



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316104-23

<b>Development</b>	RETENTION: for a temporary period of 4 years and 11 months for development comprising the continued use of a commercial off-street car park.
<b>Location</b>	Rear of Nos. 46-49, O'Connell Street Upper, Dublin 1, situated on Moore Lane.
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	5513/22
<b>Applicant</b>	Dublin Central GP Limited
<b>Type of Application</b>	Permission (retention)
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Moore Street Preservation Trust
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	03/06/2023
<b>Inspector</b>	Máire Daly

## 1.0 Site Location and Description

- 1.1. The subject site which has a stated area of c. 0.135 Ha is located on the eastern side of Moore Lane, on the junction with Moore Lane and O' Rahilly Parade to the immediate east of Moore Street in Dublin City Centre. The site is accessed via Parnell Street to the north and Moore Street to the west. The site adjoins no.s 46 to no. 49 O' Connell Street to the immediate east however it is noted that no access from the car park is available to these buildings as the submitted drawings clearly state that access doors to the office buildings have been permanently locked.
- 1.2. The subject site comprises the ground floor and first floor of a six-storey mixed use building. The existing car park contains 100 parking spaces (50 per floor) and covers an area of approximately 2,644 sqm. The upper floors of the building comprise office use and do not form part of the proposal. The carpark has two entrance points, fitted with roller shutters, located on the northern side of the front (western) elevation, at the junction with Moore Lane and O' Rahilly Parade, with ramp access up to the parking area. The carpark has two exit points located further south along Moore Lane. The approach off Parnell Street via Moore Lane to the north of the car park is a one-way street, the remainder of Moore Lane to the south of the car park is two way, as is O' Rahilly Parade. Signage is located above the entrance doors and it is proposed to retain the existing.
- 1.3. The surrounding area is comprised of mainly commercial premises, with the rear of commercial properties which line O' Connell Street fronting onto Moore Lane. The buildings in the surrounding area vary in height from single storey warehouse type structures to taller hospitality buildings such as the 7-storey hotel building to the immediate northwest of the subject site. The subject site is located within an Architectural Conservation Area (ACA) and the O'Connell Street and Environs Scheme of Special Planning Control 2022.

## 2.0 Proposed Development

- 2.1. Permission is sought for retention for a temporary period of 4 years and 11 months, at a site at the rear of Nos. 46-49 O'Connell Street Upper, situated on Moore Lane for development comprising the continued use of a commercial, off-street car park

located over two levels (c. 2,644 sq. m GFA) and associated signage. The car park comprises of 100 no. spaces and is accessed / egressed off Moore Lane.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Retention permission was granted by Dublin City Council on 23<sup>rd</sup> February 2023 subject to 5 no. conditions.

- Condition no. 2 limited the period of permission to 4 years.
- Condition no. 3 included a stipulation that the parking charges shall be set at a progressive tariff rate to discourage commuter parking.

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

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

The report of the Planning Officer (February 2023) reflects the decision of the Planning Authority. The Planning Officer notes the following in their report:

- Car parks are open for consideration under zoning objective Z5.
- The Development Plan, generally, seeks to limit the extent of car parking throughout the city, in favour of promoting more sustainable modes of transport, particularly with regard to commuting. However, there is also an acknowledgement of the need to maintain access to short-term parking in certain areas.
- The area planner also noted the separate proposals for the major redevelopment of a larger site which encompasses the subject site (Dublin Central project), and the planned works for the Metro.
- The various concerns raised in the submissions received are noted.
- There is generally a presumption against permitting further car-parking and multi-storey parking in the city. However, given the temporary nature of the proposal for retention, and given the significant proposals for the future redevelopment of the wider area, subject of a separate application, the Planning Authority considers the proposal as acceptable in principle.

- The timeline for the wider site redevelopment and metro is such that it is considered appropriate to extend the temporary period of permission for the subject proposal.

### 3.2.2. Other Technical Reports

#### Transportation Planning Division – Report dated 17/02/2023

- No objection to the proposed development, subject to conditions. Report acknowledges the applicant's claim that the proposed development is an interim measure only as the carpark will ultimately be removed as part of the construction of the Dublin Central Development and the construction of the Metrolink.
- The importance of the existing car park to shoppers in the Moore Street/Parnell Street area is also acknowledged, however, the Transport Division suggest a progressive tariff rate to discourage long stay commuter parking should be applied (as previously noted in conditions associated with DCC Planning ref. 2520/17). As with previous permissions for the site, a temporary grant of 4 years is suggested as more appropriate.
- The existing car park provides critical short stay parking spaces for shoppers in the Moore/Street Parnell Street area. It does not operate nor facilitates long term commuter parking.
- No significant concerns regarding the impact of the facility on the surrounding roads or traffic.

#### Drainage Division – DCC Report dated 25/01/2023

- No objection subject to conditions.

### 3.3. Prescribed Bodies

#### Transport Infrastructure Ireland (TII) – Report dated 01/02/23

- No objection to the proposed development, subject to applying the Section 49 Contribution Scheme Levy if the development is not exempt.

### 3.4. Third Party Observations

3.4.1. 3 no. third-party submissions/observations were received by the planning authority.

The main points raised in these submissions can be summarised as follows:

- No requirement for current scheme - currently an oversupply of car parking on the city.
- Concerns raised regarding the potential negative impact the proposal will have on the Moore Street traders and the negative effect that increased traffic has on the ability to trade.
- Existing car-park has operated illegally for several years.
- Fire safety concerns – no evidence of fire safety cert. applicant makes no reference to the upper floors of the building.
- Given sites history and that it is subject to enforcement, permission should be refused.
- Parking is only 'open to consideration' and not guaranteed on this land use.
- Proposed development is not suitable for an Architectural Conservation Area (ACA) and an area under a scheme of Special Planning Control.
- Traffic issues on narrow streets approaching carpark and illegal parking.
- No updated AA Screening.

## 4.0 Planning History

### 4.1. Subject site

4.1.1. The car park contains a total of 100 parking spaces which were originally used by Dublin City Council and later for Fingal County Council Offices in 46-49 O'Connell Street. The car park in more recent years has been used as a resource for retail and visitors to the city. The following is a summary of the site's planning history from recently back to 1998:

- **Dublin City Council (DCC) Planning Ref. 2520/17:** Permission granted for a temporary period of 4 years, at a site the rear of Nos. 46-49 O'Connell Street Upper, Dublin 1. Situated on Moore Lane for development comprising the continued use of an existing authorised commercial, off-street car park located over two levels (GFA 2,644 sqm) and associated signage, at the rear

of No.46-49 O'Connell Street Upper, Dublin 1. The car park comprised of 100 no. spaces and is accessed / egressed off Moore Lane, at a site of c. 0.1 Ha.

It should be noted that Condition no.2 sets a duration period of 4 years on the permission.

- **DCC Planning Ref. 3031/13:** Permission granted for a temporary period of 4 years for development comprising the continued use of an existing authorised commercial car park at a site of c.0.1ha at the rear of 46 - 49 O'Connell Street Upper Dublin 1 situated on Moore Lane. Permission was approved for a temporary period of 4 years for development consisting of the continued use of a commercial, off street car park located over two levels (GFA 2644 sqm) and associated signage. The car park comprises of 100 no. spaces and accessed / egressed off Moore Lane.
- **ABP Ref. 236850, DCC Planning ref. 2373/10:** Retention permission granted on appeal for a temporary period of 3 years for development consisting of a commercial, off-street car park located over two levels (GFA 2,644 m<sup>2</sup>) and associated signage at the rear. The car park comprises of 100 no. spaces and is accessed/egressed off Moore Lane.
- **DCC Planning ref. 1355/98:** Permission granted for development consisting of two floors of car-parking below basement level (capacity 720 cars); four floors of mixed Retail and Leisure uses (approx. 40,000 sq.m. gross floor area) and comprising of Department Stores, retail units, restaurants, bars, family entertainment centre and tourist information. Also, on the upper level there are 15 multi- purpose auditoriums for cinema, conference and theatre uses. There was also a 61 bedroom hotel with associated function rooms at 46/49 Upper O'Connell Street which was occupied by Fingal County Council. The proposal involved building under, on and over part of Moore Lane. The listed facades of Nos. 57,58 and Nos.52/54 Upper O'Connell Street were to be retained as part of the development.

#### 4.2. Sites within immediate vicinity

4.2.1. Large site encompassing several buildings and landholdings within surrounding area (6 separate sites):

- **DCC Planning Ref. 5126/22:** Additional Information is being sought for permission for period of 11 years at site, 'Dublin Central – Site 2' (c. 1.33 Ha), at No. 43 (a Protected Structure), No. 44 (a Protected Structure), Nos. 45 – 49, Nos. 50 – 51 O'Connell Street Upper (a vacant site), Nos. 52 – 54 (a Protected Structure), Nos. 55 – 56, No. 57 (a Protected Structure), No. 58 (a Protected Structure) and No. 60A O'Connell Street Upper and the rear of Nos. 59 – 60 O'Connell Street Upper, Dublin 1. The proposed development comprises a mixed-use scheme (c. 38,479 sq. m gross floor area) ranging in height from 2 – 8 storeys over single level basements including a new street between O'Connell Street Upper and Moore Lane, a new controlled Laneway from Moore Lane (adjacent No. 42 O'Connell Street Upper – a Protected Structure). The proposal is to consist of the construction of offices, hotels, cultural use in the form of the extension to the National Monument, café/restaurants, residential units, retail units, the inclusion of open space, site to development and landscape works and Dublin Central Metro enabling works which incorporates a structural box beneath ground level that has been designed to accommodate the independent construction and operation of the planned O'Connell St. Metrolink station by TII.

#### 4.3. Enforcement on site

- **DCC Ref. E0007/23:** An Enforcement Notice was issued for a breach of condition No.2 of Reg. Ref 2520/17. Condition no.2 set a duration period of 4 years on the permission.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative Development Plan is the Dublin City Development Plan 2022-2028.

The zoning objective for the subject site is Z5 – *'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.'*

5.1.2. The subject site is located within an Architectural Conservation Area (ACA).

5.1.3. The subject site is also located within the O'Connell Street and Environs Scheme of Special Planning Control 2022. The purpose of the Scheme is to guide investment towards the creation of a busy thriving commercial area in O'Connell Street and environs, while protecting and enhancing architectural, historical, cultural and civic character of this nationally important civic thoroughfare.

5.1.4. Section 7.5.2 – Primacy of the City Centre & Retail Core Area is relevant in this case, as are the following two policies:

- Policy CCUV15 – Premier Shopping Area: 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. In line with the Retail Planning Guidelines, 2012, the city centre should be the main focus for higher order comparison retail in the city to protect its retailing role and primacy.
- Policy CCUV19 – Parking and the Retail Core: To support the re-use and replacement of multi storey car parks in the centre of the retail core and to safeguard short term car parking provision for shoppers and visitors at the periphery of the retail core. The redevelopment of central car parks will support public realm improvements and pedestrian priority in the retail core and can support the retail core and night time economy by providing additional mobility hubs and other innovative transport solutions, see also Policy SMT28 (Chapter 8).

Section 8.5.7 highlights the relevant policies in relation to Car Parking. The following policies are noted:

- Policy SMT24 - To discourage commuter parking and to ensure adequate but not excessive parking provision for short term shopping, business and leisure uses.
- Policy SMT26 – Commuter, Shopping, Business and Leisure Parking: To discourage commuter parking and to ensure adequate but not excessive parking provision for short-term shopping, business and leisure uses.
- Policy SMT28 – Repurposing of Multi-Storey Car Parks: To support the repurposing of multi-storey car parks for alternative uses such as central



mobility hubs providing high density bike parking, shared mobility services, 'last mile' delivery hubs and recreational or cultural uses.

Section 11.5.2 refers to Architectural Conservation Areas and the following policies are relevant:

- Policy BHA7 – Architectural Conservation Areas:
  - (a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA 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. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA. Please refer to Appendix 6 for a full list of ACAs in Dublin City.
  - (b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.
  - (c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged.
  - (d) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.
  - (e) Promote sensitive hard and soft landscaping works that contribute to the character and quality of the ACA.
  - (f) Promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to buildings of historic significance within ACAs.

Chapter 15 of the plan contains the Development Standards with Section 15.16 – focusing on Sustainable Movement and Transport

Appendix 5 of the plan outlines the Council’s approach to Transport and Mobility with Section 4 referring to the Car Parking Standards.

## **5.2. Natural Heritage Designations**

- 5.2.1. None relevant - the closest European designated site is an SPA is located c.2.4km to the northeast - South Dublin Bay and River Tolka Estuary SPA (site code:004024) and the closest national designated site is the Royal canal proposed Natural Heritage Area which is located c. 1.2km north of the subject site.

## **5.3. EIA Screening**

- 5.3.1. Having regard to the nature of the proposed development comprising the retention for a temporary period of 4 years and 11 months for development comprising the continued use of a commercial off-street car park, in an established urban area, where no physical works are proposed on site, there is no real likelihood of significant effects on the environment arising from retention of the existing development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. A third-party appeal was received from The Moore Street Preservation Trust. The grounds of appeal can be summarised as follows:
- Environmental Impact Assessment – given the numerous cars with numerous emissions accessing and exiting the car park over two stories there is a real likelihood of ongoing significant effects on the environment arising from the proposed retention development. The need for EIA should have been included at preliminary examination and a screening determination required.
  - AA Screening - No screening information was submitted with the application and the applicant simply referred to an assessment from nearly 6 years ago for a previous file application. This is inappropriate and inadequate. A stage two AA (NIS) should have been required with this application.

- Development Plan - this is the 4th time this so-called ‘temporary planning permission’ has been granted. The development plan includes the presumption against additional car parking in the city.
- The drawings submitted do not refer to the upper floors above the two-story car park. There are fire safety concerns with regard to this and no evidence of a fire safety certificate was included with the application for the retention permission.
- The owner, Dublin GP Central has shown a total disregard for planning laws.
- The applicant has previously issued legal proceedings against Dublin City Council.
- The urban block referred to by the applicants extends to Moore Street, Rahilly Parade and Henry Street and not simply Moore Lane as suggested.
- Under the current development plan car parking is only “open for consideration” within zoning Z5, not guaranteed.
- ACA - the site is within an ACA and area of special planning control and partly within an area of archaeological interest. No architectural or archaeological assessment was requested by the council.
- Traffic hazard - the use of the car park has caused many a traffic hazard in the area alongside in conjunction with illegal street parking. The approach laneways are too narrow to cater for the traffic demand.
- The surrounding area is already well facilitated with many other car parks and there is no need for this car park to continue its use.
- As part of a recent planning application for a nearby site (DCC ref. 5432/22) it was outlined that the rear of no. 61 O’Connell Street forms part of the key junction along the evacuation route from the GPO and it is important that the integrity of the evacuation route is maintained with any new development along route. No reference to enclosing the laneway or mention of same as part of the 1916 Battlefield has been included in the planning application.

## 6.2. Applicant’s Response

- 6.2.1. The applicant’s response to the grounds of appeal compiled by Stephen Little & Associates on behalf of the applicant can be summarised as follows:

- While it is acknowledged that the development plan seeks to limit the provision of car parks in favour of sustainable modes of transport there is also an acknowledgement of the need to maintain access to short term parking in certain areas.
- It is noted that the transport division of DCC suggested that a progressive tariff rate to discourage long day commuter parking should be applied (as previously noted in conditions associated with 2520/17). Same division did not have any significant concerns regarding the impact of the facility on the surrounding roads or traffic.
- It is considered that the planning officer of DCC in their report had appropriate regard to the requirements of AA and EIA. As set out in the planning report prepared by Stephen Little and Associates the temporary car park is an interim measure and given the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site it is reasonable to conclude that no AA issues arise nor any EIA issues.
- The application site is zoned Z5 and in principle a car park is “open for consideration” as a use under the zoning objective on these lands. The temporary car park is in accordance with both the zoning objective and also supports retail and transportation policy as set out in the development plan.
- The retention permission relates to the ground and 1st floor levels of 46-49 O’ Connell Street Upper onto Moore Lane only. The applicant made no reference to the other floors of the building as the proposal does not relate to the upper levels of the building (office use). The retention planning application drawings clearly identified the areas which were subject to the planning application by highlighting these in yellow. These drawings were validated by DCC. Fire safety is a separate function under Building Control and is not considered relevant to the appeal.
- The planning report submitted with the application acknowledged that the application site is located within an ACA and an area of Special Planning Control. Furthermore, it was acknowledged that a small portion of the site to the southwest falls within a zone of archaeological interest. No works are proposed on the site. There will be no change to the façade of no.s 46-49 O’

Connell Street Upper, as such it is respectfully submitted that there will be no impact on the ACA. As no works are proposed there will be no possibility of any impacts on the Zone of Archeological interest. Therefore, it is contended that no assessments were required.

- With regard to the 1916 Battlefield no physical works are proposed to the area and as such there will be no impact on Moore Lane, and it will not change from its current condition.
- It is respectfully submitted that the existing Moore Lane car park provides critical short stay parking spaces for shoppers in the Moore St./Parnell St. area. It does not operate for or facilitate long term commuter parking. Condition 3 of the notification of grant permission issued by DCC outlines that progressive tariff rates should be implemented to discourage commuter parking.

### **6.3. Planning Authority Response**

- None received.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development, Planning History and Parking Policy
- Cultural Heritage
- Other Matters
- Appropriate Assessment

### **7.2. Principle of Development, Planning History and Parking Policy**

7.2.1. The proposed development relates to a repeat application for a temporary retention permission of 4 years and 11 months for a commercial off street car park. The proposed development is located off Moore Lane and is part of the Dublin Central Site which is currently subject to several live and pending planning applications.

- 7.2.2. The applicant has outlined in detail the overall planning and policy context of the site, and the development context. I note that the car park was originally used by Dublin City Council and later by Fingal County Council offices in 46-49 O'Connell Street and that permission was never granted for use of the car park as a public car park facility and hence the history of temporary permissions on site for a now public car parking facility (see Section 4.0 above for Planning History). The appellants raise this as an issue regarding the appropriateness of the proposed use i.e. retention of the car parking use for a further 4 years and 11 months in the context of the operative development plan. The proposal is considered objectionable on the basis that it promotes and facilitates long-term commuter car parking and encourages commuting by private car, which is unsustainable and contrary to current policy. I note that the car parking facility will ultimately be removed as part of the construction of the 'Dublin Central' development at some stage in the future, if permitted.
- 7.2.3. The operative development plan for the area is the Dublin City Development Plan 2022-2028. The proposed development is located within the city centre on lands zoned as Z5 with an objective "*to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*". In principle a 'car park' is "open for consideration" as a use under the zoning objectives for this land.
- 7.2.4. Policy CCUV19 – Parking and Retail Core seeks "*to support the reuse and replacement of multi storey car parks in the centre of the retail core and to safeguard short term car parking provision for shoppers and visitors at the periphery of the retail core*". The policy goes on to further state "*the redevelopment of central car parks will support public realm improvements and pedestrian priority in the retail core and can support the retail core and nighttime economy by providing additional mobility hubs and other innovative transport solutions*". Figure 7.2 of the operative development plan outlines the retail core within the city centre. This figure clearly shows the subject car park located within this area's northern periphery. The temporary car park forms part of the lands which are subject to a planning application for the development of a mixed-use development (Dublin central site 2 – DCC planning Ref. 5126/22 - see section 4.0 for further details) and as such the duration of the temporary planning permission sought is considered appropriate as an interim use to support and encourage visitors and shoppers to the city's retail core and therefore it is consistent with Policy CCUV19 and also Policy CCUV15 (Premier

Shopping Area) through the provision of convenient short term car parking within close proximity of Henry Street.

7.2.5. The operative development plan discourages commuter parking within the city centre under policy SMT24, instead encouraging adequate parking provision for short term shopping business and leisure uses. In assessing this appeal, I have considered the volume of other car parking facilities in the area and note that this was raised as point also by the appellants. I consider that the subject car park provides a parking facility which serves the Moore Street, Parnell Street and Henry Street shopping areas and is primarily used by frequenters of same and not commuters. I also consider that retention of the car park use would not necessarily encourage commuter parking but could support the existing retail uses in the vicinity if an appropriate pricing structure is maintained in place. I note condition no. 3 of the planning authority's grant of permission which refers to the setting of a progressive tariff rate to discourage commuter parking, if the Board are minded to grant retention permission I would suggest a similar condition should be attached to any approval, with review of the tariff to be conducted every two years.

7.2.6. In summary I consider that the proposed development is for a short stay parking facility which discourages commuters and therefore accords with the current policies of the operative development plan. As such, I am satisfied that the principle of the proposed development is acceptable in this instance.

### 7.3. **Cultural Heritage**

7.3.1. It is noted that the site is located within an ACA and an area of Special Planning Control and I also note that these designations applied previously in 2013 and 2017 when retention permissions on site were also granted. With regard to any potential impacts on the 1916 Battlefield which was raised as a concern by the appellants, I note that no physical works are proposed to the area and as such Moore Lane will not change from its current condition. Given that the building is long established on the site and no physical works are proposed, nor any works which would impact in anyway on protected structures within the vicinity, I do not consider that either an architectural conservation assessment or an archaeological assessment are required in the case of the proposal.

7.3.2. In conclusion I am satisfied that retention of the existing carpark will not have any significant impact on any of the surrounding cultural heritage assets.

## 7.4. Other Matters

### Traffic Safety

- 7.4.1. The appellants raise concerns regarding the impact that the subject car park has on the surrounding area and in particular the capacity of O' Rahilly Parade and Moore Lane to deal with the traffic impacts and the effects on street traders along Moore Street from increased traffic. Furthermore, issues are raised regarding illegal parking and vehicle set down which further clogs the laneways. Having visited the site I am satisfied that the approach routes to the car park which are comprised of the northern section of Moore Street and then onto O' Rahilly Parade, both two way streets and the one way approach via the northern section of Moore Lane, are adequate to manage any traffic demand associated with the subject premises. In addition I note that double yellow lines are in place along all approach laneways which should combat illegal parking. I also note that the Transportation Planning Division of DCC raised no concerns regarding access or vehicles obstructing same in the area. Any issues of illegal parking or set down do not come under the planning remit. Therefore having reviewed the situation on site, I am satisfied that the continued use of the car park would not lead to any additional traffic hazards in the area.

### Permission Duration

- 7.4.2. While it is noted that the applicant has specified 4 years and 11 months as a temporary period, taking into consideration the anticipated construction time frame for the redevelopment of Dublin Central and Metrolink, I considered it reasonable for a period of 4 years, in line with the previous decisions on site, should be applied.

### Fire Safety

- 7.4.3. The appellants contend in their submission that reference should have been made to the upper floors of the building, which are comprised of 4 separate floors above the two-storey carpark and have a stated office use. Concerns were raised by the appellants regarding fire safety.
- 7.4.4. In response to these concerns, firstly, the Board should note that the upper floors of the building do not form part of the subject appeal and I am satisfied that this was made clear in the submitted application and drawings. Secondly, I would highlight that the issue of compliance with Building Regulations will be evaluated under a



separate legal code and thus need not concern the Board for the purposes of this appeal.

## **7.5. Appropriate Assessment**

- 7.5.1. The Board will note that a Screening for AA prepared by Scott Cawley was submitted under one of the previous permissions on the site – DCC ref. 2520/17. This assessment completed by Scott Cawley Ltd. concluded that no AA issues arise and that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European site. The appellants make reference to this assessment and state that they believe a NIS should have been completed for the current development.
- 7.5.2. Having regard to the minor nature of the development, its location in a serviced urban area, in an existing building where no physical works are proposed, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the development for which retention is sought would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend a grant of permission subject to the following conditions.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the nature and previously permitted use of the existing structure, which was purposely built as a car park, to the pattern of development in the vicinity and to the temporary nature of the development, it is considered that, subject to compliance with the conditions set out below, retention of the development for a temporary period would not be contrary to the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require

details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The use of the car park as such shall cease within four years of the date of this order, unless prior to the end of that period, planning permission shall have been granted for its retention for a further period.

**Reason:** It is considered reasonable to grant permission for a limited period to enable the impact of the development to be re-assessed, having regard to circumstances then prevailing, including in relation to transportation policy and the redevelopment of the overall area.

3. The management of the car parking and the pricing regime for users of the car park shall be structured to discourage long stay commuter parking and to encourage short term use associated with the retail businesses in the area. The management and pricing structure shall be as agreed with the planning authority and within two weeks of the date of this order, details of the management and a scheme of pricing shall be submitted to the planning authority for written agreement. In default of agreement, the matter shall be referred to An Bord Pleanála for determination and the management and pricing structure shall be as so determined.

**Reason:** To discourage use of the car park by commuters.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Máire Daly  
Senior Planning Inspector

05<sup>th</sup> June 2023