

An  
Bord  
Pleanála

## Validation Checklist

Lodgement Number : **LDG-067710-23**  
Case Number: **ABP-318268-23**  
Customer: **Mary Lou McDonald TD**  
Lodgement Date: **18/10/2023 13:51:00**  
Validation Officer: **Dáire Littleton Caden**  
PA Name: **Dublin City Council North**  
PA Reg Ref: **5432/22**  
Case Type: **Normal Planning Appeal PDA2000**  
Lodgement Type: **Appeal**

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm PA Case Link	Confirmed-Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Yes
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
3rd Party Acknowledgement	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes
Valid Lodgement Channel	Yes

BP01H to appellant. Enclose receipt

BP05 to applicant. Enclose copy of appeal.

BP07 to PA. Enclose copy of appeal.

Copy of letters to file.

Update case narrative.

✓  
✓  
✓  
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✓  
C.C  
19/10/23

Run at: 19/10/2023 08:55

Run by: Dáire Littleton Caden

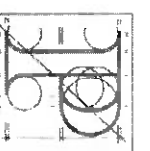


# Lodgement Cover Sheet - LDG-067710-23

3rd v grant

## Details

DD-017464-23



An Bord Pleanála

Lodgement Date	18/10/2023
Customer	Mary Lou McDonald TD
Lodgement Channel	In Person
Lodgement by Agent	No
Agent Name	
Correspondence Primarily Sent to	
Registered Post Reference	

Lodgement ID	LDG-067710-23
Map ID	
Created By	Pádraic Keane
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	

## Categorisation

Lodgement Type	Appeal
Section	Processing

PA Name	Dublin City Council North
Case Type (3rd Level Category)	

## Fee and Payments

Specified Body	No
Oral Hearing	Yes
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	0.00

Observation/Objection Allowed?	
Payment	PMT-052539-23
Related Payment Details Record	PD-052418-23

Appeal 27/09/23 4/D 24/10/23

oral hearing request

ABP - 318268-23

BPOH to appellant  
BPOS - to applicant  
BPO7 - to PA

2A Case Details Manual	
2A Case Number	
2A Decision	
2A Decision E	
odgement Deadline	
Development Description	
Development Address	

Appeals Type	
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Run at: 18/10/2023 13:55

Run by: Pádraic Keane



The Secretary.  
An Bord Pleanála.  
64 Marlborough Street,  
Dublin 1  
D01 V902

**Oifig Mary Lou McDonald TD**

Office of Mary Lou McDonald TD

12<sup>th</sup> October 2023

To be submitted before 24<sup>th</sup> October 2023

Re. Appeal against the decision of Dublin City Council to grant planning permission for development at No. 61 O'Connell Street Upper (a Protected Structure), including the rear onto Henry Place, Dublin 1. DCC Reg. Ref. 5432/22

A chara,

I am hereby appealing the decision of Dublin City Council to grant planning permission for the proposed development as described above.

Full details of the planning application, the subject of this appeal and my details as appellant are attached. I also enclose Dublin City Council's acknowledgement of my original submission during the City Council's planning process as well as the prescribed fee of €220.

As part of this submission please note that I hereby request an oral appeal hearing. The site for the proposed development is located in an area of historical importance being central to the evacuation route and the location of the surrender of those who escaped under fire from the GPO during the Easter Rising of 1916. A national monument and protected structures are located nearby and other structures on Moore Street have recently been added to the Record of Protected Structures by Dublin City Council. For these reasons I believe an oral hearing should take place and ask An Bord Pleanála to facilitate one. It should be noted that in 2009 the Board facilitated an oral hearing for a proposed multi-storey development on another adjacent section of the developer's site. I also enclose the prescribed fee of €50 to request an oral hearing.

My full grounds of appeal are attached.

I trust An Bord Pleanála will give this submission due consideration and that the Board will confirm an oral hearing as requested.

Le meas,

Mary Lou McDonald TD

<b>AN BORD PLEANÁLA</b>	
LDG-	067710-23
ABP-	
18 OCT 2023	
Fee: € 270.00	Type: CARD
Time: 12.24pm	By: HAND





## **Applicant and Appellant's details**

<b>Local Authority (L.A.)</b>	Dublin City Council
<b>L.A. Planning Ref. No.</b>	Reg. Ref. 5432/22
<b>Applicant</b>	Dublin Central GP Ltd.
<b>Location of proposed development</b>	<p>PROTECTED STRUCTURE: Permission at a site (c.0.02Ha), at No. 61 O'Connell Street Upper (a Protected Structure), including rear onto Henry Place, Dublin 1. The site is otherwise bound by No. 62 O'Connell Street Upper to the south, the east side of Henry Place to the west, the west side of O'Connell Street Upper to the east and No. 60 O'Connell Street Upper to the north.</p> <p>The proposed development comprises the conservation, repair, refurbishment and adaptive reuse of an existing commercial building (4 storey over basement) to include: - a 'licensed restaurant/cafe unit with takeaway/collection facility' (c.35 sq. m gfa) at ground floor level on O'Connell Street Upper and a 'licensed restaurant/ cafe unit with takeaway/collection facility' (c.10 sq. m gfa) at ground floor level on Henry Place; 3 no. 2 bed apartments from 1st to 3rd floor (1no. unit per storey); 1no. gym/leisure studio (c.172 sq. m gfa) at basement level; All associated and ancillary site development works, conservation, demolition, landscaping, temporary works, including: - the creation of a new pedestrian link through part of the ground floor connecting O'Connell Street Upper and Henry Place; bicycle (8no.) and bin storage to rear of No. 61 O'Connell Street Upper at ground floor level; building signage zones and retractable canopy. The application site is within the O'Connell Street Architectural Conservation Area. An Environmental Impact Assessment Report (EIAR) accompanies this application.</p>
<b>Description of proposed development</b>	A mixed development as described in the planning advertisement/site notice as requested by DCC at part of the clarification of further information submission
<b>Local Authority decision</b>	To grant planning permission
<b>Date of decision</b>	27 <sup>th</sup> September 2023
<b>Appellant's name</b>	Mary Lou McDonald TD
<b>Appellant's address</b>	58 Fassuagh Avenue, Cabra West, Dublin 7
<b>Appellant's contact details</b>	<a href="mailto:marylou.mcdonald@oireachtas.ie">marylou.mcdonald@oireachtas.ie</a>
<b>Local Authority acknowledgement</b>	A copy of the letter issued by Dublin City Council in acknowledgement of my submission during the Council's planning process is enclosed
<b>Appeal fee</b>	The prescribed appeal fee of <u>€220.00</u> is enclosed
<b>Oral hearing request</b>	An oral hearing has been requested as part of this submission. The additional prescribed fee of <u>€50.00</u> is enclosed

## GROUND OFS OF APPEAL



Birdseye view of the site relevant to this application at No. 61 O'Connell Street Upper

### Site location and proposed development

The location of the proposed development is No. 61 O'Connell Street Upper (a Protected Structure), including the rear of the property onto Henry Place, Dublin 1. The site is otherwise bound by No. 62 O'Connell Street Upper to the south, the east side of Henry Place to the west, the west side of O'Connell Street Upper to the east and No. 60 O'Connell Street Upper to the north.

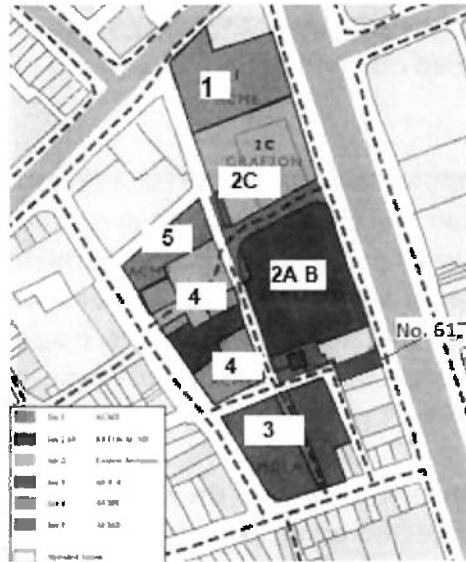
- The proposed development comprises the conservation, repair, refurbishment and adaptive reuse of an existing commercial building (4 storey over basement) to include:-
- A 'licensed restaurant/cafe unit with takeaway/collection facility' (c.35 sq. m) at ground floor level on O'Connell Street Upper;
- A 'licensed restaurant/ cafe unit with takeaway/collection facility' (c.10 sq. m) at ground floor level on Henry Place;
- 3 no. 2bed apartments from 1s to 3rd floor (1no. unit per storey);
- 1no. gym/leisure studio (c.172 sq. m) at basement level;

All associated and ancillary site development works, conservation, demolition, landscaping, temporary works, including:-

- the creation of a new pedestrian link through part of the ground floor connecting O'Connell Street Upper and Henry Place;
- 8 no. bicycle and bins storage to rear of No. 61 O'Connell Street Upper at ground floor level;
- Building signage zones and retractable canopy.

The proposed development forms part of a number of sites in the vicinity for which Dublin Central GP/Hammerson intend applying for planning permission for development. It is not clear whether the applicant will develop the sites. This application refers to part of Site 2AB and Site C, although it is a stand-alone planning application and is highlighted in a red colour below.





Hammerson sites from the applicant's submission  
with No. 61 O'Connell Street in red

## Background

This site adjoins a number of sites in the vicinity of Moore Street, all owned by Dublin Central GP which have been the subject of previous planning applications, preservation orders, protected structures and legal challenges. **The historical importance of these sites is explained in Appendix A (attached).**

An Bord Pleanála is currently considering three adjoining sites to the west of this particular site. Recently Dublin City Council added further buildings and sections of buildings in the vicinity to the Record of Protected Structures, which will impact on the applications currently being considered by An Bord Pleanála.

To the north-west of this site, Nos. 14 - 17 Moore Street were made subject to a Preservation Order under the national Monuments Act by the relevant Minister (Dick Roche TD) in 2007. The Easter Rising surrender decision was made in No. 16 Moore Street by the 1916 Leaders. Nos. 14 - 17 are a continuous set of complete pre-1916 buildings with evidence of the presence of the insurgents.

The State acquired Nos. 14 - 17 (and part of No.18) in mid-2015 when all other proposals to restore the buildings had failed. Until then the site had been owned by a private development company (Chartered Land) as part of a wider property portfolio in the area. The acquisition was facilitated by NAMA as the buildings were under lien to them at the time.

Following an independent Value for Money and Process Audit, the Department then took up a tender process that had been initiated by the previous owners (Chartered Land) for the conservation and restoration of the buildings (14-17) as a 1916 Commemorative Centre.

The intention was to have the Commemorative Centre open in time for the 1916 Centenary. However, legal proceedings to stop the 1916 Commemorative Centre project were initiated against the State in the High Court by a private citizen in late 2015. At the same time the buildings were occupied by protestors opposed to the State's project which included demolishing adjoining buildings which the State contended were post 1916.

The High Court held on 18 March 2016 that the works were not compliant with national monuments or planning legislation and went on to find that extensive areas of Moore Street and surrounds were national monuments as had been sought by the applicant in the proceedings.

This effectively stopped all works on the site, other than essential stabilisation and preservation works which were carried out with the full agreement of the High Court. The buildings are in the care of OPW ever since.

On 14 February 2018 the Court of Appeal overturned the High Court judgments against the Minister in all respects and essentially reaffirmed that the power to determine what constituted a National Monument was a policy matter vested in the Minister and that the Minister did not require planning permission for works on National Monument sites. Securing History which was published in March 2017 was drafted against a background of ongoing legal proceedings which also created a context of some uncertainty over the deliberations of the MSAG until the Court of Appeal judgement was announced in February.

The overall area is an historic area being the route of the retreat from the GPO in 1916. For this reason many sites in the area have been subject to objection, appeals and legal cases.

### **The planning process**

The overall Hammerson development project site has been subdivided by the developers into six different sites (1, 2C, 2AB, 3, 4 and 5) with various design teams making planning submissions. As stated this planning application submitted is part of Sites 2AB, 2C.

Overall the applications, as submitted by Dublin Central GP, contain a high quantity of information which has been difficult to take on board as the overall development site has been subdivided. In essence this particular development is one small part of a much larger development site. However it is an important part of the overall development as it creates a new laneway between O'Connell Street Upper and Henry Place, cutting through a Protected Structure of No. 61.

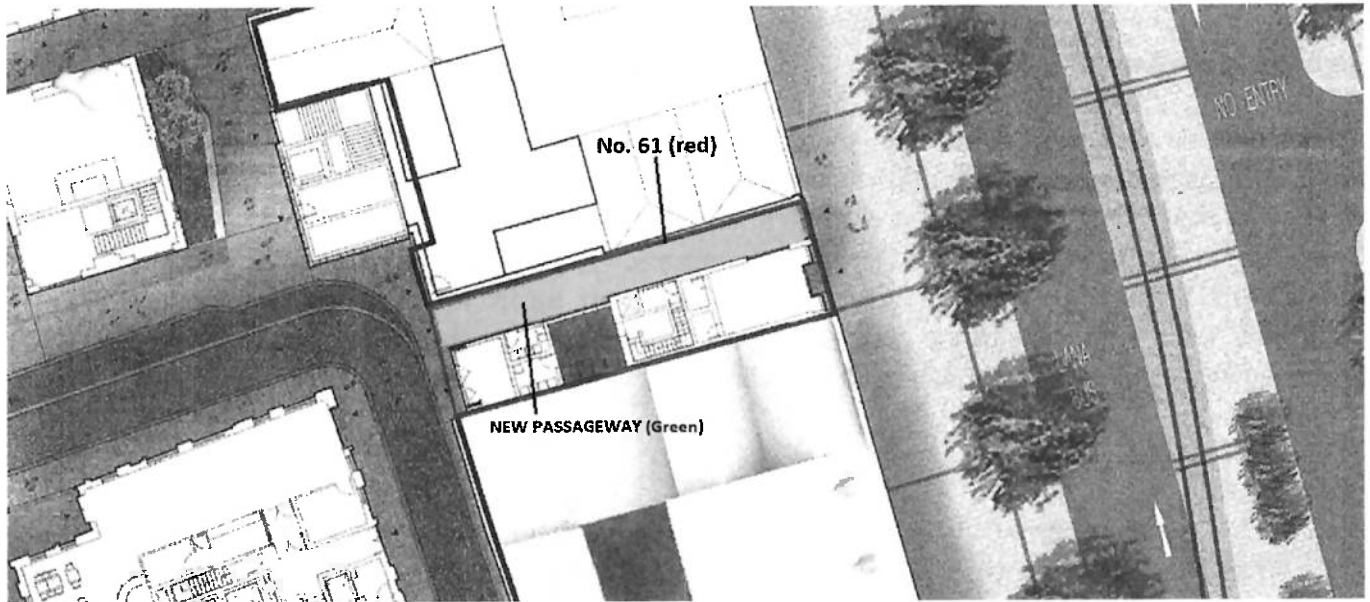
No scaled model has been provided with this particular application, as occurred on previous submissions, and it is difficult to understand why it has been omitted.

I have grave concerns regarding the Taoiseach Micheál Martin's supportive comments for the proposed overall Dublin Central GP development which were included in the press release issued by the developer in support of their applications submitted to the council in June 2021. In addition there are concerns that the Minister for Housing, Darragh O'Brien, has confirmed that his department was indirectly engaged at the same time in some discussions regarding compensation for the street traders.

### **Protected structures**

The site is located within the O'Connell Street Architectural Conservation Area and is located close to the National Monument at 14-17 Moore Street.

I have concerns around the proposed building works to take place to No. 61 O'Connell Street Upper, being on the City Council's list of Protected Structures.



No. 61 showing the proposed new passageway from O'Connell Street

No. 61 is also located in the vicinity of the Protected Structures at Nos. 43, 44, 52- 54, 57 and 58 O'Connell Street Upper and the implications of all these structures being developed at the same time is important for Dublin's premier street.



O'Connell St: Existing front Proposed fronts (incl. after Further Information)

I particularly question the creation of the new access to be constructed through the Protected Structure at No. 61 O'Connell Street Upper (see above in green). The developer has already proposed a new street and plaza elsewhere and the creation of an arched passageway through this Protected Structure is unnecessary. It will also be difficult to manage as there will be gateway access into the new passageway.

Dublin City Council's own Record of Protected Structures (RPS) is intended to protect the front façade in total. DCC has ignored its own RPS and permitted a new passageway to be punched through this Protected Structure. I ask the ABP to refuse permission for this unnecessary development.

### Impact on the National Monument

The National Monument at 14-17 Moore Street is located near this proposed development. In conjunction with the development of other sites in the vicinity this application will impact on structures located within the National Monument boundary (14-17 Moore St).

Most importantly the scale of the proposed overall development in the area is totally inappropriate for an historical location, dwarfing the National Monument buildings and the Moore Street streetscape.

## **Archaeological impact**

As part of the overall lands owned Dublin Central GP lies partially within the protected Zone of Archaeological Potential (ZAP) for Dublin a full archaeological dig should take place across all sites i.e. Site 1, Site 2AB, Site 2C, Site 3, Site 4 and Site 5. This includes this application at No. 61 O'Connell Street Upper. It is also noteworthy that this particular application site is located within the O'Connell Street Architectural Conservation Area (ACA). All new development in each ACA should be implemented and carried out in accordance with the policies/objectives outlined for each ACA and I believe that the proposed development does not adhere to those policies and objectives.

## **Climate Change**

Dublin City Council's approach to demolishing buildings in Central Dublin has rightly changed in recent times. The Council will now block developers from demolishing buildings or parts of buildings in central Dublin in a new citywide response to climate change rules. This approach to blocking demolition relies on the terms set out in the Dublin City Development Plan 2022-28.

If the council is now imposing stricter rules around what structures can be demolished to help the city mitigate the effect of development on climate change, this approach should be pursued when considering applications such as this and other applications in the vicinity. While on the one hand DCC is encouraging developers to retrofit rather than demolish in a bid to reduce carbon emissions, it is at the same time meeting, encouraging and agreeing project details with a developer who is doing the exact opposite on a number of prime historic city centre sites, such as in this case.

I ask the ABP to encourage the council to adhere to its own policy in future applications by refusing permission for part demolition to create the unnecessary passageway proposed in this application.

## **Scale of proposed development overall**

As this planning application forms part of the overall Dublin Central GP site, it should be noted here that the overall application is totally out of scale with existing development locally, particularly at Moore Lane, O'Rahilly Parade and Moore Street.

## **Density of development**

As this planning application forms part of the overall Dublin Central GP site, it should also be noted here that the overall application comprises over-development of the area.

## **DCC requests for further information**

During the planning process DCC requested that the developer undertake necessary site investigations in order to determine if historic fabric is present on the property that could form part of a restored shopfront before a planning decision could be made.

The applicant, however, did not respond to DCC's request, instead suggesting that "it is not currently possible to undertake invasive physical analysis at No. 61 O'Connell Street Upper, giving the presence of existing tenants". DCC then made its decision without having access to all the information requested.

It my opinion that this was a wholly inadequate response from the applicant and ask An Bord Pleanála not to accept the response. In Section 7 of the Planning Application Form submitted, it is clearly

indicated that the applicant, Dublin Central GP Ltd., is the owner of the property at No. 61 O'Connell Street Upper and therefore has full access to the premises.

The response submitted – “a detailed visual examination and measured surveys”, without inspecting covered up works, is not the information requested. DCC should not have accepted this response and should not have made its decision without the relevant information.

#### New passageway

The further information submitted by the applicant concerning the proposed new passageway indicates controlled access gates at each end of the new passageway at O'Connell Street Upper and Henry Place. It is suggested that these gates will be open during the day only and be closed at night “in the interests of the general public and prospective residents of the building”. The gates will be managed by a management company and the company will restrict pedestrian access to the passageway outside public opening hours “to be agreed with the planning authority”. The applicant further stated that “the potential for both gates to be remote controlled via control/security room is to be evaluated” and then invited DCC to attach a suitable planning condition in due course.

The current Development Plan refers to all of the front façade of No. 61 as being a Protected Structure. Yet the applicant wants to punch an unnecessary arched gated route through that front façade. It seems pointless for DCC to have recently revised the Protected Structure listing to include the front façade in total and to then permit this proposed development.

The applicants response to DCC's additional information request concerning the new passageway was a mishmash of possibilities and suggestions and did not address any of the Council's concerns. The applicant placed the burden on the Council to respond, ignoring its own responsibilities. I ask An Bord Pleanála not to accept this response.

In respect of the proposed café/restaurant the applicant submitted a report by Bannon Property Consultants confirming that both units are commercially viable in respect of the uses proposed.

O'Connell Street and the surrounding locality is awash with cafes, restaurants, bars and fast food restaurants. The applicant now proposes that a new unseen café and kiosk located in a new passageway off O'Connell Street Upper, which will be periodically locked (subject to a Management Company's requirements) is commercially viable. I challenge such an assertion and ask ABP to refuse permission for such an unviable plan.

The suggestion of a new passageway with periodically locked gates, linking O'Connell Street and Henry Place is a recipe for a planning disaster and will contribute nothing to the city. It will interfere with and redraw the streetscape and geography of Henry Place, a laneway of huge historical significance as the route taken by volunteers on their evacuation of the GPO.

Henry Place satisfies the criteria laid down by the High Court and Court of Appeal for protection as a National Monument since its preservation is a matter of National importance. It follows that any alteration and interference with it requires Ministerial Consent. No such consent WAS included in the planning application.

## Historic Building Survey

Dublin City Council requested that the applicant submit an Historic building survey to be undertaken by a suitably qualified architectural historian. The applicant did not provide such an historic building survey and simply stated that “an Historic Building Survey will occur following the removal of all 20<sup>th</sup> century linings and fit-outs”.

DCC simply accepted the applicant’s response, which was wholly inappropriate. I ask the Board to review this response.

## Conclusion

It is considered that the proposed construction of a new arched passageway at No. 61 O’Connell Street Upper and the unnecessary overhaul of an existing protected front façade without comprehensive investigations taking place is unnecessary and contributes nothing to the existing streetscape and the historic quarter around the National Monument and Moore Street areas.

I ask An Bord Pleanála to refuse planning permission for this unnecessary proposed development.

**Mary Lou McDonald TD**

October 2023

An Roinn Pleanála & Forbairt Maoin, Bloc 4, Urlár 3,  
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning & Property Development Department, Dublin City Council,  
Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8

T: (01) 222 2288  
E. [planningsubmissions@dublincity.ie](mailto:planningsubmissions@dublincity.ie)

Ms Mary Lou McDonald, Sinn Féin  
58, Fassuagh Avenue  
Cabra West  
Dublin 7

**IMPORTANT: Please retain this letter. You will be required to produce it should you wish to appeal the decision issued by the Planning Authority to An Bord Pleanála in relation to this development**

<b>PLAN NO.</b>	5432/22
<b>DATE RECEIVED:</b>	03-Aug-2023
<b>LOCATION :</b>	61, O'Connell Street Upper, Dublin 1
<b>PROPOSAL :</b>	<p>PROTECTED STRUCTURE: Permission at a site (c.0.02Ha), at No. 61 O'Connell Street Upper (a Protected Structure), including rear onto Henry Place, Dublin 1. The site is otherwise bound by No. 62 O'Connell Street Upper to the south, the east side of Henry Place to the west, the west side of O'Connell Street Upper to the east and No. 60 O'Connell Street Upper to the north.</p> <p>The proposed development comprises the conservation, repair, refurbishment and adaptive reuse of an existing commercial building (4 storey over basement) to include: - a 'licensed restaurant/cafe unit with takeaway/collection facility' (c.35 sq. m gfa) at ground floor level on O'Connell Street Upper and a 'licensed restaurant/ cafe unit with takeaway/collection facility' (c.10 sq. m gfa) at ground floor level on Henry Place; 3 no. 2 bed apartments from 1st to 3rd floor (1no. unit per storey); 1no. gym/leisure studio (c.172 sq. m gfa) at basement level; All associated and ancillary site development works, conservation, demolition, landscaping, temporary works, including: - the creation of a new pedestrian link through part of the ground floor connecting O'Connell Street Upper and Henry Place; bicycle (8no.) and bin storage to rear of No. 61 O'Connell Street Upper at ground floor level; building signage zones and retractable canopy.</p> <p>The application site is within the O'Connell Street Architectural Conservation Area.</p> <p>An Environmental Impact Assessment Report (EIAR) accompanies this application.</p>

**Note: Submissions/Observations may be made on line at:**

**<https://www.dublincity.ie/residential/planning/planning-applications/object-or-support-planning-application>**

**An Roinn Pleanála & Forbairt Maoine**, Bloc 4, Urlár 3,  
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

**Planning & Property Development Department**, Dublin City Council,  
Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8

T: (01) 222 2288  
E. [planningsubmissions@dublincity.ie](mailto:planningsubmissions@dublincity.ie)

To Whom It May Concern,

The Planning Authority wishes to acknowledge receipt of your **submission/observation** in connection with the above planning application. It should be noted that the Dublin City Council as the Planning Authority will consider this application strictly in accordance with the provisions of the Dublin City Development Plan. The contents of your submission/observation will be considered by the **Case Officer** during the assessment of the above application, and you will be notified of the decision in due course.

- All queries should be submitted to the e mail address shown above.
- Please note that a request for Further Information or Clarification of Further information is not a decision.
- **You will not be notified**, if Further Information or Clarification of Further information is requested by the Planning Authority.

Please also note that a weekly list of current planning applications and decisions is available for inspection at the planning public counter.

**Opening Hours 9 a.m. - 4.30 p.m. Monday to Friday (inclusive of lunchtime)**

A weekly list of planning applications and decisions is available for inspection at all Dublin City Council Libraries & on **Dublin City Council's website. [www.dublincity.ie](http://www.dublincity.ie)**.

Yours faithfully,

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**For ADMINISTRATIVE OFFICER**