



An
Bord
Pleanála

Inspector's Report ABP 313756-22

Development	Redevelopment and amalgamation of retail units.
Location	Nos. 27-34 St. Patrick's Street, Nos. 99-102 Oliver Plunkett Street, Nos. 1-4 Cook Street and Nos. 4-7 Robert Street, Cork City.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	21/40435
Applicants	Primark Ltd. & O'Flynn Construction Unlimited
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st Party v. Grant
Appellant(s)	Agnes Fitzgerald
Observer	Linkin Ltd.
Date of Site Inspection	01/11/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1.1. The site consists of nearly an entire block bounded by St. Patrick's Street to the north, Oliver Plunkett Street to the south, Cook Street to the west and Robert Street to the east in Cork City Centre. Nos. 5-7 Cook Street and Nos. 97-98 Oliver Plunkett Street at the south-western corner of the block do not form part of the application.
- 1.1.2. The largest unit, Nos. 27-30 St. Patrick's Street and Nos. 99-102 Oliver Plunkett Street, is occupied by Penneys with the majority of the smaller units now vacant. The buildings range between 2 and 4 storeys and are of varying heights. The site straddles Robert Street with the building to the west of the lane within the site boundary forming part of the overall retail area of Penneys. It is connected to the store via a bridge at 1st and 2nd floors over Robert Street.
- 1.1.3. Elbow Lane connecting Cook Street and Oliver Plunkett Street traverses the centre of the site. It is gated at both ends precluding public access. It is used for servicing of existing commercial units.
- 1.1.4. Nos. 27-30 St. Patrick's Street and No. 4 Cook Street are protected structures.

2.0 Proposed Development

- 2.1.1. The application was lodged with the planning authority on the **19/08/21** with further plans and details submitted **14/12/21** and **21/04/22** following requests for further information and clarification of further information dated 13/10/21 and 19/01/22 respectively.
- 2.1.2. The further information and clarification of further information sought details on:
 - Amalgamation of existing units.
 - Elevation and shopfront treatment of historic buildings
 - Impact on built heritage
 - Floor plans
 - Elbow Lane
 - Drainage

2.1.3. As amended, the proposal entails redevelopment and amalgamation of retail units to provide for an extended Penneys store. The retail units to be amalgamated with the existing Penneys store are Nos. 31 to 34 St. Patrick's Street and Nos.1-3 Cook Street. No.4 Cook Street will not be affected by the amalgamation save for the requirement to divert an existing drainage line underneath.

2.1.4. The works entail:

- Reconfiguration and alterations to the existing layout to provide for 2 floors of retail with ancillary storage, office and staff uses and plant and equipment on the 2nd and 3rd floors,
- Change of use of Nos. 1 and 3 Cook Street from restaurant to retail,
- Change of use of Nos. 33-34 St. Patrick's Street from commercial to retail,
- Demolition works to Nos.33-34 St, Patrick's Street and Nos. 1-3 Cook Street to facilitate the reconfiguration of the retail space.
- Partial demolition of Elbow Lane, integrating the northern part of the laneway into the retail floor area. The southern part of the lane will remain as private access and yard space for independent retail units.
- Demolition of southern wall of Nos.31-34 St. Patrick's Street and partial demolition of western façade of 27-30 St. Patrick's Street to incorporate Elbow Lane,
- Alterations to facades on St. Patrick's Street, Cook Street, Oliver Plunkett Street and Robert Street,
- Widening of existing entrance at No.2 Cook Street to form a secondary entrance,
- Provision of underground sprinkler tank,
- New link corridor at 2nd floor of 27-30 St. Patrick's Street connecting the existing bridge over Robert Street with the stock room at 2nd floor level of 4-7 Robert Street,
- New signage panels on facades on St. Patrick's Street, Oliver Plunkett Street and Cook Street,

- New substation with access onto Robert Street,
- New storm sewer under No.4 Cook Street,
- Ancillary works.

2.1.5. The proposed redevelopment and amalgamation will increase the retail floor area of the Penneys store from 5,476 sq.m. to 8,856 sq.m.

2.1.6. The application is accompanied by:

- Planning Report
- Architectural Design Statement
- Architectural Heritage Impact Assessment
- 3D Visual Images
- Archaeological Impact Assessment
- Flood Risk Assessment
- Drainage and Public Water Supply Report
- Traffic Impact Assessment
- Construction Management Plan
- Mechanical and Engineering Report
- Fire Safety Compliance Statement
- Conservation Strategy
- EIA Screening Report
- Letter from Cork City Council which states that Elbow Lane is subject of a public right of way and is considered a public road under the control of the City Council. It does not hold documentary title to the lane or the airspace over it. Subject to same the City Council consents to the inclusion of the lane within the site boundary. The consent is issued without prejudice.

3.0 Planning Authority Decision

3.1. Decision

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

Condition 4: 5 no. projecting signs not permitted.

Conditions 5 – 9 : Conservation measures and conservation method statement to be agreed with the planning authority and conservation officer.

Conditions 10 - 12: Archaeological requirements

Conditions 29 - 30 : Proposed mitigation measures against the risk of flooding and resilience measures to protect the building in event of flood water inundation as identified in the Flood Risk Assessment to be submitted in addition to an Emergency Management Plan for flood events.

Condition 31: Review of flood defence proposals for No.4 Cook Street to ascertain whether or not an increased level of flood defence can be achieved at the property. Site specific flood risk assessment and proposals in this regard to be submitted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **1st Planner's** report dated **13/10/21** notes:

- Contents of other technical reports noted (summarised below).
- The retention and expansion of retail activity in this prominent location of St. Patrick's Street and Cook Street is vital for the continued and enhanced retail function of these buildings and their role and contribution to the retail objectives for the city centre.
- Having regard to the anchor retail nature of the existing Penneys store, its location in the city centre which is level 1 of the metropolitan Cork retail hierarchy, and the quantum of additional space proposed, the submission of a retail impact assessment is not considered necessary.

- Objective 13.5 of the development plan is key as it prioritises the protection of the existing large floorplates of department stores in the city centre.
- Having regard to the degree of internal demolition sought such loss could be permanent and would reduce the variety of mix of uses in the city centre. This loss must be assessed against the benefits of the proposed expansion of the existing anchor retail store. The applicant should address this loss and its impact on diversity.
- There is a general lack of detail on the proposed floor plans. Further information required.
- The amalgamation will have visual implications for the setting of each unit within the proposed, newly configured shopfronts. These changes will also impact on the urban block within the wider context of St. Patrick's Street and Cook Street. Further information required.
- The projecting signs are inappropriate given their scale and the architectural character and visual prominence of the existing facades. They would give rise to visual clutter.
- Elbow Lane is an established right of way and would, therefore, be considered to be a public road. Any changes to this would require a separate statutory process to extinguish the public road. The applicant has not given details of how or when this will be undertaken.
- While the loss of the laneway is noteworthy its historical significance is questioned given its lack of public access and lack of historical integration with the adjoining streets of the urban block. The decorative entrance at Cook Street is being retained and the applicant intends to visually show the alignment of the laneway in the ground floor plan. Overall, the loss of this portion of the laneway is not considered significant in terms of the overall historic street pattern of the area.

A request for further information recommended.

The **2nd Planner's** report dated **18/01/21** notes:

- Having regard to the number of existing retail and restaurant uses within the city centre area the loss of the adjoining premises to facilitate the expansion of the Penneys store is acceptable.
- A report has been submitted which provides a practical consideration of a potential reversal of the proposed amalgamation but does not include the built heritage implications.
- The proposed shopfront treatment in terms of entrance and displays along St. Patrick's Street and Cook Street are adequately active.
- The proposed retention of the original shopfront design to Oliver Plunkett Street in the context of the ACA is acceptable.
- The applicant holds the view that the original proposal for the full removal of the internal fabric of the buildings is the best approach. These need to be addressed further. The applicant is required to provide a more sensitive approach by including some of the original plan and layout of Nos. 31 - 32 St. Patrick's Street structures as part of the proposal. Also, further details required on changes to the floor levels and front entrance and the treatment of the party walls, columns, staircase and other features.

Clarification of further information recommended.

The **3rd Planner's report** dated **18/05/22** following clarification of further information refers to the Conservation Officer's report on same. Satisfied that the issues arising have been adequately addressed. A grant of permission subject to conditions recommended.

Planning Policy Section, Strategic and Economic Development in a report dated **08/10/21** notes:

- The retention of the store is of key importance in terms of maintaining the retail offer of the city centre with additional benefits such as adding vibrancy, preventing vacancy and spin-off effects when people avail of other services as part of their trip.

- St. Patrick's Street has suffered from the loss of another large international multiple as well as other vacancies due to the changing nature of the retail sector with the challenges posed by online shopping, the impact of closures due to the Covid 19 pandemic and competition from other retail centres. The proposal to redevelop and expand Penneys is considered a positive development from a strategic policy perspective.
- The proposal would need to be carefully considered in terms of the protection of the character and integrity of the protected structures.
- A condition requiring the entrance onto Cook Street to remain open during operating hours recommended.
- The development is not of an excessively large scale nor does it entail a quantum of floorspace or impact on the city centre to a degree which would warrant a retail impact assessment. St. Patrick's Street is the desired location for retail developments of this type and scale.
- The proposal would address the issue of vacancy on Cook Street which has been impacting footfall on the street.
- Further information recommended on rationale behind amalgamation of units, potential reversibility of amalgamation works, improvements to increase active frontage to 31-32 St. Patrick's Street and details of how the display would work in terms of interaction with the street.
- The large projecting signs at upper levels should be omitted.

3.3. Other Technical Reports

Environment report dated **10/09/21** has no objection subject to conditions.

Contributions reports note that no contributions apply.

City Archaeologist in a report dated **05/10/21** has no objection subject to conditions.

Drainage Report dated **05/10/21** recommends further information on flood defence measures and storm sewer. **2nd report** dated **17/01/22** following further information has no objection subject to conditions.

Traffic Regulation and Safety Report dated **08/10/21** has no objection subject to conditions.

City Architect's report dated **11/10/21** recommends that a more comprehensive measured survey of Nos. 31- 34 St. Patrick's Street and Nos. 1-3 Cook Street be provided. The elevation treatment of St. Patrick's Street is well considered at shop front level. The treatment of Nos. 99 -102 Oliver Plunkett Street should be of a similar design. Treatment of the 'infill' element at 2nd floor level over the entrance door to Elbow Lane at No.1 Cook Street should be provided. All vertical signage should be omitted.

1st Conservation Officer's report dated **11/10/21** states that the primary concern is the removal of the internal elements of the buildings. Facadism is an unacceptable design solution. For this reason the wholesale removal of internal dividing property walls is unacceptable. The design should be revised to incorporate a more sensitive approach to the historic structures. From a conservation perspective more effort should be made in terms of design strategy to conserve the legibility of the plan and layout of the historic structures. A more nuanced approach rather than the wholesale removal of all internal features and structures behind the façade required. Building B is of specific concern. Further information recommended. The **2nd Conservation Officer's** report dated **13/01/22** reiterates concerns about facadism. The retention of some of the boundary walls of 31-32 St. Patrick Street is not an insurmountable design challenge. A conservation architect to be engaged to guide the designers of the scheme. There is concern about the treatment of the stairs between the ground and 1st floor of 31-32 St. Patrick's Street. Whilst meeting the commercial requirements it does not address the built heritage requirements. The retention of a section, only, may not work visually. A Conservation Plan required. Satisfied that the interior of the remaining buildings on Cook Street are not of heritage significance and can cope with change though, again, would prefer to see some 'stubs' of the boundary walls retained indicating original boundaries. Clarification of further information recommended. The **3rd report** dated **18/05/22** following clarification of further information details measures to be incorporated into the development. No objection subject to conditions.

3.4. Prescribed Bodies

Transport Infrastructure Ireland has no observations.

Irish Water has no objection subject to conditions.

3.5. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those in the 3rd party appeal and observation summarised in section 6 below.

4.0 Planning History

The history pertaining to the subject site and adjoining sites are detailed in the planner's reports on file.

5.0 Policy Context

5.1. Development Plan

Since the planning authority's decision the Cork City Development Plan 2022 came into effect.

The site is within an area zoned ZO 05 – City Centre, the objective for which is to consolidate and facilitate the development of the central area and to promote its role as a dynamic mixed used centre for community, economic, civic, cultural and residential growth.

Chapter 7 addresses Economy and Employment

Objective 7.27 - Strategic Retail Objective

- (a) To support the preparation of the Cork Metropolitan Area Joint Retail Study and Strategy with Cork County Council and support and implement the Retail Hierarchy in defining the role of retail centres, in preparing plans and in assessing development proposals for retail development.
- (b) To maintain and strengthen the role of Cork City Centre as the primary retail centre in the Cork Metropolitan Area.

- (c) To ensure the resilience of Cork City Centre to changing trends in retail demand. Appropriate opportunities to further diversify the City Centre as a place to live, work and socialise will be encouraged.

Objective 7.28 - City Centre

To protect and enhance the role of Cork City Centre as the primary retail centre in the Cork Metropolitan Area and the region by facilitating the continued regeneration and modernisation of existing building stock and supporting appropriate new development, coupled with a range of complimentary residential, leisure, recreational and cultural uses and investment.

Objective 7.34 – Retail Impact Assessments

All significant retail planning applications must be supported by a comprehensive Retail Impact Assessment as outlined in the Retail Planning Guidelines (2012). Cork City Council will determine the requirement to submit a Retail Impact Assessment prior to or during the determination of an application.

Chapter 8 addresses Heritage, Arts and Culture

Chapter 10 addresses Key Growth Areas and Neighbourhood Development Sites

Objective 10.5 - City Core Retail Area

To support the function of the Core Retail Areas as the primary location for comparison shopping in the region.

Chapter 11 sets out the development management requirements. Of note:

Section 11.193 - Shopfronts and Commercial Façades

Section 11.195 - Fascia Signage & Illuminative & Projecting Signs

Volume 3 Built Heritage Objectives

Protected Structures -

Ref. PS027 - 4 Cook Street

Ref. PS414 - 27 Saint Patrick's Street

Ref. PS415 - 28 Saint Patrick's Street

Ref. PS416 - 29 Saint Patrick's Street

Ref. PS417 - 30 Saint Patrick's Street (Former Munster Arcade)

The site is within the Oliver Plunkett Street Architectural Conservation Area. Issues identified as arising in the ACA include the demand for large floor space and for buildings to be combined to increase floor space sizes.

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 3rd party appeal (owner of No.38 Cook Street) can be summarised as follows:

- The appellant has accrued rights over Elbow Lane.
- The applicants have not detailed how they intend to acquire Elbow Lane for their private needs.
- There is a public right of way over the lane. The applicants are required to make an application separately to the Local Authority to seek to extinguish the right of way. The City Council has admitted that it does not possess the title Deeds for Elbow Lane. The letter of consent from the City Council to lodge the application is flawed.
- The proposal would sacrifice a lane of significant historical importance.
- No retail impact assessment was undertaken as to the negative impact on the vitality and viability of adjoining businesses arising from the loss of servicing/bin storage facilities which the lane provides for.

6.2. **Applicant Response**

The response by McCutcheon Halley on behalf the applicant can be summarised as follows:

- The appeal attempts to use the planning application process to determine issues relating to the use and extinguishment of public rights of way which are

governed by separate procedures and are outside the scope of a planning decision under section 34 of the Planning and Development Act, 2000, as amended.

- The appeal is based on the assumption that it is the responsibility of the appellants rather than the local authority to extinguish the right of way over the northern part of Elbow Lane and to regulate future use of the southern portion of the lane which will remain a public right of way.
- The application is accompanied by a letter of consent from the City Council to make the application as required by article 22 (2)(g) of the Planning and Development Regulations, 2001, as amended. The letter of consent does not affect any subsequent decision to grant a permission or a licence under the Planning Act or to extinguish or regulate the right of way under the Roads Act, 1993.
- It is the applicant's intention to request that Cork City Council commence procedures to extinguish the public right of way on Elbow Lane.
- Only the northern part of the lane has been included as part of the application. The southern section of the lane which is accessed from Oliver Plunkett Street will not be impacted and will remain accessible to all traders who currently use the laneway for bin storage.
- It would appear from the request for further information and the planning authority's assessment of the applicant's response that, if and when the right of way is extinguished on the northern section of Elbow Lane, the planning authority intends to allocate space for bin storage on the southern part of the right of way, presumably by issuing licences under section 254 of the Planning Act or consent under section 71 of the Roads Act.
- Condition 2 attached to the permission for the change of use of 38 Cook Street under ref. PL28.225684 required the developer to submit details for the management of waste for written agreement with the planning authority. There is no evidence of written agreement having been given for such storage of refuse on Elbow Lane. The condition only allowed for storage within the development and could not be used to authorise open storage which is outside the red line boundary. As the permission was implemented it

replaced the previous permissions on the site and there is no basis to claim that any ancillary use of Elbow Lane by the former licenced premises transferred to the current use as a café/restaurant.

- There is no planning rationale for the case made that the use of the northern part of the lane for the storage of refuse contributes to the vitality and viability of the area and that any proposal for the relocation of bins from the northern to the southern part of Elbow Lane would require a retail impact assessment.

6.3. Planning Authority Response

None received.

6.4. Observations

The observation supports the grounds of appeal. The observer as owners and operators of the Le Chateau Bar, 93 St. Patrick's Street have used Elbow Lane in connection with its business. The proposal with regard to Elbow Lane will contravene its easements in respect of the lane, in addition to necessitating the extinguishment of a public right of way. The proposal by the applicants to allow refuse storage on the Oliver Plunkett Street end of the lane does not adequately address these issues.

7.0 Assessment

7.1. Principle of Development and Design Considerations

- 7.1.1. As noted above since the planning authority's adjudication of the application the new Cork City Development Plan, 2022 came into effect. In same the site is within an area zoned ZO 05 – City Centre, the objective for which is to consolidate and facilitate the development of the central area and to promote its role as a dynamic mixed use centre for community, economic, civic, cultural and residential growth. Having regard to objectives 7.27 and 7.28 which seeks to maintain and strengthen the role of the city centre as the primary retail centre and location for comparison retailing, the proposal can be considered to be acceptable in principle.

- 7.1.2. The existing Penneys store has a stated gross floor area of 5,476 sq.m. set out over four floors. The proposed redevelopment and amalgamation of adjoining commercial/retail units will increase the retail floor area to 8,856 sq.m., the majority of which consists of existing retail space. The overall net increase in retail floorspace would be in the region of 892 sq.m. In the context of the retail floorspace in the city centre this represents a very minor increase. Having regard to the retail hierarchy for Cork of which the city centre is top, I do not consider that the minor floorspace increase triggers the need for a retail impact assessment.
- 7.1.3. As noted by the City Council's planners Penneys is a one of the primary anchors for comparison retail in the city centre. I consider that a balance is required to be struck between providing for the expansion of a primary anchor comparison unit and the potential impact the amalgamation of units to accommodate same would have on the vibrancy and diversity of uses in the area. I consider that this has been assessed in depth by the planning authority with the applicant providing a case for the proposal which was further elaborated on in the further information request. I would concur with the planning authority that the proposed development will assist and enhance the existing comparison retail offer in the city centre in accordance with planning policy and will assist in promoting and consolidating the centre as a retail destination. I would also accept the argument that it will assist in maintaining active frontages and encourage pedestrian movement in the area. Having regard to the quantum and diversity of existing retail and restaurant uses within the city centre area the loss of units to facilitate the expansion of the store can be absorbed. The main elevations will be retained to St. Patrick's Street and Oliver Plunkett Street with a secondary entrance proposed from Cook Street which will assist in encouraging additional footfall along this pedestrian street which has notable levels of vacancy.
- 7.1.4. Nos. 27-30 St. Patrick's Street are protected structures with the entire site within the Oliver Plunkett Street ACA. The works do not involve any material changes to the facades onto the street frontages. Whilst some changes are proposed to the roof space including a flat roof over the new 2nd floor link corridor and a concealed flat roof to be built behind façade of Nos. 33-34 St. Patrick's Street there will be no change to the historic roofscapes of the protected structures. Save for demolition of part of the rear of upper floors of Nos. 31-32 St. Patrick's Street that face onto Elbow Lane the substantive works entail internal alterations. I submit that a balance needs

to be struck between the retention of the internal built fabric of the protected structures and the need to provide a viable retail floorspace. The impact of the proposed works has been assessed in detail by the planning authority in terms of the design strategy to conserve the legibility of the plan and layout of the historic structures. The applicant has refined the approach by way of further information and clarification of further information with a conservation strategy prepared and commitment to the retention of the services of a conservation architect. I consider the proposals to be acceptable and consider that any outstanding issues pertaining to architectural heritage can be addressed by way of condition. In this regard I note that the applicant did not appeal conditions 5 to 9 attached to the planning authority's decision which address such matters.

- 7.1.5. A Flood Risk Assessment accompanies the application which was revised in response to the further information request. Section 6.4 sets out the measures to improve the resilience of the building structure, services and contents and management of health and safety with a Flood Emergency Response Plan to be prepared. A condition requiring the submission of such a plan for agreement could be attached should the Board be disposed to a favourable decision.
- 7.1.6. As per classes 5.7 and 5.8 in Table 5 of the Cork City Development Contribution Scheme the proposed works, including extension to the protected structures, are exempt.

7.2. **Elbow Lane**

- 7.2.1. I consider that the substantive issue arising in the appeal pertains to Elbow Lane. The lane in question connects Cook Street and Oliver Plunkett Street. It is gated at both ends precluding public access and appears to be used by the commercial properties immediately adjoining and in the vicinity for servicing purposes including refuse/storage purposes. The application is accompanied by a letter from Cork City Council which states that Elbow Lane is subject of a public right of way and is considered a public road under the control of the City Council. It does not hold documentary title to the lane or the airspace over it. The consent to include the lane within the site boundary is issued without prejudice. Whilst the appellant considers there are inconsistencies in terms of whom consent has been given to I note that the

planning authority, in validating the application, did not express any concerns in this regard.

- 7.2.2. The northern section of the laneway forms part of the site, only, and is to be integrated into the overall design layout. The existing gate onto Cook Street is to be retained and will provide access to the sprinkler pump room and tank. The southern part of Elbow Lane accessed from Oliver Plunkett Street will not be impacted by the development and will be available to existing users.
- 7.2.3. Whilst the appellant contends that the lane is historically important its lack of integration with the adjoining streets of the urban block and lack of public access would suggest otherwise. The decorative entrance at Cook Street is being retained and the applicant intends to visually show the alignment of the laneway in the ground floor plan. I would concur that, overall, the loss of this portion of the laneway is not considered significant in terms of overall historic street pattern of the area.
- 7.2.4. The appellant and observer to the appeal object to the proposed development on the grounds of adverse impact on accrued rights over Elbow Lane and use of same for servicing purposes including storage of refuse. Whilst the appellant notes that the Council does not hold documentary title to the lane the existence of the public right of way does not appear to be contested. I submit that the applicant, by way of the letter of consent from the local authority to include the section of the land within the site boundary, has demonstrated sufficient interest so as to make the application.
- 7.2.5. A grant of permission does not confer any rights to the applicant to extinguish a public right of way with Section 34(13) of the Planning and Development Act, 2000, as amended, clearly stating that a person shall not be entitled solely by reason of a permission to carry out any development. The process of extinguishing a public right of way is governed by a separate legal code falling to the local authority under section 73 of the Roads Act 1993 with the making of the order being a reserved function of the authority. Whilst it is the applicant's intention to request that Cork City Council commence procedures to extinguish the public right of way on Elbow Lane, whether or not the process is commenced is entirely within the gift of the Council. The process as set out in section 73 allows for the submission of objections/submissions for the consideration by the local authority prior to the making of its decision. I would submit that it is within this context that the perceived

adverse impacts on the viability of the commercial units arising from the loss of accrued rights over Elbow Lane would be expanded.

- 7.2.6. In summary I consider that the applicant has satisfied the requirements in terms of demonstration of sufficient legal interest and/or consent from the necessary entity so as to make the application. Any further contention with respect to Elbow Lane would be more correctly pursued through the appropriate legal channels.

7.3. **Appropriate Assessment**

Having regard to the nature and extent of the development and the location of the site on fully serviced lands and to the distance to the nearest European Sites it is concluded no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **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.

9.0 **Reasons and Considerations**

Having regard to the ZO5 city centre zoning objective for the site in the current City Development Plan 2022, specific objectives 7.27 and 7.28 as they relate to retail, and to the Architectural Heritage Protection Guidelines for Planning Authorities, 2011, it is considered that the proposed development which would provide for an enhanced comparison shopping unit, would assist in maintaining and strengthening the role of the city centre as the primary retail centre in the Cork Metropolitan Area, would not adversely impact on the built and cultural heritage, would not adversely impact on the amenities of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 14th day of December 2021 and the 21st day of April 2022 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.
 - (a) 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. Any deviation from these details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (b) The 5 no. projecting signs proposed to the St. Patrick's Street, Cook Street and Oliver Plunkett Street elevations shall be omitted.
 - (c) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
 - (d) External roller shutters shall not be erected. Any internal shutters shall be only of the perforated type, coloured to match the shopfront colour.
 - (e) No adhesive material shall be affixed to the windows or shopfronts.

Reason: In the interest of visual amenity.

3. 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) Retention of nib walls in the rear corners of the building on the ground and first floors and the inclusion of deep downstand beams between the remaining columns, following the line of the party walls and rear elevation;
 - (c) Retention of the 1st floor stairwell opening in the floor above the retained secondary staircase;
 - (d) Retention of the staircase balustrades up to 1st floor level, including the balustrading surrounding the existing stairwell opening. Where required, new balustrading surrounding the retained stairwell 1st floor opening shall match the design and material of the retained original balustrading;
 - (e) Retention and exposure of the existing ground and 1st floor ceilings, cornices and downstand beams;
 - (f) Inclusion of deep downstand beams between the columns on the ground floor along the boundary of Elbow Lane to show the original layout;
 - (g) Inclusion of deep downstand beams between the internal columns separating Nos. 2 and 3 Cook Street;
 - (h) Submission of a window schedule that records the general date and condition of the existing windows and any proposed changes to windows;
 - (i) Full details of any proposed replacement windows, including details of the pane arrangement, frames, glazing bars etc.

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

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.

4. A Conservation Method Statement shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interests of protecting and conserving the heritage of the site.

5. 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.

- 6. 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.

- 7. 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.

8. 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.

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

- (a) Details of security fencing and hoardings;
- (b) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (c) Measures to obviate queuing of construction traffic on the adjoining road network;
- (d) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (e) Alternative arrangement to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of the site development works;
- (f) Details of appropriate mitigation measures for noise, dust, and vibration, and monitoring of such levels
- (g) Off site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

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

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

10. 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.

11. An emergency management plan for flood events shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: In the interests of public health.

Pauline Fitzpatrick
Senior Planning Inspector

January, 2023