires:

*"(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;"*

- 9.4.2. Annex (iv) (Information for the EIAR) provides more detail on 'reasonable alternatives':

*"2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for electing the chosen option, including a comparison of the environmental effects."*

- 9.4.3. No alternative sites were considered on the basis that the site is suitable for the nature of the development proposed due to its location within the city centre subject to the Z5 zoning provisions.
- 9.4.4. The alternatives assessed include the 'do nothing' scenario and the scheme previously permitted on the site under planning reference PL29N.232347 (2479/08). The other alternatives presented would appear to be, in effect, iterations of the scheme which were presented to the city council during pre-application consultations from which modifications resulted. Consideration is also given to alternative processes and mitigation measures.



- 9.4.5. Having regard to the Guidelines for carrying out Environmental Impact Assessment (2018) which states that the type of alternatives will depend on the nature of the project proposed and the characteristics of the receiving environment I consider that the requirements of the Directive in terms of consideration of reasonable alternatives have been discharged.

## **9.5. Population and Human Health**

- 9.5.1. As would be expected the likely effects of the proposed development on human beings and health are addressed under several of the headings of this environmental impact assessment and, as such, should be considered as a whole. Of particular relevance are issues arising from noise, traffic, air quality and visual impact. I propose to address the latter 3 subjects in subsequent sections below. Chapter 5 deals with population and human health. Chapter 11 of the EIAR deals with noise and vibration.

### *Receiving Environment*

- 9.5.2. I refer the Board to section 2 of this report which gives a site location and description. In summary the site is located within the north inner city centre comprising of a mix of retail, commercial and vacant properties and lands surrounded by a road network.
- 9.5.3. In a 'Do Nothing' scenario the site will remain an underutilised and deteriorating city centre site which would have a knock-on negative impact on the vibrancy and vitality of surrounding areas.

### *Predicted Effects*

- 9.5.4. Positive impacts in terms of the direct effects on job creation during the construction and operational phases are expected.
- 9.5.5. Negative impacts on existing market traders and business owners during the construction phase.
- 9.5.6. Positive impacts are anticipated arising from the redevelopment of the site and provision of residential, commercial, tourist and local amenities. Indirect positive impacts identified include the improvement of the economic and social prosperity of the surrounding area and commercial linkages with existing business/retail industry

throughout the city. It would also contribute to the social and cultural growth of the city centre.

- 9.5.7. Air quality and noise during construction could have potential impacts on human health. The major dust generating activities are divided into four types: demolition, earthworks, construction and trackout. Each activity is assessed for potential impact. The major noise generating activities for construction noise are identified including demolition and site clearance, basement excavation including piling works and construction traffic. Each activity is assessed for potential impact. Vibration is also addressed. The main potential source of vibration during construction is associated with piling and ground breaking activities.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 9.5.8. To minimise significant nuisance arising from dust and noise a Preliminary Construction Traffic Management Plan and an Outline Construction and Demolition Management Plan have been formulated. These plans include site management, demolition and clearance works, traffic management and dust minimisation. In terms of construction noise and vibration Best Practicable Means are to be employed with the measures to be used detailed.
- 9.5.9. Dust and vibration monitoring are to be undertaken at nearest sensitive receptors. Noise control audits to be conducted at regular intervals.
- 9.5.10. Liaison and communication with noise sensitive receptors.
- 9.5.11. During the operational phase the majority of plant items are to be housed internally. Noise from any new plant items will be designed and/or controlled so as not to give rise to any adverse effects at the nearest noise sensitive locations.
- 9.5.12. Where necessary consideration will be given to controlling noise emissions from bars and restaurants within the proposed development. The entertainment sound shall be so controlled that its levels at any adjacent noise sensitive location would not cause the ambient levels to increase when assessed over 5 minute back to back periods. As sensitive receptors within the development are much closer than off-site sensitive receivers, once the relevant noise criteria is achieved within the development it is expected that there will be no negative impact at sensitive receivers off site.

*Residual Impacts*

- 9.5.13. Due to the nature of construction noise and the proximity of noise sensitive receivers it is predicted the residual construction noise levels will be at or above the relevant noise criteria while works are within 10 metres of commercial receptors and 15 metres of residential receptors during initial site works. This will be negative, moderate to significant and short term. As the distance increases the magnitude of the impacts will decrease.
- 9.5.14. Positive residual impacts arising pertain to creation of employment and redevelopment of a city centre site

*Population and Human Health – Conclusion*

- 9.5.15. A number of appellants and observers raise the impact of the construction phase on the existing retailing environment. The adverse impacts on existing Moore Street Market Traders and existing businesses in the vicinity during the construction phase in terms of reduced shopping amenity and disturbance is fully acknowledged and is regrettable. However, this, for a certain period, is a required compromise so to realise the redevelopment of an important city centre site and for the proper planning and sustainable development of the area.
- 9.5.16. I have considered all of the written submissions made in relation to population and human health. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

**9.6. Biodiversity**

- 9.6.1. Chapter 6 addresses biodiversity. In addition, an AA Screening Report accompanies the application. There is also an overlap with land, soil and water which are addressed below. I recommend that the relevant sections be read in conjunction with each other.

*Receiving Environment*

- 9.6.2. The site is in a city centre location dominated by existing buildings and hardstanding. The EIAR sets out details regarding the existing environment in terms of flora and fauna. Bird, bat and habitat surveys were undertaken.

- 9.6.3. The site is not of significant ecological value.
- 9.6.4. In total, two passes of a single bat species were recorded during the dusk survey, likely commuting over the site to suitable foraging habitat. There is no evidence to indicate that the buildings are being used by bats.

In a 'Do Nothing' scenario there will be no change to biodiversity.

*Predicted Effects*

- 9.6.5. Construction runoff could result in pollution downstream via the existing surface water sewer.
- 9.6.6. There is the potential for temporary displacement during the construction phase of herring gull and pigeons which can nest on roof tops.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 9.6.7. The measures to be employed to protect ground and surface water which are detailed under the heading 'water' are relevant in terms of biodiversity. To avoid undue repetition, I recommend that these sections be read in tandem.
- 9.6.8. The Construction and Demolition Management Plan which is included with the application sets out the procedures, standards, work practices and management responsibilities of the appointed contractor to address potential negative environmental effects that may arise during construction.
- 9.6.9. Noise mitigation during construction to be in accordance with best practice.
- 9.6.10. Measures to prevent herring gulls nesting on the rooftops of the buildings may also be undertaken well in advance of breeding bird season.

*Residential Impacts*

- 9.6.11. None envisaged

*Biodiversity – Conclusion*

- 9.6.12. I have considered all of the written submissions made in relation to biodiversity. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development

would not have any unacceptable direct, indirect or cumulative effects on biodiversity.

## **9.7. Land and Soil**

- 9.7.1. Chapter 7 of the EIAR assesses the potential impact on land, soil and geology. Chapter 14 which addresses waste also deals with site clearance and the excavation phase. A Construction and Demolition Waste Management Plan is included in Appendix 14.1.

### *Receiving Environment*

- 9.7.2. The site is a brownfield site completely covered by buildings/hardstanding and is primarily used for commercial purposes.
- 9.7.3. There was no evidence of significant contamination in soil samples.
- 9.7.4. In a 'Do Nothing' scenario there will be no change to land and soil within the site.

### *Predicted Effects*

- 9.7.5. Removal of hardstanding and excavation of soil will expose subsoil to weathering and may result in the erosion of soils during adverse weather conditions. Surface water runoff from the excavated areas may result in discharges to the River Liffey.
- 9.7.6. Potential pollution from fuel spillages and escape to ground of silt and/or contaminated surface run-off.

### *Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 9.7.7. Compliance with best practice measures detailed in the Construction and Demolition Management Plan.
- 9.7.8. Monitoring during construction in relation to adequacy of protection measures.

### *Residual Impacts*

- 9.7.9. None anticipated.

### *Land and Soil – Conclusion*

- 9.7.10. I have considered all of the written submissions made in relation to land and soil. I am satisfied that potential effects would be avoided, managed and mitigated by the

measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on land and soil.

## **9.8. Water**

- 9.8.1. Chapter 8 of the EIAR addresses water with a Flood Risk Assessment accompanying the application.

### *Receiving Environment*

- 9.8.2. The site is within Dublin north inner city. The site is served by combined foul and surface water sewers. Foul and surface water currently run uncontrolled/unattenuated from the site discharging to the existing combined network.

- 9.8.3. In a 'Do Nothing' scenario there would be no change in the current site discharges.

### *Predicted Effects*

- 9.8.4. The construction period has the potential of pollution of groundwater and water courses by accidental spillages.
- 9.8.5. There will be an increase in demand for water during the operational phase and increased flow to the foul water system.
- 9.8.6. The proposal will result in a net reduction in the runoff volume through the introduction of SuDS devices and attenuation storage.

### *Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 9.8.7. Compliance with best practice measures detailed in the Construction and Demolition Management Plan.
- 9.8.8. Surface water to be attenuated and discharged to the public network at a controlled rate limited to 2l/s. This will minimise peak flows in the downstream system during major storm events. SuDS will also treat the surface water discharging to the public network removing pollutants.

### *Residual Impacts*

- 9.8.9. No residual impacts are anticipated. There will be a water demand arising from the proposed development.

*Water – Conclusion*

- 9.8.10. I have considered all of the written submissions made in relation to water. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on water.

**9.9. Air and Climate**

Chapter 9 addresses climate in terms of air quality and climate change with the application accompanied by a Building Lifecycle Report and Energy and Sustainability Statement.

*Receiving Environment*

- 9.9.1. Dublin is within Zone A. The majority of the properties surrounding the application site are in commercial use with some residential along Moore Street. In view of the high level of tourism in the vicinity and sensitive users including the Rotunda hospital and hotels, the surrounding area is considered to be of high sensitivity in terms of dust soiling.
- 9.9.2. In a 'Do Nothing' scenario there would be no change in prevailing conditions in terms of air and climate.

*Predicted Effects*

- 9.9.3. Potential for dust nuisance during demolition and construction with potential for significant soiling within 100 metres.
- 9.9.4. The traffic assessment concluded that the predicted traffic increases would be significantly less than 5%. TII guidelines state that pollutant concentrations should be calculated at receptors located adjacent to roads where operational traffic increased by 5% or more. On this basis the traffic associated with the construction and operational phases would have imperceptible effects on air quality (NO<sub>2</sub>, CO<sub>2</sub>, and N<sub>2</sub>O emissions).

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 9.9.5. A Construction and Demolition Management Plan and Dust Minimisation Plan have been drawn up which provides for site management, management and movement of trucks, site clearance and dust control measures.
- 9.9.6. Dust monitoring to be undertaken along the site boundary to nearby sensitive receptors.
- 9.9.7. The buildings will meet and exceed the NZEB (Nearly Zero Energy Buildings) requirements set out in the Part L document.
- 9.9.8. The development has set progressive targets for embodied carbon based on LETI (London Energy Transformation Initiative) targets for 2030. The buildings have benchmarked itself against Sustainability Assessments including BREEAM, LEED, WELL Building Standard and Passive House. At a minimum the scheme will adopt the principles of all.

*Residual Impacts*

- 9.9.9. It is predicted that there will be no significant air quality or climate impacts.

*Air and Climate – Conclusion*

- 9.9.10. I have considered all of the written submissions made in relation to climate. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on climate.

**9.10. Material Assets**

- 9.10.1. Chapter 13 of the EIAR addresses transportation with chapter 14 addressing waste.
- 9.10.2. The Board is advised that there is an overlap with the planning assessment in section 8.6 above. It is recommended that the sections be read in tandem.
- 9.10.3. In a 'Do Nothing' scenario there will be no change to material assets.

*Receiving Environment*



9.10.4. The site is within an area bounded by Henry Street to the south, Moore Street to the West, Parnell Street to the north and O'Connell Street to the east. A number of lanes traverse and provide access to the site. Moore Lane has one-way southbound vehicular movements between Parnell Street and O'Rahilly Parade with two-way movements between O'Rahilly Place and Henry Place. O'Rahilly Parade and Henry Place are two way. There is an existing car park accessed from Moore Lane with further parking at O'Rahilly Parade, and 51 O'Connell Street. Henry Street and the south end of Moore Street are pedestrianised, accessible to deliveries between 0600 and 1100. Deliveries take place all day on Moore Lane, O'Rahilly Parade and Henry Place. The area is serviced by quality public transport including bus and LUAS. There are cycle lanes on O'Connell Street and Parnell Street. The site is also in proximity to the proposed Metrolink with a station earmarked within the overall masterplan site.

9.10.5. The site is fully serviced in terms of utilities.

*Predicted Effects*

9.10.6. During the construction phase the worst-case scenario is between 65 to 95 arrivals and 65 to 95 truck departures per working day with a peak of 12 truck arrivals and 12 truck departures in the AM peak hour between 0800 and 0900. These movements take account of the concurrent construction activities in each of the sites associated with the development of the overall masterplan site. These movements represent 1% of the existing traffic flow per hour each way on Parnell Street during the same period.

9.10.7. Two haul routes have been identified, both via Parnell Street.

9.10.8. The volume of construction traffic and HGVs waiting on public roads could lead to vehicular delays.

9.10.9. Placement of hoarding and reduction in carriageway width on Parnell Street, Moore Street, Henry Street, O'Rahilly Parade, Moore Lane and Henry Place could lead to vehicular delays, restrict street trading and cause pedestrian delays.

9.10.10. Temporary closure of O'Rahilly Parade, Moore Lane and Henry Place to pedestrians could lead to additional walking times for pedestrians.

9.10.11. Additional vehicular movements associated with the operational phase would be very low based on the absence of any car parking being provided within the site, the

minimal parking being provided in the overall scheme and the availability of quality public transport in the immediate vicinity. The greatest percentage would be delivery vehicles. For the overall masterplan site 17 AM peak hour (each way) and 2 PM peak hour (each way) are calculated of which sites 3,4 and 5 would account for 8 (each way) in the AM peak hour and 1 (each way) in the PM peak hour.

- 9.10.12. Waste materials arising from demolition and site clearance will require temporary storage pending collection.

*Features and measures to avoid prevent, reduce or offset likely significant adverse effects on the environment*

- 9.10.13. A Construction Traffic Management Plan to be implemented. This will require all deliveries and collections from the site to comply with the City Council requirements including the use of the designated HGV routes.
- 9.10.14. Traffic and other movements on the road network during the Construction Stage will be managed by carrying out the works in stages to a sequence to be prepared in conjunction with the City Council.
- 9.10.15. The appointed contractor will be required to maintain access along Moore Lane and Henry Place to existing properties at the times currently permitted by the City Council or as may otherwise be agreed with the property owners and the City Council.
- 9.10.16. A project specific Construction and Demolition Waste Management Plan has been prepared to ensure waste management and minimisation, reuse, recycling, recovery and disposal of waste material generated during the construction phase.
- 9.10.17. An Operational Waste Management Plan has been prepared.
- 9.10.18. Implementation of the Travel Plan for the overall masterplan site during the operational phase.
- 9.10.19. A Site Servicing Strategy has been prepared.

***Residual Impacts***

- 9.10.20. No residual impacts anticipated.

***Material Assets - Conclusion***

- 9.10.21. There is no question that due to the site constraints and location within a city centre site with a tight urban grain, that the construction traffic access and management will be a complex endeavour which will undoubtedly impact on the amenities of the area.

A number of submissions to the appeal raise concerns regarding the impact on existing businesses and residents. Whilst I empathise with the local traders and residents as to the disruption that will arise, the potential for such works to be a deterrent to pedestrians and shoppers and note the experiences to date with other projects constructed in the vicinity including LUAS, this is not sufficient grounds on which to preclude the redevelopment of the site which forms part of a larger strategic site in north inner city Dublin. I note the concerns regarding the longer term construction period envisaged to realise the full extent of the masterplan site. At the time of writing of this report applications for sites 3, 4 and 5, only, are before the Board for assessment. I refer the Board to my assessment in terms of the duration of permission sought in this instance as set out in section 8.8 above and the relevant sections in the concurrent reports. Notwithstanding, the construction phase will be temporary in duration. The control and monitoring of noise, vibration and dust on site is set out in section 7 of the Outline Construction and Demolition Management Plan prepared for Site 3. Conditions to address the issues arising would be standard protocol requiring the implementation of best practice.

9.10.22. The development of site 3 will not impact on the current servicing arrangements to adjoining businesses. The realisation of the overall masterplan development will alter the arrangements but access will be retained. Alterations to access along city streets is not an uncommon scenario and requires key holders to adapt to changing circumstances.

9.10.23. I have considered all of the written submissions made in relation to material assets. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on material assets.

## **9.11. Cultural Heritage**

9.11.1. Chapters 15 and 16 of the EIAR address cultural heritage – architectural and archaeological. The Board is advised that there is a significant overlap with sections 8.4 and 8.5 of the planning assessment above and they should be read in conjunction with each other.

### *Receiving Environment*

- 9.11.2. The site is as previously described above comprising the southernmost section of the *Dublin Central Development* site entailing the majority of an urban block. It is bounded to the south by Henry Street, to the north and east by Henry Place and Moore Street to the west. It comprises of Nos. 36-41 Henry Street, 1-9 Moore Street, 3-13 Henry Place, Clarke's Court and Mulligan's Lane.
- 9.11.3. The buildings facing onto Henry Street are 4 storeys over basement with those onto Moore Street being 3 storeys, some over basement. Buildings onto Henry Place entail industrial buildings/warehouses. The two main streets of Moore Street and Henry Street accommodate retail units. A number of the retail units along Moore Street have been subdivided. The upper floors are, in the main, underutilised with many along Moore Street in a state of dilapidation. Nos. 3-13 Henry Place flank an 'L' shaped service lane and is predominantly used for deliveries to businesses on Henry Street, Moore Street and O'Connell Street. It is lined by 1 – 4 storey structures in varying states of repair accommodating small workshops, stores, rear and emergency entrances.
- 9.11.4. The site boundary includes two smaller areas to the north for the purposes of facilitating the construction phase. These include the demolition/removal of a length of 20<sup>th</sup> century boundary to Moore Lane at the rear of Nos. 50-51, 52-54 Upper O'Connell Street and inclusion of part of a vacant site at No.14 Moore Lane.
- 9.11.5. A summary of each building within the site is provided in chapter 15 of the EIAR. There are no protected structures within the site. Nos. 4-8 Henry Place are proposed protected structures (ground floor façade, only).
- 9.11.6. In a 'Do Nothing' Scenario the site and buildings would remain unchanged with the possibility of deteriorating fabric and further dereliction with negative impacts in terms of the quality of the immediate and surrounding streetscape.

### *Predicted Effects*

- 9.11.7. Potential effects on archaeology are likely to result from subsurface elements of the proposal such as the basement, underground storm water storage/attenuation tank as well as piled foundations and underpinning of existing structures.
- 9.11.8. Material demolition and significant interventions in the buildings on the site are proposed.

9.11.9. The proposal will alter the character and setting of the protected structures in the vicinity of the site.

9.11.10. The proposal will alter elements of the character of the Architectural Conservation Area.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

9.11.11. Following demolition the site will be archaeologically tested with archaeological monitoring proposed.

9.11.12. The Construction and Demolition Management Plan to be finalised will take into consideration the protection of retained structures within the site and those immediately adjoining in accordance with structural and conservation methodologies.

9.11.13. The recording and measuring of each building will be further expanded prior to commencement of development.

9.11.14. All new buildings have been designed in a contemporary manner and will allow the existing historic buildings to be easily read within the new development.

9.11.15. The proposed materials for the new buildings reference the existing historic building fabric.

*Residual Impacts*

9.11.16. The demolition of the buildings identified for same will result in an irreversible loss of fabric.

9.11.17. Removal and replacement of internal fabric in buildings to be retained will comprise a permanent loss of fabric.

9.11.18. The construction of the new buildings will have long term visual impacts on the receiving environment.

*Cultural Heritage – Conclusion*

9.11.19. All of the appellants and observers to the appeal consider the demolition and interventions to be unacceptable in terms of the impacts on cultural heritage. There is no dispute that the level of intervention is significant with material levels of

demolition. Nos. 4-8 Henry Place is a proposed protected structure to be included in the 2016 City Development Plan.

9.11.20. The proposed development will result in the irreversible loss of building fabric. However the loss of the fabric is so as to allow for the development of an important site within the north inner city and will also allow for the refurbishment and meaningful reuse of the site and the buildings thereon opening it up to the public. The proposal could also act as a catalyst for further redevelopment and regeneration of the area. On this basis I consider that the extent of demolition is justified. Regard is also had to the proposed re-use and integration of the structures into the proposal with regard had to the cultural heritage of the area which would have positive regenerative impacts with the works considered to be of high quality. Thus, on balance, the proposed development is acceptable in terms of the cultural and built heritage of the site

9.11.21. I have considered all of the written submissions made in relation to cultural heritage. I am satisfied that the potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on cultural heritage.

## **9.12. Landscape**

9.12.1. Chapter 12 addresses landscape and is accompanied by a booklet of photomontages as amended by way of further information. In view of the context of this project within Dublin city centre 'landscape' effectively refers to the townscape. I would advise that there is a significant overlap with section 8.5 of the planning assessment above and I recommend that they be read in conjunction with each other.

### *Receiving Environment*

9.12.2. I refer the Board to section 1 above in which a detailed description is given of the receiving environment. In summary, the site comprises the southernmost section of the *Dublin Central Development* site. It is bounded to the south by Henry Street, to the north and east by Henry Place and Moore Street to the west. It comprises of

Nos. 36-41 Henry Street, 1-9 Moore Street, 3-13 Henry Place, Clarke's Court and Mulligan's Lane.

*Predicted Effects*

- 9.12.3. 22 no. viewpoints were considered with respect to the potential visibility of the development of sites 3 , 4 and 5. These cover a range of locations and I consider the selection to be robust and sufficient to enable a comprehensive assessment to be undertaken.
- 9.12.4. Most townscape effects will be experienced in the immediate vicinity. The proposed hotel will be visible from the east along O'Connell Street and will form the backdrop of the buildings along the street including the GPO. The new build elements at the corner of Henry Street and Moore Street and along Moore Street will be major elements in the views of same.
- 9.12.5. The increase in height of the Moore Street terrace changes the visual connection with the GPO but does not remove it. In view of the extent of recent development on the northern end of Moore Street the visual impact of the development when viewed from Parnell Street would not be material.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 9.12.6. The principal mitigation measures are inherent in the design of the scheme. The design has evolved through an iterative process having regard to the site's location within the townscape.

*9.12.7. Residual Impacts*

None.

*Landscape – Conclusion*

- 9.12.8. The appellants and observers to the appeal contest the appropriateness of the visual impact of the proposal. It is evident that the new build elements of the proposal are considered inappropriate by many in view of the cultural and heritage significance of the area. On this basis the conclusions in the EIAR as to the beneficial visual effects and amenity are disputed.

9.12.9. Undoubtedly the proposal will result in significant visual change to the subject site and its appearance from surrounding areas. This, of itself, does not render it unacceptable. I submit that the proposal cannot be assessed in a vacuum without reference to the evolving and changing cityscape in the immediate vicinity. As an entity the city scape has evolved. The city continues to evolve with recent developments of varying heights sitting alongside the older city fabric. The site, itself, has been subject to significant change with a significant percentage of the buildings rebuilt after the 1916 Rising. It is within this evolving context that the development will sit.

9.12.10. I consider that the impact will be largely positive subject to a reduction in the height of the hotel so as to protect the important views along O'Connell Street. I would also submit that the juxtaposition of the new and the old would provide for visual interest which would add to its visual attractiveness.

9.12.11. I have considered all of the written submissions made in relation to landscape. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on landscape.

### **9.13. Interaction of the Above and Cumulative Impacts**

9.13.1. I have considered the interrelationships between factors and whether these may, as a whole, affect the environment, even though the effects may be acceptable when considered on an individual basis. The details of all interrelationships are set out in Chapter 19 with Table 19.1 providing a matrix of the interactions. In my assessment of each environmental topic I have considered the likelihood of significant effects arising as a consequence of interrelationship between factors. Most interactions e.g. the impact of noise and air quality on the population and human health, cultural heritage and landscape are addressed under individual topic headings. I am satisfied that effects as a result of interactions can be avoided, managed and/or mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the approval for the development on the grounds of significant effects as a result of interactions between the environmental factors.



9.13.2. Cumulative impacts were assessed in each chapter of the EIAR with regard had to the developments on Sites 4 and 5 subject of concurrent appeals, the proposed development on the overall masterplan site and other developments in the vicinity. The impacts are summarised in Chapter 19. Consideration was given both to the construction and operational phases. I am satisfied that the cumulative assessment is robust and fully assesses the impacts of the current proposal in the context of other permitted and proposed developments and projects.

#### 9.14. Reasoned Conclusion on the Significant Effects

9.14.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant and submissions made by prescribed bodies to the application and the 3rd party appeals and observations received by the Board, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

**Population and Human Health:** Potential negative impacts on Moore Street Market and retail and commercial outlets in the adjoining area during the construction phase arising from the potential need for market traders to relocate or cease trading and the potential reduction in shopping amenity and footfall.

Potential negative impacts to human beings arising from noise, dust, traffic, excavation and demolition impacts during the construction phase will be mitigated with the preparation of a Construction and Demolition Management Plan and a Construction Traffic Management Plan.

Positive impacts through the redevelopment of a brownfield and underutilised city centre site for employment and cultural spaces that will improve the townscape and visual setting in addition to job creation and spin off benefits.

**Cultural Heritage:** Adverse impacts arising from the demolition of built fabric. There will be positive impacts on the cultural heritage of this part of Dublin City arising from the restoration, extension and reuse of currently vacant or under-utilised buildings. Mitigation measures are detailed including specific measures for the buildings to be retained and refurbished

**Landscape (Townscape and Visual Impact):** The proposed development entailing modern design interventions will have a material impact on the urban and visual

character of the area. The juxtaposition of the new and the old would provide for visual interest.

Notwithstanding the conclusions reached in respect of the negative impact of the construction phase on traders and businesses in the vicinity and demolition of the built fabric, it is considered that the environmental effects would not justify a refusal of planning permission having regard to the overall benefits of the proposed development.

## **10.0 Appropriate Assessment**

### *Compliance with Article 6(3) of the Habitats Directive*

- 10.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### *Background on the Application*

- 10.2. The application is accompanied by an AA Screening Report prepared by Scott Cawley dated 05/05/21. It was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.
- 10.3. The report concluded that the development would not give rise to any significant effects to designated sites.
- 10.4. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

### *Screening for Appropriate Assessment- Test of likely significant effects*

- 10.5. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).

- 10.6. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

*Brief description of the development*

- 10.7. The applicant provides a description of the project on pages 6-9 of the screening report. In summary, the development comprises the redevelopment of an inner city site entailing demolition of built fabric, retention of built fabric and new build to comprise of retail, hotel, residential and cultural uses in two blocks. The scheme is to connect into public sewerage and water supply.

*Submissions and Observations*

- 10.8. Submissions to the appeal raise concerns as to the impact on nesting gulls and potential for bats within the existing buildings on the site. Neither are qualifying interests of the European Sites referenced below.

*European Sites*

- 10.9. The development site is not located in or immediately adjacent to a European site. Figure 2 of the AA Screening Report sets out the 13 sites within a 15km radius of the site. The qualifying interests for all 13 sites are available on npws.ie. Whilst detailed conservation objectives have been drawn up for some sites generic conservation objectives apply to others. The overall aim is to maintain or restore the favourable conservation condition of the identified qualifying interests.
- 10.10. There are no direct hydrological links between the site and the said European Sites. The designated sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA are proximate to the outfall location of the Ringsend WWTP and could, therefore, reasonably be considered to be within the downstream receiving environment of the proposed development. On this basis these sites are subject to a more detailed Screening Assessment.
- 10.11. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the separation distances to the proposed development site, the nature and scale of the proposed development, the absence of

relevant qualifying interests in the vicinity of the works, the absence of ecological and hydrological pathways and to the conservation objectives of the designated sites.

<b>South Dublin Bay and River Tolka Estuary SPA (004024)</b> - c.2.3 km to north east of site
<b>Conservation Objectives</b> – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
<b>Qualifying Interests/Species of Conservation Interest:</b> Light-bellied Brent Goose / Oystercatcher / Ringed Plover / Grey Plover / Knot / Sanderling / Dunlin / Bar-tailed Godwit / Redshank / Black-headed Gull / Roseate Tern / Common Tern / Arctic Tern/ Wetland and Waterbirds

<b>South Dublin Bay SAC (site code 000210)</b> - c. 3.5 km to south east of site.
<b>Conservation Objectives</b> - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
<b>Qualifying Interests/Species of Conservation Interest:</b> Mudflats and sandflats not covered by seawater at low tide / Annual vegetation of drift lines / Salicornia and other annuals colonising mud and sand / Embryonic shifting dunes

<b>North Dublin Bay SAC (000206)</b> – c. 5.3km north east of site
<b>Conservation Objectives</b> - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
<b>Qualifying Interests/Species of Conservation Interest:</b> Mudflats and sandflats not covered by seawater at low tide / Annual vegetation of drift lines / Salicornia and other annuals colonising mud and sand / Atlantic salt meadows / Mediterranean salt meadows / Embryonic shifting dunes / Shifting dunes along the

shoreline with <i>Ammophila arenaria</i> / Fixed coastal dunes with herbaceous vegetation (grey dunes) / Humid dune slacks / Petalwort
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<b>North Bull Island SPA (site code 004006)</b> - c. 5.3km to north of site
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<b>Conservation Objectives</b> – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
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<b>Qualifying Interests/Species of Conservation Interest:</b> Light-bellied Brent Goose / Shelduck / Teal / Pintail / Shoveler / Oystercatcher / Golden Plover / Grey Plover / Knot / Sanderling / Dunlin / Black-tailed Godwit / Bar-tailed Godwit / Curlew / Redshank / Turnstone / Black-headed Gull / Wetland and Waterbirds
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#### 10.12. Identification of Likely Effects

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no watercourses in the vicinity of the site.
- During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water runoff can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).
- The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect

on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment.

- The site is to connect to the existing public sewer and water supply. The foul discharge from the proposed development would drain, via the public network, to the Ringsend Waste Water Treatment Plant. It is noted that Ringsend WWTP is currently working at or beyond its design capacity. The subject site is identified for development through the land use policies of the Dublin City Development Plan. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is located in the urban area on serviced lands and the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.
- The site is within an existing urban area, is developed and does not support habitats of ex-situ ecological value for the qualifying interest species of the SPAs. On this basis and having regard to the separation distance, the potential for significant impacts on birds that are qualifying species of the European Sites due to disturbance / displacement can be screened out.

#### *In combination effects*

10.13. In combination effects takes into consideration a number of projects in the vicinity including the development of the wider *Dublin Central Development* site. It concludes that there will not be any in combination effects on the European sites discussed.

#### *Mitigation Measures*

10.14. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

*Screening Determination*

10.15. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on European Site Nos. 004024, 000206, 004006 and 000210 or any other European site, in view of the site's Conservation Objectives and Appropriate Assessment (and submission of a NIS) is not, therefore, required.

## **11.0 Recommendation**

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## **12.0 Reasons and Considerations**

The Board had regard to:

- (a) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, which seeks more balanced and concentrated growth and targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas.
- (b) the objectives of the Dublin Metropolitan Area Strategic Plan as set out in the Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 to promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs.
- (c) the Architectural Heritage Protection Guidelines for Planning Authorities, 2011,

- (d) the site's location in Dublin City Centre on lands with zoning objective Z5 which seeks to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.
- (e) the character and pattern of existing and permitted development in the area
- (f) the layout, form, mass, height, materials, finishes and design detail of the proposed development,
- (g) the Environmental Impact Assessment Report submitted,
- (h) the appeals and observations made in connection with the planning application, and
- (i) the report of the Inspector

### **Environmental Impact Assessment**

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

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

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

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



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

**Population and Human Health:** Potential negative impacts on Moore Street Market and retail and commercial outlets in the adjoining area during the construction phase arising from the potential need for market traders to relocate or cease trading and the potential reduction in shopping amenity and footfall.

Potential negative impacts to human beings arising from noise, dust, traffic, excavation and demolition impacts during the construction phase will be mitigated with the preparation of a Construction and Demolition Management Plan which will include traffic management measures.

Positive impacts through the redevelopment of a brownfield and underutilised city centre site for employment and cultural spaces that will improve the townscape and visual setting in addition to job creation and spin off benefits.

**Cultural Heritage:** Adverse impacts arising from the demolition of built fabric. There will be positive impacts on the cultural heritage of this part of Dublin City arising from the restoration, extension and reuse of currently vacant or under-utilised buildings. Mitigation measures are detailed including specific measures for the buildings to be retained and refurbished.

**Landscape (Townscape and Visual Impact):** The proposed development entailing modern design interventions will have a material impact on the urban and visual character of the area. The juxtaposition of the new and the old would provide for visual interest.

Notwithstanding the conclusions reached in respect of the negative impact of the construction phase on traders and businesses in the vicinity and demolition of the built fabric, it is considered that the environmental effects would not justify a refusal of planning permission having regard to the overall benefits of the proposed development.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the

environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

### **Proper Planning and Sustainable Development:**

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

- would secure the redevelopment of strategic, under-utilised urban land in a prominent city centre location and would assist in the redevelopment and rejuvenation of this part of Dublin City Centre in accordance with the policies and objectives of the current Dublin City Development Plan,
- would be consistent with national, regional and local policy measures and guidance which seeks to secure more compact and higher density development in city centre areas,
- would make a positive contribution to the urban character of the area,
- would not seriously injure the amenities of development in the area, the O'Connell Street and Environs Architectural Conservation Area, the character and appearance of the National Monument at Nos 14-17 Moore Street, the proposed Protected Structure within the site and proposed Protected Structures and Protected Structures in the vicinity.

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

## **13.0 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 19<sup>th</sup> day of October 2021, 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. All mitigation and monitoring commitments identified in the Environmental Impact Assessment Report (and summarised in Chapter 18) shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The period during which the proposed development hereby permitted may be carried out shall be five years from the date of this order

**Reason:** Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate not to specify a period of the permission not in excess of five years.

4. The 79 no. build to rent units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

**Reason:** In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

5. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than fifteen years and where no individual residential

units shall be sold separately for that period. The period of fifteen years shall be from the date of occupation of the first apartments within the scheme.

**Reason:** In the interest of the proper planning and sustainable development of the area.

6. Prior to expiration of the fifteen-year period referred to in the covenant, the owner shall submit to, and agree in writing with, the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and of clarity.

7.
  - (a) The top two floors of the upper section of Block 3A shall be omitted and the plant area relocated from the roof space or screened from view.
  - (b) The ground floor facades of Nos. 4 to 8 Henry Place shall be retained and incorporated into the proposed hotel structure.

Revised plans with the necessary alterations shown thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interests of the visual amenities of the area and to ensure that the integrity of historic structures is maintained.

8. All materials, colours and textures of the external finishes to the proposed buildings shall be in accordance with the Architectural Design Statement received with the planning application, as amended by the further plans and particulars submitted on the 19<sup>th</sup> day of October 2021. Any deviation from these details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

9. Prior to commencement of development, the developer shall provide for the following:

- (a) The appointment of a conservation expert who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
- (b) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

10. The complex of buildings and associated historic features on the site shall be recorded and documented to a detailed form and level to include a written account and visual record to include measured plans, sections, elevations (scale 1:100), fixtures of significance, construction materials and any earlier interventions. The plans, sections, elevations and architectural details are to be cross referenced to a photographic record and locations of detailed features. Copies of all recording material, condition reports and demolition processes relating to the buildings shall be lodged with the Irish Architectural Archives on completion of the works.

**Reason:** In the interests of conservation and the proper planning and sustainable development of the area.

11. The developer shall agree in writing with the Department of Housing, Local Government and Heritage all measures to protect the National Monument at Nos. 14-17 Moore Street including extent of temporary exclusion zones if required. A copy of the agreement shall be submitted to planning authority prior to commencement of development.

**Reason:** In order to protect the archaeological heritage of the National Monument.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- i. the nature and location of any archaeological material on the site, and
- ii. the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of

agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

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

**Reason:** To protect the visual amenity of the area.

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. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

16. 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 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 residential amenities of property in the vicinity.

17. The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

18. 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 interest of sustainable waste management.

19. A detailed Service Strategy Plan which shall include details of its implementation and monitoring shall be submitted to the planning authority for written agreement prior to commencement of development.

The strategy shall be reviewed 12 months from the occupation of the development and a copy submitted to the planning authority. Any alterations to the strategy plan required following the review shall be agreed in writing with the planning authority,

**Reason:** To ensure adequate servicing of the development.



20. Prior to the opening of the development a Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all the units within the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

21. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cable shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

22. Prior to the commencement of development the developer shall submit to and agree in writing with the planning authority 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 for the on-going operation of the development. No raw materials, finished or unfinished product or parts, crates, packaging materials or waste shall be stacked or stored on the site at any time except within the curtilage of the buildings or storage areas as may have been approved beforehand in writing by the planning authority.

**Reason:** To provide an appropriate management of waste and in particular recyclable materials in the interest of protecting the environment and in the interest of the amenity of the area.

23. Any alterations to the public roads or footpaths shall be in accordance with the requirements of the planning authority and, where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the developer's expense.

**Reason:** In the interest of clarity, public safety and amenity.

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

**Reason:** In the interest of urban legibility.

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

**Reason:** To take account of the O'Connell Street Special Planning Control Scheme.

26. The developer shall control odour emissions, including extract ducting and ventilation, from the restaurant and café units in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the units.

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

27. Public lighting shall be provided in accordance with a scheme details of which shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

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

28. Details of all external signage shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the relevant unit.

**Reason:** In the interest of amenities of the area and visual amenity.

29. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including 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 permission.

**Reason:** To protect the visual amenities of the area.

30. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

31. Prior to commencement of development, the developer shall lodge with the planning authority cash deposit, a bond of an insurance company, or other secure the provision and satisfactory completion of roads, footpaths,

watermains, drains and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

32. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

33. 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.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**October, 2022**