

File With _____

SECTION 131 FORM

Appeal NO: ABP 318268-23Defer Re O/H ☐Having considered the contents of the submission dated/ received 15/11/2023
fromapplicant I recommend that section 131 of the Planning and Development Act, 2000
be not be invoked at this stage for the following reason(s): no new material planning
issues.E.O.: Lt ColleenDate: 21-11-2023

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached
submission

to: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 318268

M _____

Please treat correspondence received on 15/11/23 ^{-email} as follows:

- | | |
|---|---|
| <p>1. Update database with new agent for Applicant/Appellant _____</p> <p>2. Acknowledge with BP <u>20</u></p> <p>3. Keep copy of Board's Letter <input type="checkbox"/></p> | <p>1. RETURN TO SENDER with BP _____</p> <p>2. Keep Envelope: <input type="checkbox"/></p> <p>3. Keep Copy of Board's letter <input type="checkbox"/></p> |
|---|---|

Amendments/Comments

*applicant's response
to appeal*

4. Attach to file

- (a) R/S ☐ (d) Screening ☐
(b) GIS Processing ☐ (e) Inspectorate ☐
(c) Processing ☐

RETURN TO EO ☒

data C.

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <i>Rise D</i>	AA: <i>Gailay Carleton</i>
Date: <i>17/11/23</i>	Date: <i>17/11/23</i>

Mail Lawlor

From: Bord
Sent: Wednesday, November 15, 2023 3:52 PM
To: Appeals2
Subject: FW: Response to Third Party Appeal (ABP Ref.: ABP-318268-23 - DCC Reg. Ref. 5423/22)
Attachments: 21137 CL DCP No.61 O'CS_1P Response to 3P Appeal Final 15112023.pdf; 21137 DCP No. 61 O'CS_1P Response to 3P Appeals_Final 15112023.pdf

From: Naoise O'Connor <naoiseoconnor@sla-pdc.com>
Sent: Wednesday, November 15, 2023 2:41 PM
To: Appeals2 <appeals@pleanala.ie>
Cc: Bord <bord@pleanala.ie>; SLA Dublin Central <SLADublinCentral@sla-pdc.com>
Subject: Response to Third Party Appeal (ABP Ref.: ABP-318268-23 - DCC Reg. Ref. 5423/22)

Dear Sir, Madam,

We refer to your letters dated 19 October 2023 and 26 October 2023 in respect of appeal reference ABP-318268-23, inviting a written response from the First Party by 15 November 2023.

We have been instructed by our Client (the First Party), Dublin Central GP Limited, Riverside One, Sir John Rogerson's Quay, Docklands, Dublin 2, D02 X576, to make this formal written submission in response to the 2no. Third Party Appeals by:

- Mr. Micheál MacDonncha on behalf of the Moore Street Preservation Trust, Ireland Institute, The Pearse Centre, 27 Pearse Street, Dublin 2
- Mary Lou MacDonald, No. 58 Fassagh Avenue, Cabra West, Dublin 7.

Please find attached the Applicant's Cover Letter and Response Report to the Third Party Appeal, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants responding to the 2no. appeals together.

We trust this is in order, and would be grateful for acknowledgement of receipt of this email and submission on file.

All future correspondence relating to this appeal should be addressed to this office.

Kind Regards,

Naoise O'Connor
Assistant Planner
STEPHEN LITTLE & ASSOCIATES
Chartered Town Planners & Development Consultants
26/27 Upper Pembroke Street,
Dublin 2 D02 X361

t. 353-1-676 6507
e. naoiseoconnor@sla-pdc.com
w. www.sla-pdc.com/

[Call me on teams](#)
[Message me on teams](#)

The SLA team have embraced hybrid working and continue to engage with our clients and colleagues in the industry through this new arrangement.

We value our team and are seeking to maintain/improve an appropriate Work/Life balance. As such, whilst it may suit us to respond on occasion, please do not anticipate a response to your email outside of normal working hours as the norm.

To ensure the most efficient use of resources, attendance at meetings will continue using various digital formats, including Microsoft Teams and Zoom.

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The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

Our Ref. 21137

15 November 2023

RE: FIRST PARTY RESPONSE TO THIRD PARTY APPEAL

PLANNING APPLICATION FOR THE CONSERVATION, REPAIR, REFURBISHMENT AND ADAPTIVE REUSE OF AN EXISTING COMMERCIAL BUILDING, GENERALLY BOUND BY O'CONNELL STREET TO THE WEST, MOORE LANE TO THE WEST, HENRY PLACE TO THE SOUTH, AND THE NEW EAST/WEST STREET TO THE NORTH.

AN BORD PLEANÁLA REF: ABP-318268-23

DUBLIN CITY COUNCIL REG. REF: 5432/22

Dear Sir / Madam,

We, Stephen Little & Associates Chartered Town Planners & Development Consultants, 26 / 27 Upper Pembroke Street, Dublin 2, D02 X361 are instructed by our Client (the Applicant), Dublin Central GP Limited, Riverside One, Sir John Rogerson's Quay, Docklands, Dublin 2, D02 X576 to submit this First Party Response to Third Party Appeals by: -

- Michael Mac Donnacha on behalf of the Moore Street Preservation Trust, Ireland Institute, The Pearse Centre, No. 27 Pearse Street, Dublin 2.
- Mary Lou MacDonald, No. 58 Fassaugh Avenue, Cabra West, Dublin 7.

We trust the Board will have regard to this response to the Third Party Appeals when assessing the proposed development.

We confirm that we act for the Applicant in this instance and would ask that all future correspondence in this matter be directed to this office.

We would be grateful for written acknowledgement of this submission at your earliest convenience.

Yours faithfully,

Michael O'Sullivan,
Senior Planner
STEPHEN LITTLE & ASSOCIATES

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Planning
Report

Applicant's
Response to
Third Party
Appeals

Dublin Central
– No. 61
O'Connell
Street Upper

For Proposed
Refurbishment of
Existing Building for
Residential and
Commercial Use

At No. 61 O'Connell
Street Upper (a
Protected Structure –
Front Façade Only),
Dublin 1.

For Dublin Central GP
Limited

NOVEMBER 2023



Document Control: -

Author	Checked by	Purpose	Date
JC	NOC	Draft	10.11.2023
NOC	MO'S	Final Draft	10.11.2023
-	<i>Michael Sullin</i>	Final	14.11.2023

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1 INTRODUCTION

We, Stephen Little & Associates Chartered Town Planners & Development Consultants, 26 / 27 Upper Pembroke Street, Dublin 2, D02 X361 submit this First Party Response to Third Party Appeals to An Bord Pleanála. It is made on behalf of the Applicant, Dublin Central GP Limited, Riverside One, Sir John Rogerson's Quay, Docklands, Dublin 2, D02 X576.

The content of this Report responds to a letter from An Bord Pleanála, dated 19 October 2023 and 26 October 2023, inviting the Applicant to make a submission / observation in writing to the Board in relation to the following 2no. Third Party Appeals: -

- Michael Mac Donnacha on behalf of the Moore Street Preservation Trust, Ireland Institute, The Pearse Centre, No. 27 Pearse Street, Dublin 2.
- Mary Lou MacDonald, No. 58 Fassagh Avenue, Cabra West, Dublin 7.

We refer the Board to Section 5 of this Report where the relevant planning issues raised in these appeals are grouped together in planning themes and the Applicant's response provided. We wish to note that the content of the 2no. Third Party appeals are identical, as such one appeal response has been prepared to address both Third Party appeals.

The strategic importance of the application site and this development for Dublin City in general cannot be overemphasised. The Applicant acknowledges that undertaking regeneration projects of significant scale within dense urban settings are complex and challenging with a broad array of considerations and constraints to be dealt with. However, it remains steadfast in the belief that the proposed development (No. 61 O'Connell Street Upper) in conjunction with the wider vision of the Dublin Central Masterplan will see the sensitive, innovative and transformative rejuvenation of this area. The development area has been in critical need of regeneration for almost 26 years, first highlighted in the preparation of the O'Connell Street Integrated Area Plan in 1997.

Planning applications were made to Dublin City Council (DCC) for: -

- No. 61 O'Connell Street Upper (DCC Reg. 5432/22) – subject of this Third Party Appeal.
- Site 2 (DCC Reg. Ref. 5126/22) – subject of Third Party Appeals to be responded to separately.
- Site 3 (DCC Reg. Ref. 2861/21) – currently subject to First and Third Party appeal (ABP Ref. 312603).
- Site 4 (DCC Reg. Ref. 2862/21) – currently subject to First and Third Party appeal (ABP Ref. 312642).
- Site 5 (DCC Reg. Ref. 2863/21) – currently subject to First and Third Party appeal (ABP Ref. 313947).

A Masterplan for the entire Dublin Central site was prepared to provide the Planning Authority, prescribed bodies and the general public with an clear indication of the wider proposals for the area. The Masterplan is underpinned by the Dublin Central Masterplan Area Conservation Management Plan, prepared by Molloy & Associates Conservation Architects. As such, while separate planning applications have been made for individual sites within the Masterplan area, there is an obvious relationship between the sites.

DCC issued a notification of its decision to Grant Permission for the No. 61 O'Connell Street Upper proposal, on 27 September 2023, subject to 17no. conditions (DCC Reg. Ref. 5432/22 refers).

We respectfully submit that it is evident from the Planning Officer's Report that the issues raised in the Third Parties' submissions at application and Further Information stages (now appeals) were carefully considered, and that the Planning Authority has had due regard to these issues in making its decision. We do not consider that any new issues are now raised in the Third Party appeals which have not been appropriately assessed by DCC or which would merit a reversal of its decision by the Board.

We would respectfully request that the Board upholds the decision of DCC to grant permission for the No. 61 O'Connell Street Upper development, in order to allow this strategically important development to proceed.

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The Board will have access to the public planning file in this case. To avoid duplication, this Appeal Response Planning Report cross references to the relevant material already provided in the planning application file where necessary and appropriate, rather than repeating it.

Detailed background information relating to the proposed development and relevant to this Third Party Appeal Response, including site and development descriptions and planning policy context, is provided in the Planning Application Report submitted to DCC at application stage on the 13 December 2022 and as amended by Further Information on the 3 August 2023.

Details of the in-depth pre-planning consultation with DCC, in respect of the Dublin Central project and No. 61 proposal, are summarised in Section 5 of the Planning Application Report submitted with the application, and in Section 4 of our Further Information Planning Report, prepared respectively by this office.

2 SUMMARY OF RELEVANT BACKGROUND INFORMATION

For the convenience of the Board, this Section provides a brief summary of the relevant background information that sets the context for the Applicant's response to the Third Party Appeals in this case. The Board will also have regard to the Council Planner's Report for further context. Where particularly pertinent to the issue being discussed, we quote extracts from the Planner's Report, but otherwise trust that the Board will have full regard to the Council's planning assessment of the proposed development.

We trust that the Board will also have full regard to the entire and extensive suite of material lodged with the initial planning application for No. 61 O'Connell Street Upper, including the Environmental Impact Assessment Report (EIAR) and also the material lodged with the response to the Request for Further Information, including the Addendum to the EIAR. Whilst it is acknowledged that there is significant volumes of material in those submissions, it is not considered helpful to re-state much of that for a further time as we are very aware of the fact An Bord Pleanála will be considering this application in its entirety *de novo* and as a result will be reviewing all of this material in any event.

2.1 Site Location & Context

The application site measures c. 0.02 Ha and is generally bounded by O'Connell Street Upper to the east, Henry Place to the west, No. 62 O'Connell Street Upper to the south and No. 60 O'Connell Street Upper to the north.

The site is located within the O'Connell Street & Environs Architectural Conservation Area (ACA). No. 61 O'Connell Street Upper has a protected front façade (RPS Ref. 6029) and is listed in the Record of Protected Structures contained in the Development Plan. Furthermore, the application site lies within a designated Architectural Conservation Area (ACA) and some of the existing buildings are of historic interest.

O'Connell Street has been identified in several policy documents as a major street of national importance, which has the potential to become the premier street in the state. O'Connell Street suffers, however, from a predominance of unsuitable land uses, which militate against the achievement of this objective. This issue has been identified by the O'Connell Street Strategic Planning Control Scheme.

No. 61 O'Connell Street Upper is a four-storey building, fronting onto O'Connell Street Upper. It is currently occupied by a restaurant at Basement and ground floor, with kitchen at level and uses ancillary to the restaurant above (offices and staff changing).

It is acknowledged that Henry Place played a significant role as part of the 'evacuation route' from the GPO during the Rising. The Irish Heritage Trust has been appointed by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport, and Media to undertake the scoping exercise for the commemoration of the 'evacuation route'. Part of the Irish Heritage Trust's task is to engage with relevant stakeholders. It is, therefore, not considered appropriate for the Applicant to put forward definitive proposals for an 'evacuation trail' until such time that the Irish Heritage Trust has completed its work. The Landscape Masterplan identifies high level / indicative proposals for a historic / commemorative trail within the Masterplan area. The proposed development has been designed sensitively to respect this history and avoid any prejudice to such future proposals.

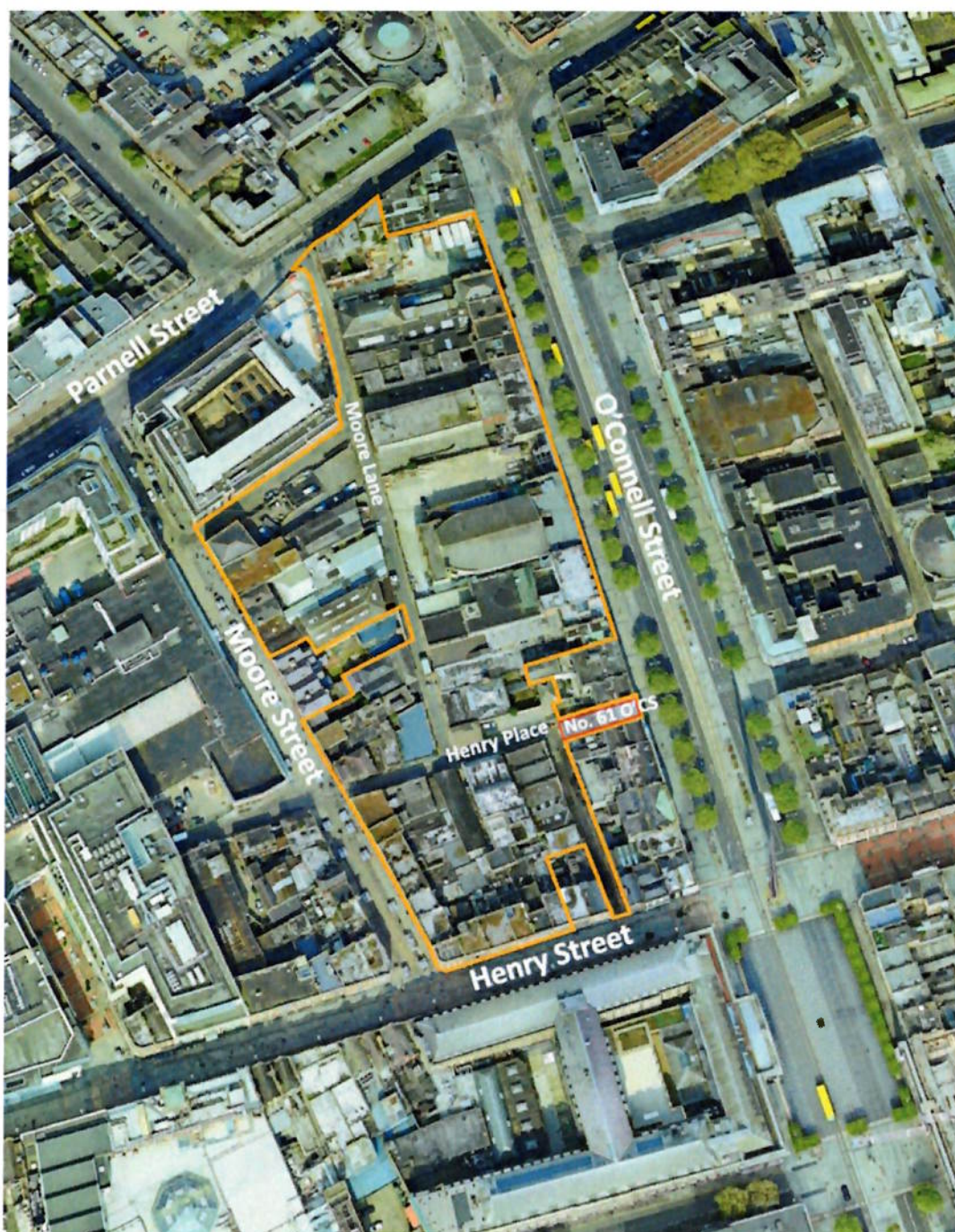


Figure 1: Extract from Google Earth indicating the application site outlined in red and wider Masterplan area in orange (indicative overlay by SLA). Please refer to Architects Drawings for definitive site boundaries including associated offsite construction and infrastructural works.

2.1.1 Dublin Central Masterplan Area

No. 61 O'Connell Street Upper forms part of the wider envisaged Dublin Central Masterplan ("the Masterplan"), the latter extending to c. 2.2 Ha. The Masterplan almost entirely encompasses three urban blocks, bounded generally by O'Connell Street Upper and Henry Place to the east, Henry Street to the south, Moore Street to the west, and O' Rahilly Parade and Parnell Street to the north. Moore Lane extends south from Parnell Street through the centre of the Masterplan, as far as its junction with Henry Place.

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The Applicant's rationale for making multiple applications for the component parts of Dublin Central have been set out in the Planning Application Report prepared by Stephen Little & Associates which accompanied the planning application.

2.2 Land Use Zoning

Under the Dublin City Development Plan 2022 – 2028 ("the Development Plan"), as may be seen from the zoning map extract below, the site is subject to the zoning objective, "Z5 – City Centre", in common with much of the city centre area in the immediate vicinity of the application site. The land use objective for the Z5 zoning seeks: -

"To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity."



Figure 2: Extract from Map E of the Dublin City Development Plan 2022 – 2028 with No. 61 O'Connell Street Upper outlined in red and the Masterplan outlines in purple. Please refer to Architects Drawings for definitive site outlines including offsite work for facilitate construction activities and infrastructural works.

2.3 Strategic Planning Policy Context

The proposed development has been designed, and subsequently approved by the Planning Authority, in full accordance with the relevant strategic and statutory planning policy context.

We refer the Board to the Planning Report, prepared by this Stephen Little & Associates, included with the planning application.

2.4 Proposed Development

The proposed development comprises the conservation, repair, refurbishment, and adaptive reuse of an existing unoccupied 4 storey over basement commercial building to include: -

- A licensed restaurant / café unit with takeaway / collection facility unit (c. 35 sq. m gfa) at ground floor level on O'Connell Street Upper and a licensed restaurant / café unit with takeaway / collection facility unit (c. 10 sq. m gfa) at ground floor level on Henry Place.
- 3no. 2bed 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 covered passageway 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 at ground floor level.
- Building signage zones and retractable canopy.

2.4.1 Summary of Amendments to the Proposed Development at Further Information Stage (3 August 2023)

For the convenience of the Board, the following summarises the proposed amendments made by the Applicant in response to the Further Information Request: -

- Reconfiguration of the apartment units to expose historic chimney breast as well as universal access requirements.
- Proposed use at basement changes from gym / leisure studio to ancillary residential storage area.
- Proposed use of kiosk onto Henry Place changes from 'licensed restaurant / café units with takeaway / collection facility' to retail use with options for use as shop.
- Clarification design detail for gates to that the proposed new controlled passageway is a controlled access (i.e. will be gated at each end to allow for closure at night., Prospective tenants (residential and commercial) will have fob access to the controlled passageway, to enable access during times when the gate is closed to the general public. Estate Management responsible for gate management.)
- Minor associated adjustment to elevations.

For the avoidance of doubt, no changes were required to the water services (foul, surface water and water supply) or landscaping arising from the request for Further Information.

2.4.2 Decision of Dublin City Council to Grant Conditional Permission (27 September 2023)

No conditions requesting design amendments were included by DCC in granting Planning Permission for the proposed development.

2.5 Planning Application & Further Information Response Material

We trust that the Board will note from the extent of material / assessment at planning application and Further Information stages, that considerable time and effort was expended by the Applicant to develop a suitable and sustainable development for the site. This involved a complex interdisciplinary design approach involving the Applicant's core Design Team and other external experts. The strategic importance of the development site was therefore clearly appreciated by the Design Team from the very outset and through the application stages.

3 RESPONSE TO GROUNDS OF APPEAL

The Applicant has gone to great length to ensure that a comprehensive planning and environmental assessment of the proposal was provided to DCC, demonstrating how the proposed development is compliant with the relevant statutory planning policy and the proper planning and development of the area. We are pleased to note from the Council's Planner Report, dated the 15 February 2023, Further Information Report, dated 25 September 2023, and the Council's favourable decision dated 29 September 2023, that the Planning Authority is satisfied that this is the case.

We would highlight that the concerns raised in Third Party submissions, and repeated in their appeals to the Board, have been either addressed in the initial assessment of the Planning Authority, or in certain instances formed the basis of its Further Information request. Ultimately the Planning Authority was satisfied, when making its assessment and determination, that all issues raised were satisfactorily resolved. We would respectfully submit that no new issues are now brought to the Board in the Third Party Appeals.

Notwithstanding, in making this response to the Board, we have sought to identify all of the grounds of appeal, raised in the 2no. Third Party Appeals, under the common themes identified below. We then provide our response to these issues. Having carefully reviewed the content of the 2no. Third Party Appeals, our summary interpretation of the main grounds of appeal to relate to the following topics: -

- Conservation / Protected Structures.
- National Monument.
- Design, Scale & Layout.
- Response to Further Information.
- Climate Change.
- Archaeological Impact.
- Planning Process (multiple planning application, scale model, other matters).

We proceed to provide the Applicant's response to the Third Party grounds of appeal in the next sections.

3.1 Request for an Oral Hearing

Before addressing the planning matters raised in the grounds of appeal, we acknowledge that the 2no. Appellants have also sought an Oral Hearing of this application.

In response to this point we note that the absolute discretion to hold an Oral Hearing rests entirely with the Board.

Notwithstanding this, in the event that the Board consider an Oral Hearing would assist them in their understanding of the issues at hand, the Applicant would be happy to assist the Board in that regard.

3.2 Conservation / Protected Structures

The Appellants have raised concerns regarding the approach to conservation and built heritage. The main concerns raised relate to: -

- No. 61 O'Connell Street Upper is located in the vicinity of the Protected Structures at Nos. 43, 44, 52-54, 57 and 58 O'Connell Street Upper.
- The creation of an arched passageway through a Protected Structure is unnecessary and difficult to manage due to gateway access.
- The historic context / special setting of the area has not been taken into consideration.
- The extent of demolition and the loss of built heritage.

3.2.1 Conservation Approach / Protected Structure

From the outset, we would highlight that the Applicant, Dublin Central GP Limited, has employed the expertise of a wide ranging design team, including significant input from conservation specialists, Molloy & Associates Conservation Architects¹. The Dublin Central project has been the subject of extensive new conservation research and analysis by Molloy & Associates Conservation Architects. This has informed the approach to both the Masterplan by way of Conservation Management Plan and the No. 61 O'Connell Street Upper proposal. The research and analysis by Molloy & Associates Conservation Architects of the buildings and setting of No. 61 O'Connell Street Upper has been extensive and has informed its Architectural Heritage Impact Assessment and the EIAR.

The proposal for No. 61 O'Connell Street Upper was informed by the forensic analysis of selected masonry by Dr. Jason Bolton which suggested the survival of early 18th Century fabric within the already modified structure. This led the Design Team to seek the retention of the structure rather than retention of the protected façade only and providing for the adaptive reuse providing for 'residential over shop use'. This has been fully welcomed by the Planning Authority.

We refer the Board to the 'Response to Architectural Heritage Concerns' Report, prepared by Molloy & Associates Conservation Architects, which accompanied the Further Information submission.

Molloy & Associates Conservation Architects, as the authors of EIAR Chapter 15: Cultural Heritage (Architectural) and the Architectural Heritage Impact Assessment, confirm that the architectural heritage assessment of the existing building and effect of the proposed development does not require a re-evaluation on foot of the listing of No. 61 O'Connell Street Upper (front façade of existing building) on the Record of Protected Structure, or having regard to the proposed changes at Further Information stage.

The same assessment and findings as contained in EIAR Chapter 15 and the Architectural Heritage Impact Assessment stand. For avoidance of doubt, Chapter 15: Cultural Heritage (Architectural) and the Architectural Heritage Impact Assessment was resubmitted at Further Information Stage with updates reflecting the changed protected structure status of No.61 O'Connell Street Upper to include its front façade. We note the changes made to the chapter do not materially influence the opinion expressed in either document as submitted in September 2022. The content of these assessments includes: -

Architectural Heritage Impact Assessment

- Introduction.
- Historic Context: Outline Chronological Account of the Development of the buildings & Environs.
- Statement of Significance.
- Development Description.
- Conservation Strategy.
- Approach to Proposed Development & Associated Impacts.

¹ Archive and field research / recording and documentation carried out by Rob Goodbody BA(Mod), DipEP, DipABRC, MA, MUBC, MIPI and Sunni Goodson BA, Msc Conservation of Historic Buildings, HNC Interior Design.

Historic Urban Landscape Assessment by Dr. John Olley BEng, PhD.

Forensic Archaeology comprising the analysis of mortar and masonry by Dr. Jason Bolton MA, MIAI, PhD

Findings collated and opinions provided by Conservation Architects: -

Maol Íosa Molloy B.Arch., BSc.Arch., MUBC, Dip.Arb., MRAI, RIBA, MCI.Arb., Grade 1 Conservation Architect.

Michael O'Boyle B.Arch., MUBC, FRIAI, Grade 1 Conservation Architect.

Shelley O'Donovan B.Arch., PGDip., MRAI, RIBA accredited Conservation Architect, Grade 2 Conservation Architect.

- Conservation Methodologies.
- Summary.
- Bibliography.
- Appendices.
 - **61.A:** Dublin Central Masterplan Area Conservation Management Plan.
 - A1 Archaeology and Cultural Heritage (Courtney Deery).
 - A2 Summary Building Inventory, Description and Assessment.
 - A3 Historic Urban Landscape Assessment (Dr. John Olley).
 - A4 The Urban Battlefield.
 - A5 Building Materials Analysis Report Sites 3, 4, 5 Volume 1 (Dr. Jason Bolton).
 - A6 Building Materials Analysis Report Sites 1, 2 Volume 2 (Dr. Jason Bolton).
 - **61.B:** Building Inventory, Record and Description for No.61 O'Connell Street Upper.
 - **61.C:** Outline Schedule of Proposed Works to Retained Fabric – No.61 O'Connell Street Upper.
 - **61.D:** Chronology drawings of No.61 O'Connell Street Upper.

EIAR Chapter 15: Cultural Heritage (Architectural)

- Assessment of the potential impact on architectural heritage for the Masterplan and No.61 O'Connell Street Upper and cumulative development as appropriate.

No. 61 O'Connell Street Upper has a protected front façade (RPS Ref. No. 6029). It is the Applicant's intention to retain the existing structure as far as practically possible, and use this structure to inform the building's new uses. Generally, the request for Further Information issued by DCC sought clarification on the works proposed to the protected façade and further detail as to whether additional historic fabric could be identified.

Detailed visual examination and measured surveys were undertaken at Further Information Stage. It was noted that the building has been extensively modernised and any further historic fabric uncovered is anticipated to be limited to brickwork, flat plaster linings and potentially timber joists. These elements, while of interest, are of limited heritage significance. In any event, it is intended to retain and conserve these elements in situ, if found, adjusting the design as required, to accommodate or present their retention. Intrusive investigations were not possible as the property is in use as a restaurant (Flanagan's Bar and Restaurant).

Based on the visual inspections carried out by Molloy & Associates Conservation Architects it was confirmed that every surface within the intensely occupied building is lined out, making physical examination of the fabric of the building impossible. Molloy & Associates Conservation Architects confirm that a detailed survey can only commence when the tenant is removed and late 20th Century partitions, wall, ceiling and floor linings removed. To carry out the survey (estimated approx. 10 months required – inclusive of seeking all relevant consents), the building would need to be fully vacated which will reduce activity on O'Connell Street further prior to permission being implemented. As such, it is more reasonable to wait until project commencement to carry out the detailed study and refresh an informed retention / repair strategy in close liaison with DCC Conservation Section when findings can be effectively absorbed within an active construction project. This is standard practice when carrying out the sensitive repair and refurbishment of a sensitive building. Removing an active use ahead of construction programme, prolongs building vacancy, an effect all parties are intent on avoiding as far as practically possible.

DCC accepted this wholly reasonable position. In the Council's Further Information Report it was noted that: -

"The response received is considered reasonable in terms of the inability to undertake invasive physical analysis given the restaurant operating at the site and in the event of a grant of permission a suitably worded condition can be applied to ensure the retention of any surviving historic fabric."

It is respectfully submitted that the No. 61 O'Connell Street Upper development, is a fully justified and elaborated proposal which meets all the requirements of the proper and sustainable planning of the area include adherence to architectural conservation principles.

We refer the Board to the following reports that accompanied the planning application and the Request for Further Information and which are important in understanding how No. 61 O'Connell Street Upper has been conceived, considered and further refined in order to ensure that it will make a positive contribution to the architectural and civic design quality in this context: -

- Architects Design Statement, prepared by RKD Architects, provides an in-depth analysis of the site and surrounding historic and existing context, which has informed the architectural design of No. 61 O'Connell Street Upper.
- Architects Design Statement – Further Information Response, prepared by RKD Architects, provides detailed visual examination and measured surveys undertaken. The building has been extensively modernised and any further historic fabric uncovered is anticipated to be limited to brickwork, flat plaster linings and potentially timber joints. These elements while of interest are of limited heritage significance. In any event, it is intended to retain and conserve these elements in situ, if found, adjusting the design as required, to accommodate or present their retention.
- Conservation Plan and Architectural Heritage Impact Assessment, prepared by Molloy & Associates Conservation Architects, which respectively describe the existing built environment at No. 61 and consider the impact of the proposed building on the architectural heritage and setting of the site and its surroundings.
- EIAR Chapter 15: Cultural Heritage (Architectural), prepared by Molloy & Associates Conservation Architects.

Overall, the Planning Authority considers that the proposed development is appropriate in its context and generally concludes that: -

"Overall the further information received has addressed the previous concerns raised. The Planning Authority welcomes the refurbishment and adaptive reuse use of No. 61 O'Connell Street Upper including the provision of residential use on the upper floors of this protected structure which is highly supported by the Planning Authority."

Additionally, Condition 4 of the Notification of Grant of Planning Permission sets out the requirements of the DCC Conservation Section which will ensure that any additional historic fabric, should it be identified, can be appropriately considered and integrated into the scheme is practically possible prior to commencement of any works. The Applicant would welcome the same or similar condition being attached to a grant of permission by An Bord Pleanála.

3.2.2 New Passageway

The Appellants argue that the creation of a new passageway will negatively impact on the protected front façade and is generally considered unnecessary.

We refer the board to the 'Response to Architectural Heritage Concerns' Report, prepared by Molloy & Associates Conservation Architects which was submitted as part of the response to the request for Further Information. This notes that a detailed review of the shopfront found it wholly comprises of late 20th Century fabric, with no traces of any earlier fabric visible at planning stage.

In the Council's Planners Report the following is stated: -

"Regarding the passageway, the Planning Authority acknowledge the significant alteration and intervention that has already occurred at ground floor. It is considered that while the alterations required to facilitate the passageway will result in further intervention and loss of historic fabric, the works must be considered in the round, including the wider benefits of the masterplan particularly its objective of improving permeability and public realm through this area of the city, which will fulfil a key objective of

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SDRA 10, "To plan for improved connectivity and public amenity while utilising existing assets in the area." The positive benefit it will have on the secondary streets which are presently uninviting and underutilised cannot be understated.

In terms of the shopfront, given the protection which includes the entire "front façade" provided under the new plan, the Applicant should be requested to investigate further and determine if historic fabric is present. This can be clarified by way of further information."

In the Conservation Section Further Information Report, dated 18 September 2023 it is stated that: -

"A record drawing of the existing materials to the shopfront, together with a written description accompanied by photographs has been provided, demonstrating that there is little historic fabric of note surviving within the current later twentieth-century shopfront. It is therefore accepted by the CO that insufficient physical evidence survives to incorporate within the proposed new shopfront."

As such, it has been clearly demonstrated through the diligent research and investigation by Molloy & Associates Conservation Architects and the co-ordinated sensitive design approach by RKD Architects that the interventions to the façade of No. 61 O'Connell Street Upper have been carefully considered and appropriate in the context of the Protected Structure.

The only other minor concern which was raised by the Planning Authority at planning application stage related to control and access to the passageway. This was then dealt with a Further Information stage. In response to this item it was stated that access to the passageway will be controlled by means of security gates both as the O'Connell Street and Henry Place and with night-time access only for the residents of the 3no. apartments located at the upper floors. This was deemed acceptable by the Planning Authority.

It should be noted that the passageway will form a direct link with the foyer of the hotel at Henry Place proposed in Site 3 (DCC Reg. Ref. 2861/21 – now subject to appeal to An Bord Pleanála – ABP Ref. ABP-312603-22) to ensure footfall is generated in this area. It also links well with the 'Reading Room' to the rear of Nos. 59 – 60 O'Connell Street Upper which forms part of the proposals within Site 2. As such it is a crucial element to the overall access and movement of the Dublin Central Masterplan.

3.3 National Monument & Ministerial Consent

The Appellants raise concerns regarding works in proximity to the National Monument. Furthermore, these appeals highlight that Ministerial Consent was not included as part of the planning for alleged 'alterations and interference' to the National Monument.

The National Monument is located at Nos. 14 – 17 Moore Street. The National Monument is **not within** the No. 61 O'Connell Street Upper application site.

As set out in the Planning Application Report (Section 6.4), prepared by Stephen Little & Associates, it is acknowledged in that, in line with the provisions of the National Monuments Act, 1930 (as amended), any development that alters the National Monument, or disturbs the ground around or in proximity to it, will require the appropriate Ministerial Consent under Section 14 of that legislation.

Ministerial Consent is a separate process and will be entered into prior to any works to or in proximity to the National Monument. Again, for the avoidance of doubt, no work are proposed to or adjacent the National Monument.

Notwithstanding, consideration has been given to the protection of the National Monument during the construction phase of No. 61 O'Connell Street Upper as set out in the Outline Construction & Demolition Management Plan – Masterplan, prepared by Waterman Moylan Consulting Engineers in this respect and have been assessed and considered in the EIAR.

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Extent of the National Monument

Nos. 14 – 17 Moore Street is a National Monument in State ownership and care, which is subject to a preservation order (PO) made under the National Monuments Acts 1930 to 2014 (PO No. 1/2007). In addition to this designation, it is also listed in the Record of Monuments and Places (RMP DU018-390) and in the Record of Protected Structures in the Development Plan (RPS Nos. 5282 – 5285).

The Appellants assert that Henry Place satisfies the criteria set down by the High Court and Court of Appeal for protection as a National Monument.

The High Court had defined the extent of the National Monument as encompassing the battlefield beyond No. 14 – 17 Moore Street (Moore v. Minister for Arts, Heritage and the Gaeltacht [2016] IEHC 150). However, it should be duly noted that the Court of Appeal subsequently set aside the High Court ruling, finding that it was not within the jurisdiction of the courts to designate a National Monument (Moore v. Minister for Arts, Heritage and the Gaeltacht [2018] IECA 28, pars. 46-49 and 61-65).

As such, the extent of the National Monument is as set out under PO No. 1/2007 (See Figure 3 below). We reiterate that the National Monument is **not within** the No. 61 O'Connell Street Upper application site.



Figure 3: Delineation of the National Monument (Nos. 14 – 17 Moore Street in a red outline) including proximity zone (blue hatch) under the existing Ministerial Consent (C392).

3.4 Design, Scale & Layout

The Appellants have raised concerns that the overall design, scale and layout of the proposed Dublin Central Masterplan is out of scale, with the existing development locally, at Moore Lane, O'Rahilly Parade and Moore Street, and comprises over-development of the area.

We respectfully submit that while the Dublin Central Masterplan provide the contextualisation of the proposed development (No. 61 O'Connell Street Upper) within the wider vision for the regeneration of the urban block it is not the subject of this assessment by the Planning Authority.

The proposed development at No. 61 O'Connell Street Upper seeks the refurbishment of the existing 4 storey building over basement, within the context of an overarching Dublin Central Masterplan. There is no change to the height or scale of the existing building. At the rear of the property onto Henry Place the residential services / kiosk structure is a single storey which is consistent with the current context.

In the Conservation Section Report, dated 1 February 2023 it is stated that: -

"The proposed refurbishment and reuse of No. 61 O'Connell Street, including the introduction of residential accommodation to the upper floors is welcomed by the CO and supported in principle. The retention of this significant structure and the appropriate reuse of the upper floors is considered highly positive within the O'Connell Street ACA, and in keeping with the policies of the Dublin City Development Plan 2022-2028 (BHA2, BHA7, BHA9, BHA11)."

Overall, the Planning Authority welcomed the refurbishment and reuse of No. 61 O'Connell Street Upper and generally considered the proposal in-keeping with the O'Connell Street Upper frontage.

3.5 Comprehensive Response to Further Information

The Appellants set out that the Applicant has not addressed all of the concerns raised by the Planning Authority as part of the Further Information request. The Third Party appeals state that: -

"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 a decision without having access to all the information requested."

As set out in Section 3.2.1 above, the Conservation Section and Planning Department were generally satisfied with the response to the Further Information request regarding the protected façade / potential additional historic fabric. The restrictions placed on carrying out invasive investigation works as a result of the existing tenant were acknowledged by the Planning Authority. Our Client refutes that simply by owning the property gives them the ability to seek a cessation of the current operators business to carry out such works – the Applicants lease agreement (nor any agreement of this nature) with the current operator could not cater for such eventualities.

Notwithstanding, Condition 4 of the Notification of Grant of Planning Permission sets out the requirements of the DCC Conservation Section which will ensure that any additional historic fabric, should it be identified, can be appropriately considered and integrated into the scheme is practically possible prior to commencement of any works. The Applicant would welcome the same or similar condition being attached to a grant of permission by An Bord Pleanála.

3.5.1 Kiosk Viability on Henry Place

The Appellants further state that the Applicants response to DCC's request for Further Information concerning the new passageway was *"a mishmash of possibilities and suggestions and did not address any of the Council's concerns"*. The Appellants go on to state that the proposed *"unseen café and kiosk located in a new passageway off O'Connell Street Upper, which will be periodically locked"* is an unviable plan which *"will interfere with and redraw the streetscape and geography of Henry Place"*.

In respect of the viability of the commercial units, we refer to the Board to the Report prepared by Bannon Property Consultants, which confirms that both units are commercially viable in respect of the uses proposed, and are sufficiently adaptable to host a range of potential future commercial tenants. One of the key functions of the unit facing onto Henry Street is to provide activation of the street. The Council's Further Information Report states that *"the information submitted is adequate and has satisfactorily addressed the initial concerns raised."*

We refute the assertion that the streetscape and geography of Henry Place will be 'redrawn'. It is submitted that the additional connectivity within the O'Connell Street ACA will improve level of activity and generally encourage more footfall through the area creating more attractive spaces to live, visit etc. While changes are proposed to the rear elevation of No. 61 O'Connell Street Upper on Henry Place these are considered significant improvements to the general disposition of the street which is currently as side street lacking in passive overlooking / activity. A modestly scaled pedestrian link will generate much-needed interaction between O'Connell Street and Henry Place and it is not intended to interrupt the sense of containment at the bend in Henry Place. The new passageway is not intended to detract from the 1916 Evacuation Route, with the benefits outweighing the maintenance of the current condition.

Overall, the proposed kiosk and introduction of the passageway will provide an improve level of activity and generally encourage more footfall through the area. This has been welcomed by the Planning Authority.

3.5.2 Historic Building Survey

As part of the request for Further Information a Historic Building Survey was sought. It was noted in the response to the request for Further Information that an Historic Building Survey will occur following the removal of all 20th Century linings and fitouts. We refer to Section 3.2.1 above also for further discussion in relation to the building survey.

The Archaeology Section reviewed the response and while acknowledging that the investigation works could not be carried out stated that: -

"Given the applicants inability to carry out the work as FI this office recommends that a condition for the historic building survey to be carried out should be attached to any planning permission granted in order that this early fabric be as fully recorded as possible prior to the proposed interventions."

Condition 8(a) of the Notification of Grant of Planning Permission sets out the requirements of the DCC Archaeology Section which will ensure that any additional historic fabric, should it be identified, can be appropriately considered and integrated into the scheme is practically possible prior to commencement of any works. The Applicant would welcome the same or similar condition being attached to a grant of permission by An Bord Pleanála.

3.6 Climate Change

The Appellants state that on the one hand DCC is encouraging Developers to retrofit rather than demolish in a bid to reduce carbon emissions while also alleging that at the same time DCC are meeting, encouraging and agreeing project details with a Developer who is doing the exact opposite on a number of prime historic city centres, such as in this case.

No. 61 O'Connell Street Upper seeks the he conservation, repair, refurbishment and adaptive reuse of an existing commercial building (4 storey over basement). This is supported by the Planning Authority as evidenced in their assessment and subsequent grant of planning permission.

Furthermore, the proposal is also in line with National Policy Objective 35 of the National Planning Framework – Ireland 2040 which seeks to: -

National Policy Objective 35

"Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights."

3.7 Archaeology

The Appellants state that as the overall lands owned by the Applicant lie partially within the protected Zone of Archaeological Potential (ZAP) for Dublin, a full archaeological dig should take place across all sites including this application at No. 61 O'Connell Street Upper.

We refer the Board to the Archaeological Desktop Study and EIAR Chapter 16: Cultural Heritage (Archaeological), prepared by Courtney Deery Heritage Consultancy. The Report generally concludes that there will no impact on archaeological heritage.

The Archaeology Section Report, dated 18 September 2023 states that: -

"There is potential for subsurface archaeological material to survive in situ beneath the current basement. This was identified by the Archaeological Assessment submitted as part of the initial application documents. It is thus recommended that a condition of archaeological testing also be applied to any grant of permission for this application."

As such, Condition 8 of the Notification of Grant of Permission by DCC will ensure the appropriate archaeological resolution of No. 61 O'Connell Street Upper.

3.8 Planning Procedure (Multiple Planning Application, Scale Model)

The Appellants object to the development on grounds of procedural issues during the planning application process. We address these appeals as follows.

3.8.1 Multiple Planning Applications

The Appellants raise concerns that the submission of multiple planning application concurrently has been confusing and makes it difficult to interpret the full scale of the combined projects.

The Planning & Development Act 2000 (as amended) does not preclude an Applicant from submitting more than one planning application at one time. It is not uncommon practice. The Applicant has been fully transparent with its future proposals within the wider masterplan area. It has submitted an EIAR and Appropriate Assessment Screening, amongst other assessments, with the planning application that considers the individual and cumulative / in-combination effects of the project.

The Applicant has been forthright with the rationale for taking the approach of submitting separate planning applications for the individual sites within the Dublin Central Masterplan. This was comprehensively explained in the Planning Application Report, prepared by Stephen Little and Associates, the Dublin Central Masterplan Design Statement, prepared by ACME Architects and other similar Masterplan reports / documents which accompanied the planning application. The Key factors are: -

- Phasing and construction constraints.
- Viability – The ability to secure planning for individual blocks allows maximum flexibility to adapt funding streams if required. It also means changes in the market can be more readily absorbed if one phase were to be delayed for any unforeseen reasons (including any prolonging of the current pandemic, or other delays outside the Applicant's control).
- The ongoing discussions between the Applicant and Transport Infrastructure Ireland (TII) regarding TII proposals to deliver a proposed Metrolink Station in the area below ground in Site 2AB and Site 2C which will necessitate Metro Enabling Works (MEW) to be undertaken by the Applicant.

Being able to progress the development in individual stages within the Masterplan area means that the risk of delay on one site can be absorbed and progress can be made on other elements that can proceed independently.

The planning application was received and validated by the Planning Authority in accordance with the requirements of the Planning and Development Act 2000 (as amended) and associated Planning and Development Regulations 2001 (as amended).

3.8.2 Provision of a Scale Model

The Appellants argue that no scale model has been provided and suggest this is a deliberate omission by the Applicant.

We would highlight that the Planning & Development Act 2000, as amended nor the Planning & Development Regulations 2001, as amended do not include a requirement to submit a scale model as part of a planning application. Furthermore, a scale model was not requested at Further Information stage.

The scale model produced for Dublin Central Site 2 (as requested at Further Information stage under DCC Reg. Ref. 5126/22 – ABP Ref. ABP-318316-23) included the proposal for No. 61 O'Connell Street Upper within the wider context of the Masterplan (lefthand side of Figure 4 below).



Figure 4: Image of the 3D Model prepared for Site 2 request for Further Informaiton, prepared by Presentation Models.

Notwithstanding, we would generally note that No. 61 O'Connell Street Upper forms part of the existing streetscape and no changes are proposed to the mass or height of the main building. Changes are proposed the rear of the building but these changes are not of such an extent that the changes could not be easily interpreted from the architectural drawings, prepared by RKD Architects.

3.8.3 Other Matters

The Appellant has raised a number of other items. These can be summarised as follows:-

- Comments made by the An Taoiseach, Micheál Martin (at the time) in a press release made in June 2021 welcoming the potential redevelopment of the Dublin Central land.
- Compensation process for Market Traders and involvement of the Department of Housing, Local Government & Heritage.

We note the additional matters raised by the Appellants. However, we submit that the above listed items are not planning matters, and in particular are not relevant to the proper planning and sustainable development of the area, and as such will not be addressed in this appeal response.

4 ASSESSMENT OF THE PROPOSED DEVELOPMENT BY DUBLIN CITY COUNCIL

From the Council Planner's Report and the formal request for Further Information we interpret that the Planning Authority is generally satisfied that the following aspects of the proposed scheme have been appropriately resolved by the Applicant and its design team: -

- The Proposed Development complies with the Land Use Zoning on site.
- The provision of residential use on the upper floors of this protected structure is "*highly supported by the Planning Authority*". It is noted by the Planning Authority that the development will support the principle of bringing of upper floors into active use, reducing vacancy and rehabilitating and reusing existing older buildings, in accordance with the overall objective of the Scheme of Special Planning Control. This proposal is therefore welcome and supported.
- The Planning Authority acknowledges that the proposed new shopfront and "*the contemporary design is considered to be a marked improvement to the existing situation*".
- The Further Information Response was adequately addressed and conditions attached where necessary.
- The conservation department also raised no concerns with the Further Information as requested and recommended a grant of permission with conditions.

5 CONCLUSION

The proposed development has been carefully conceived, having regard to the statutory planning context, to the specific context and character of the site and to the potential development at the surrounding regeneration areas.

The proposal currently before the Board has been the subject of in-depth assessment by both the Applicant and DCC.

Both the Applicant and DCC concur that the proposed development successfully provides for the rejuvenation of Dublin City centre.

We do not consider that the Third Party Appeals raise any significant planning issues, new or otherwise, that the Applicant and the Planning Authority have not already comprehensively dealt with through the planning application and Further Information process.

It remains our opinion that the proposed development is compliant with the Government and DCC policy guidance on strategic regeneration development in city centre locations. This includes the policies, objectives and design standards for mixed-use development in close proximity to several public transport nodes, to cater for a recognised demand for residential, retail, retail service, hotel and cultural uses.

We would continue to maintain that the proposed development represents a well-considered design and layout that responds appropriately to context and is sympathetic to historic context and the ACA, neighbouring protected structures in terms building height, form and materials. No significant adverse planning impacts or long term environmental effects are predicted arising from the proposed development. Overall, it remains our opinion that the proposed development, as amended, is generally considered to display the following positive planning attributes: -

- Is consistent with National, Regional and City Council policy to promote compact mixed use development at well connected, integrated city centre locations
- Is consistent with Z5 land use zoning, delivering a vibrant sustainable mixed-use regeneration at a highly accessible, brownfield site in the city centre, while also making a positive architectural contribution in the context of the surrounding conservation area and neighbouring protected structures.
- The design approach achieves optimum use of an underutilised site, which has its own inherent constraints. The proposal will contribute to the reinvigoration of this neglected part of the city centre through the creation of a dynamic, high-density mixed-use development.
- Enhances site permeability and pedestrian comfort and safety with the introduction of a new north south passageway, to ensure the success of the Dublin Central scheme and the surrounding shopping streets.
- The café / restaurant use will ensure that activity is maintained during the day and into the evening / night-time. This will in turn support the local economy in terms of local spending and generation of jobs.
- Is representative of well-considered, high quality architectural design, expression, and materiality, which will add vibrancy, visual and architectural interest in views from surrounding streets, in both summer and winter conditions.
- A sensitive design approach is employed to the conservation and adaption for reuse of this building to provide for café / restaurant and residential use and street permeability, balanced with the reasonable protection of the architectural and civic character of the building (front façade listed on the RPS) and surrounding area, in accordance with the objectives of the current Development Plan and the proper planning and development of the area.
- The site is exceptionally well served by high frequency, high capacity bus and rail services. This ensure that No. 61 O'Connell Street Upper is entirely suitable for the provision of both residential and café / restaurant uses.

- Makes adequate provision for bicycle parking and block permeability to enhance opportunities for pedestrian and cycle connectivity.
- No. 61 O'Connell Street Upper, including the Masterplan, has been subject of comprehensive design and environmental assessment, Appropriate Assessment Screening and an Environmental Impact Assessment Report, to ensure that it is representative of sustainable mixed-use development that meets the needs of existing and future generations.

We request that correspondence relating to this appeal be addressed to this office.

STEPHEN LITTLE & ASSOCIATES

15 November 2023

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