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Amendments/Comments
<u>1st party response to 2x3rd party appeals</u>

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EO: <u>Litz Clell</u>	AA: <u>Cathy Carleton</u>
Date: <u>28-11-23</u>	Date: <u>29/11/23</u>

From: Naoise O'Connor <naiseoconnor@sla-pdc.com>
Sent: Tuesday 21 November 2023 14:49
To: Appeals2
Cc: Bord; SLA Dublin Central
Subject: Response to Third Party Appeal (ABP Ref.: ABP-318316-23 - DCC Reg. Ref. 5126/22)
Attachments: 21074 CL DCP Site 2 O'CS_1P Response to 3P Appeal Final 21112023.pdf; 21074 DCP Site 2 O'CS_1P Response to 3P Appeals_Final 21112023.pdf

Dear Sir, Madam,

We refer to your letters dated 25 October 2023 in respect of appeal reference ABP-318316-23, inviting a written response from the First Party by 21 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
- Stephen Troy on behalf of Troy's Butchers, Moore Street, Dublin 1.

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

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

Our Ref. 21074

21 November 2023

RE: FIRST PARTY RESPONSE TO THIRD PARTY APPEAL

PLANNING APPLICATION FOR THE CONSERVATION, REPAIR, REFURBISHMENT AND ADAPTIVE REUSE OF FORMER CINEMA AND EXISTING CONVENIENCE SHOPS, FAST FOOD OUTLETS, PUBLIC HOUSE, RESTAURANTS, AN AMUSEMENT ARCADE, OFFICES, CASINOS, FINANCIAL INSTITUTIONS, AND SEVERAL RETAIL OUTLETS WHICH VARY FROM 2 – 5 STOREYS, GENERALLY BOUND 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. THE DEVELOPMENT COMPRISES 6NO. UNITS FOR USE OF A MIXED-USE SCHEME 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).

AN BORD PLEANÁLA REF: ABP-318316-23

DUBLIN CITY COUNCIL REG. REF: 5126/22

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.
- Stephen Troy on behalf of Troy's Butchers, Moore Street, Dublin 1.

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

Planning Report

Applicant's Response to Third Party Appeals

Dublin Central – Site 2

For Development
Comprising Office,
Retail, Restaurant /
Café Uses and All
Associated Ancillary
Site Development
Works.

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

For Dublin Central GP
Limited

NOVEMBER 2023

Document Control: -

Author	Checked by	Pu rpose	Date
JC	MO'S	Draft	14.11.2023
-	MO'S	Final Draft	15.11.2023
NOC	<i>Michael Sulli</i>	Final	21.11.2023

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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 25 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.
- Stephen Troy on behalf of Troy's Butchers, Moore Street, Dublin 1.

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.

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 (Dublin Central Site 2 at Nos. 43 – 58 O'Connell Street Upper, and Nos. 13 and 14 Moore Lane) 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: -

- Site 2 (DCC Reg. Ref. 5126/22 – subject of these Third Party Appeals and a First Party Appeal (ABP Ref. ABP-318316-23).
- Site No. 61 O'Connell Street Upper (DCC Reg. 5432/22) – currently subject to Third Party appeal (ABP Ref. ABP-318268-23).
- Site 3 (DCC Reg. Ref. 2861/21) – currently subject to First and Third Party appeal (ABP Ref. ABP-312603-22).
- Site 4 (DCC Reg. Ref. 2862/21) – currently subject to First and Third Party appeal (ABP Ref. ABP-312642-22).
- Site 5 (DCC Reg. Ref. 2863/21) – currently subject to First and Third Party appeal (ABP Ref. ABP-313947-22).

A Masterplan for the entire Dublin Central site was prepared to provide the Planning Authority, prescribed bodies and the general public with a 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. An architectural model was submitted to Dublin City Council, providing further information on the Site 2 proposal in the context of the Dublin Central Masterplan.

DCC issued a notification of its decision to Grant Permission for the Site 2 proposal, on 3 October 2023, subject to 19no. conditions.

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 Dublin City Council to grant permission for the Site 2 development, with a duration of 11 years, in order to allow this strategically important development to proceed.

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 26 October 2022 and as amended by Further Information on the 28 July 2023.

Details of the in-depth pre-planning consultation with DCC, in respect of the Dublin Central project and Site 2 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 Site 2 at Nos. 43 – 58 O'Connell Street Upper, and Nos. 13 and 14 Moore Lane, 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

Site 2 is generally bounded by Henry Place and No. 59 O'Connell Street Upper to the south, Moore Lane to the west, O'Connell Street Upper to the east and No. 42 O'Connell Street Upper (Protected Structure) to the north. Site 2 includes the following existing properties: -

- Nos. 43 – 58 O'Connell Street Upper inclusive.
- The rear of Nos. 59 – 60 O'Connell Street Upper (including 60A O'Connell Street Upper).
- Nos. 13 and No. 14 Moore Lane (also known as Nos. 1 – 3 O'Rahilly Parade and Nos. 14 – 15 Moore Lane or Nos. 1 – 8 O'Rahilly Parade and Nos. 14 – 15 Moore Lane).

It also includes the public realm associated with O'Rahilly Parade, Moore Lane, Henry Place, and a portion of O'Connell Street Upper.

The following buildings on Site 2 are listed as 'Protected Structures' in the Record of Protected Structures contained in the Dublin City Development Plan 2022 – 2028 (hereafter the Development Plan): -

- No. 43 O'Connell Street Upper (front façade).
- No. 44 O'Connell Street Upper (front façade).
- Nos. 52 – 54 O'Connell Street Upper (former Carlton Cinema, upper floor façade).
- No. 57 O'Connell Street Upper (front façade).
- No. 58 O'Connell Street Upper (front façade).

Regarding the protected structures within Site 2, it may be noted that the formal protection extends to the upper floor facades only.

Lying outside Site 2, No. 42 O'Connell Street Upper remains as the last surviving Georgian house of what was Sackville Mall. It abuts the northern site boundary. No. 60 O'Connell Street Upper (upper floor façade) is protected. However, Site 2 only extends to the rear of Nos. 59 – 60 O'Connell Street Upper.

Site 2 is situated within a designated Architectural Conservation Area (ACA). Some of the existing buildings are of historic interest, notwithstanding whether they are listed as protected structures.



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.

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 Scheme of Special Planning Control (2022).

Site 2 is currently occupied by existing buildings which vary from two to five storeys generally. Several buildings and lots are now unoccupied, but existing and former uses on the site fronting onto O'Connell Street Upper include / included former cinema, convenience shops, fast food outlets, public house, restaurants, an amusement arcade, offices, casinos, financial institutions and several retail outlets. The upper floors appear to be or were predominantly used as office space or for storage.

On the Moore Lane side of Site 2 the scale of the neighbouring properties vary significantly. On the northern end is the recently completed Point A Hotel (9 storeys) and the Jurys Hotel (6 storeys). Towards the southern end of Moore Lane the scale reduces, predominately made up of empty plots and an incoherent collection of sheds, store rooms and warehouses of one and two storeys.

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.

2.1.1 Dublin Central Masterplan Area

Site 2 at Nos. 43 – 58 O'Connell Street Upper, and Nos. 13 and 14 Moore Lane 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.

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, as may be seen from the zoning map extract below, the site is subject to the zoning objective, "Z5 – 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."

Site 2 comprises proposed office, retail, café / restaurant and community (arising from the request for Further Information) uses, which are all permissible in principle under the Z5 zoning.

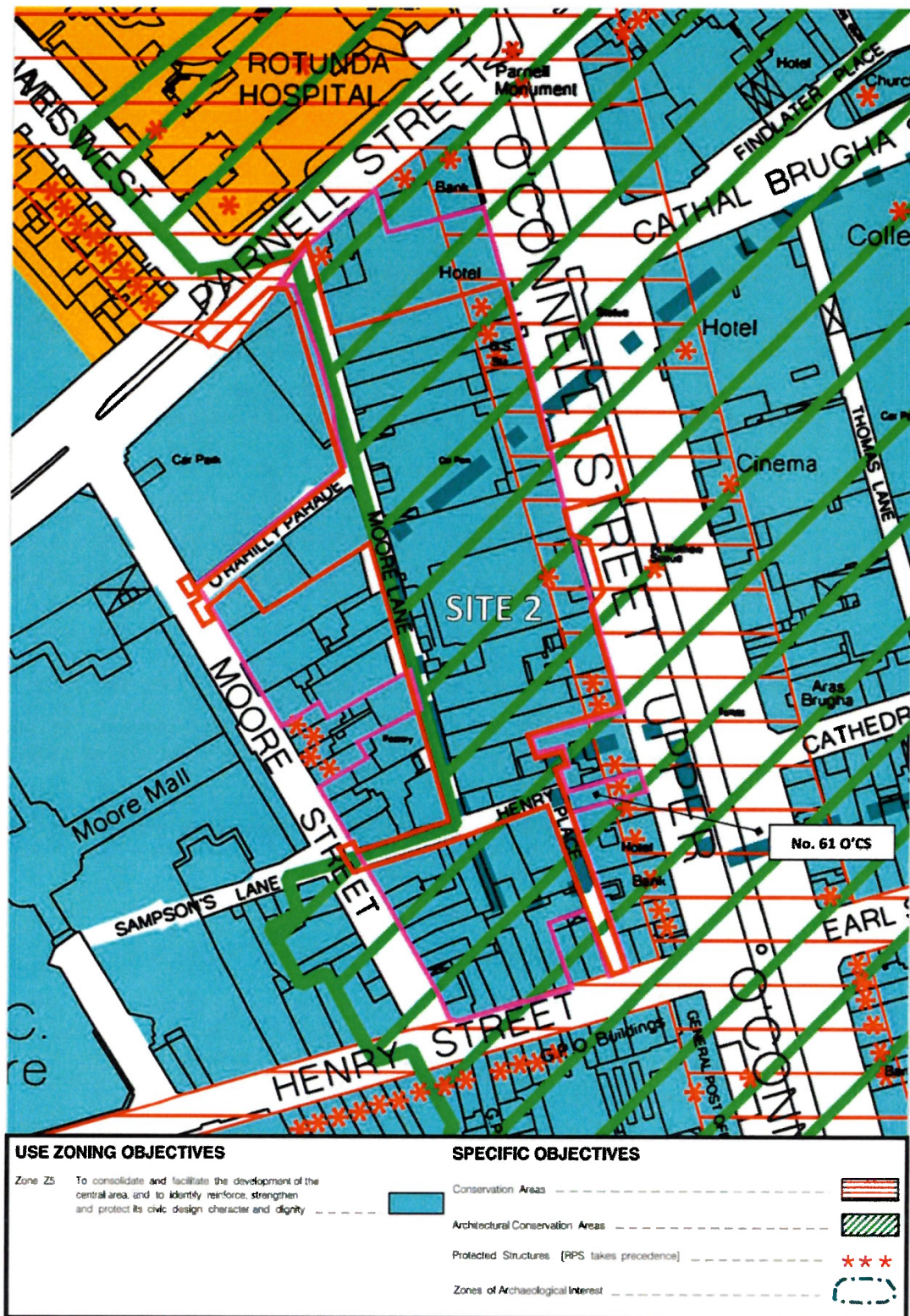


Figure 2: Extract from Map E of the Dublin City Development Plan 2022 – 2028 with Site 2 Site 2 at Nos. 43 – 58 O'Connell Street Upper, and Nos. 13 and 14 Moore Lane outlined in red and the Masterplan outlines in purple. Please refer to Architects Drawings for definitive site outlines including offsite 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 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 proposed development accommodates:-

- 6no. units for use as a 'licensed restaurant / café units with takeaway / collection facility' at ground floor level (Unit 1 – c. 67 sq. m and Unit 2 – c. 244 sq. m on Moore Lane, Unit 3 – c. 178 sq. m and Unit 4 – c. 75 sq. m on O'Connell Street Upper, Unit 5 – c. 58 sq. m on New Street and Unit 6 – c. 296 sq. m on Moore Lane and New Street).
- 1no. unit for use as a licensed restaurant / café with takeaway / collection facility' across basement, ground, 1st, and 2nd floor (c. 878 sq. m) on O'Connell Street Upper.
- 8no. retail units, each for use as a 'shop' or 'licensed restaurant / café units with takeaway / collection facility' at ground floor level (Unit 1 – c. 1,041 sq. m on O'Connell Street Upper and New Street, Unit 4 – c. 452 sq. m on New Street, Units 5 – c. 251 sq. m on Moore Lane, Unit 6 – c. 162 sq. m and Units 7 – c. 58 sq. m on O'Connell Street Upper and Unit 8 – c. 40 sq. m as a delivery hub, pending the completion of same at Site 5 under DCC Reg. Ref. 2863/21;
- Office use (c. 33,714 sq. m) from 1st to 7th floor with access from O'Connell Street Upper, rear of No. 59 O'Connell Street Upper and new plaza on Henry Place and new controlled Laneway. Terrace proposed at 1st, 3rd, 4th, 6th and 7th floor are proposed'.
- Refurbished of the 'Reading Room' (rear of No. 59 O'Connell Street Upper, Dublin 1) as 'licensed restaurant / café units with takeaway / collection facility' at ground floor level and ancillary café use at basement level (c. 244 sq. m in total).
- The single level basement comprises: -
 - Access ramp from Moore Lane.
 - 32no. car parking space.
 - 372no. bicycle parking spaces with access to secure bicycle storage areas from the new plaza on Henry Place and the new controlled laneway from Moore Lane.
 - Plant and waste storage areas.
- A structural box (120m length, 26m width, 34.5m depth) beneath the ground floor level that has been designed to accommodate the independent construction and operation of the planned O'Connell Street Metrolink Station by Transport Infrastructure Ireland, including provision of the structural envelope and co-ordinated voids to accommodate station entrances, ventilation, and fire escape shafts through this part of the Dublin Central proposed development. These Metrolink Enabling Works (MEW) ensure that the Dublin Central proposed development is structurally independent of, and not prejudicial to, the Metrolink project. This application does not include any request for permission for railway works, the use of railway works or the operation of a railway. The Metrolink project will be the subject of a separate application for Railway Order to be made by TII. In the event that Metrolink project is delayed or does not proceed, the Dublin Central proposed development can be completed, occupied and used regardless. The Dublin Central proposed development is not dependent on the Metrolink project in any way, whether functionally or otherwise. The Metrolink project is not, therefore, part of the project the subject of a separate application for approval to be made by Transport

Infrastructure Ireland. This part of the Dublin Central proposed development is referred to as the Metrolink Enabling Works.

- All associated and ancillary site development and landscape works, conservation, demolition, landscaping, temporary works, including; -
 - Conservation, repair, refurbishment, and adaptive reuse of part of the existing building fabric, including: -
 - Retention of part of the rear of No. 59 O'Connell Street Upper (known as the 'Reading Room') internal and external modifications and new shopfronts.
 - Retention of the facades of Nos. 57 – 58 O'Connell Street Upper (Protected Structures).
 - Retention of the facades of Nos. 52 – 54 O'Connell Street Upper (Carlton Cinema – Protected Structures) including the reinstatement of the canopies.
 - Retention of the facades of Nos. 43 – 44 O'Connell Street Upper (Protected Structures).
 - Retention of the façade of No. 45 O'Connell Street Upper.
 - Works to include repair and upgrade works (where required) of retained masonry, external and internal joinery, plasterwork and features of significance.
 - Conservation and repair of existing lightwells on O'Connell Street Upper.
 - Demolition of all other existing buildings and structures on site (c. 22,521 sq. m) including No. 13 Moore Lane and No. 14 Moore Lane (otherwise known as Nos. 1 – 3 O'Rahilly Parade and Nos. 14 – 15 Moore Lane or Nos. 1 – 8 O'Rahilly Parade and Nos. 14 – 15 Moore Lane) to facilitate a temporary construction compound.
 - Laying of services in Parnell Street westwards from Moore Lane for approximately 49 metres.
 - Improvement works to the public realm on O'Rahilly Parade, Moore Lane, Henry Place, including the provision of a new entrance off O'Connell Street Upper for deliveries / emergency access. There are also adjustments and improvement works proposed at the junctions of Moore Street with Henry Place and with O'Rahilly Parade.
 - Creation of a new street connecting O'Connell Street Upper with Moore Lane and provision of a new plaza at the junction of Moore Lane and Henry Place.
 - 3no. telecommunication lattice towers which can accommodate 3no. 800mm antenna and 2no. 300mm microwave link dishes with associated equipment on the rooftop of Block 2C.
 - 2no. ESB sub-stations.
 - Building signage zones and retractable canopies.

2.4.1 Summary of Amendments to the Proposed Development at Further Information Stage (28 July 2023)

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

Site 2AB

- Localised reconfiguration of the basement to include additional bicycle parking and welfare facilities.
- Replacement of bicycle ramp from ground floor (to the rear of the Reading Room) with bicycle stairs and bicycle lift and subsequent increase to adjoining Retail Unit No. 4 (222 sq. m GFA).

- Re-design of elements of the façade including the Carlton Canopy, entrance to Retail Unit No. 2 and re-design of the set-back levels (4th & 5th Floors) above the Carlton Canopy and onto part of the New Street between O'Connell Street Upper and Moore Lane.

Site 2C

- Localised reconfiguration of the basement to include additional bicycle parking and welfare facilities resulting in the omission of 5no. car parking spaces (27no. now proposed).
- Reconfiguration of rooftop plant area and associated re-design of upper floors and associated façades alterations.
- Omission of retail unit from the controlled laneway and Moore Lane to be replaced with community / arts / cultural space entrance lobby.
- Introduction of a community / arts / cultural space (480 sq. m GFA) at 1st Floor Level onto Moore Lane.

For the avoidance of doubt, no changes were required to the wastewater / water supply or landscaping arising from the request for Further Information.

2.4.2 Decision of Dublin City Council to Grant Conditional Permission (3 October 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 Planners Report, dated the 13 December 2022, its Further Information Report, dated 3 October 2023, and the Council's favourable decision dated 3 October 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 & Ministerial Consent.
- Design, Density, Scale & Layout.
- Climate Change.
- Construction / Traffic Management.
- Archaeology.
- Impact on Traders.
- Sunlight Analysis.
- Planning Procedure.
- 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 Moore Street Preservation Trust 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 Appellant Moore Street Conservation Trust has raised concerns regarding the approach to conservation and built heritage. The main concerns raised relate to: -

- The site is located within the O'Connell Street Architectural Conservation Area and impacts on the National Monument at Nos. 14 – 17 Moore Street. .

- Proposed building works to take place on or in the vicinity of the Protected Structures at Nos. 43, 44, 52 – 54, 57 and 58 O'Connell Street Upper.
- The creation of the new street will have a detrimental impact on the Protected Structures.
- While the facades of 43 – 45 O'Connell Street Upper are retained, the new stone façade proposed between No. 45 and the proposed new street is inappropriate.

3.2.1 Conservation Approach / Demolition

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 Site 2 O'Connell Street Upper proposal. The research and analysis by Molloy & Associates Conservation Architects of the buildings and setting of Site 2 O'Connell Street Upper has been extensive and has informed its Architectural Heritage Impact Assessment and the Environmental Impact Assessment Report (EIAR). 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 and Associated Impacts
- Conservation Methodologies
- Summary.
- Bibliography.
- Appendices.
 - **3.1:** Outline Construction & Demolition Management Plan - Masterplan.
 - **3.2:** Outline Construction & Demolition Management Plan Site 2.

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.

- **3.3:** Outline Construction & Demolition Management Plan – No. 61 O'Connell Street Upper.
- **6.1:** Protected Sites for Nature Conservation in the vicinity of the proposed Development and the Masterplan.
- **6.2:** Desk Study Flora and Fauna Records.
- **6.3:** Examples of Valuing Importance Ecological Features.
- **6.4:** Potential Roost Feature (PRF) Photos from Building Inspections (Masterplan).
- **7.1:** Environmental Assessment (Site Investigation).
- **8.1:** Irish Water Confirmation of Feasibility.
- **9.1:** Ambient Air Quality Standards.
- **9.2:** Dust Management Plan.
- **11.1:** Glossary of Acoustic Terminology.
- **11.2:** Air Quality Monitoring and Noise Control Unit's Good Practice Guide for Construction and Demolition.
- **12.1:** Landscape & Visual Impacts Assessments – Photomontages.
- **14.1:** Resource & Waste Management Plan.
- **14.2:** Operational Waste Management Plan.
- **15.1:** Dublin Central Masterplan Conservation Management Plan.
- **15.2:** Chronology Drawings.
- **15.3:** 43 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.4:** 44 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.5:** 45 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.6:** 46 – 49 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.7:** 50 – 51 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.8:** 52 – 54 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.9:** 55 – 56 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.10:** 57 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.11:** 58 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.12:** 59 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.13:** 60A, 60B, 60C O'Connell Street Upper; Building Inventory, Record and Description.
- **15.14:** 61 O'Connell Street Upper; Building Inventory, Record and Description.
- **15.15:** Outline Schedule of Proposed Works to Retained Fabric.
- **15.6:** Impact Assessment – Public Realm.
- **16.1:** Summary of National Monuments Legislation.

EIAR Chapter 15: Cultural Heritage (Architectural)

- Assessment of the potential impact on architectural heritage for the Masterplan and Site 2 and cumulative development as appropriate.

Site 2 comprises the conservation, refurbishment, repair and adaption of existing protected and non-protected structures including: -

- Retention of part of the rear of No. 59 O'Connell Street Upper (known as the 'Reading Room') internal and external modifications and new shopfronts.
- Retention of the facades of Nos. 57 – 58 O'Connell Street Upper (Protected Structures).
- Retention of the facades of Nos. 52 – 54 O'Connell Street Upper (Carlton Cinema – Protected Structures) including the reinstatement of the canopies.
- Retention of the facades of Nos. 43 – 44 O'Connell Street Upper (Protected Structures).
- Retention of the facade of No. 45 O'Connell Street Upper.
- Works to include repair and upgrade works (where required) of retained masonry, external and internal joinery, plasterwork and features of significance.
- Conservation and repair of existing lightwells on O'Connell Street Upper.

The Conservation Section, express their regret at the level of demolition and loss of existing plot delineation within the urban block and acknowledge that the Applicant has provided a comprehensive record and assessment of the architectural fabric and significance of all standing buildings within the subject site. The Conservation Section welcome the proposed repair and refurbishment of the Protected Facades and a number of other selected remnants of architectural heritage within the new development. Ultimately, the Conservation Section recommended grant of permission subject to condition.

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

"Site 2 will improve permeability, visual connections and accessibility through the delivery of a welcome new street space, a public plaza at the corner of Henry Place and Moore Lane, a Pocket Square at the Reading Room and a number of courtyard spaces throughout the development."

Condition 5 of the Notification of Grant of Planning Permission sets out the requirements of the DCC Conservation Section relating to the protection of original fabric, character and integrity of the Protected Structures 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.

It is absolutely appreciated that the subject site is historically sensitive and we trust An Bord Pleanála can readily determine this to be the case from the content of the material provided by the Applicant and their team in relation to this matter. However, it is also our firm conviction that the proposed development strikes a reasonable and appropriate balance between the need to respond positively to the architectural built and cultural heritage, whilst also delivering implementable urban renewal at this strategic city centre site. The proposed development, having regard to expert conservation advice, makes reasonable provision for the appropriate and practicable integration of historic building fabric and street pattern, in accordance with the governmental guidance and statue in relation to conservation.

3.2.2 O'Connell Street ACA

A comprehensive assessment of the impact on the proposed development on the ACA was submitted with the planning application. This included an assessment of the building height of the proposed development within the context of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

The Planning Application was accompanied by Landscape and Visual Impact Assessment (EIAR Chapter 12: Landscape & Visual Impact Assessment), prepared by ARC Architectural Consultants. At planning application stage it was considered that overall the landscape and visual effects likely to arise from the existence of the development proposed on Sites 2AB and 2C are assessed as being 'moderate' to 'significant', reducing to 'slight' in extent at locations that are at some distance for the proposed development. It is not visible in the more remote views included in the LVIA photomontages.

Site 2 has been underutilised, upper floors unused and some of the existing buildings and structures becoming increasingly dilapidated for some years. The urban renewal and increased intensity of mixed use, activity and vibrancy, facilitated by the proposed redevelopment at this scale, in the city centre and proximate to existing and planned public transport, should give rise to largely positive urban landscape and visual effects.

Arising from the request for Further Information a revised set of photomontages showing the revised design of the proposed development. ARC Architectural Consultants noted in the updated Chapter that while there are changes in the detail of the architectural expression of parts of the proposed development in response to Item 2 of the request for Further Information, particularly at high level, the overall volume of the proposed development has not changed greatly and that, therefore, the extent of visibility from the photomontage view locations has not changed materially either. It was also noted that there has been little change in the visual sensitivity of the surrounding receiving environment and its consequent capacity to absorb development. As such, there is no change in the extent of landscape and visual effects from that tabulated in Chapter 12: Landscape & Visual Impact Assessment of the EIAR lodged with the planning application of October 2022.

It is respectfully submitted that the Site 2 development, is a fully justified and elaborated proposal which meets all of the requirements of the proper and sustainable planning of the area include adherence to architectural conservation principles.

3.2.3 Impact on Laneways

We refer the Board to the Architectural Heritage Impact Assessment, prepared by Molloy & Associates Conservation Architects which outlines the following in relation to the existing laneways: -

"Fabric, patterns and legibility of historic streets and laneways will be protected within the redeveloped scheme.

A detailed survey of all historic street surfaces, setts, flagstones, kerbstones, gutters and coalholes has been undertaken. Where fabric is to be lifted to facilitate the construction of the proposed development, it will be subsequently re-laid, with quantum of surviving reusable fabric identified for reinstatement in the most historically significant sections of laneways, as identified in architectural landscaping proposals.

All street surface salvage and reinstatement works will be executed in accordance with methodologies set out by the design team archaeologist, with further input from this office required on recording and assessment of historic substrates to inform an appropriate approach to respectful reinstatement. Where deficiency of salvaged material occurs, supplementation will be provided using authentic material salvaged from elsewhere, where considered appropriate to complete paving compositions.

The remainder of historic street forms will be surfaced with architecturally compatible material.

The surface treatment of newly created public spaces will differ from that of the approach to historic areas, and will be finished with subtly differentiated materials to ensure visual unity between all public areas."

The Conservation Section, note with regard the laneways that: -

"It is recognised that one of the key aspirations of the Masterplan Overall Design is to seek to create a number of new public spaces and laneways to increase the connectivity between O'Connell Street and Henry Street and the smaller existing streets and lanes including Moore Street, Henry's Place and Moore Lane. However, whilst the proposal to introduce a new lease of life and animation into the subject area is welcomed and supported by the COs, there is potential for the erosion and loss of the character and scale of the existing urban blocks and connections resulting in the loss of a sense of enclosure and modest, human scale, if the interventions are excessive."

The Conservation Section ultimately recommended a grant of permission seeking some additional modification to junction of Moore Lane and Henry Place (Condition 5(ix) of the Notification of Grant of Permission by DCC) to identify a means of retaining the sense of enclosure at this junction, which is intrinsic to the historic significance of the laneway.

We refer the Board to the following reports that accompanied the planning application and Further Information stage which are important in understanding how Site 2 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: -

- Architectural Design Statements, prepared by ACME / RKD Architects and Grafton Architects (provided with the planning application and as part of the response to Further Information), provides an in-depth analysis of the site and surrounding historic and existing context, which has informed the architectural design of Site 2.
- Conservation Plan and Architectural Heritage Impact Assessment, prepared by Molloy & Associates Conservation Architects, which respectively describe the existing built environment at Site 2 and consider the impact of the proposed building on the architectural heritage and setting of the site and its surroundings.
- Site 2 Architectural Conservation Further Information Response, prepared by Molloy & Associates Conservation Architects as part of the response to Further Information.
- Updated Architectural Heritage Impact Assessment, prepared by Molloy & Associates Conservation Architects as part of the response to Further Information.
- Updated EIAR Chapter 15: Cultural Heritage (Architectural), prepared by Molloy & Associates Conservation Architects as part of the response to Further Information.
- Updated EIAR Chapter 12: Landscape and Visual Impact Assessment, prepared by ARC Architectural Consultants as part of the response to Further Information, which includes a visual impact assessment of Site 2, having regard to the pattern of change and to the existing historic and urban landscape that characterises the site location.

3.3 National Monument & Ministerial Consent

The Moore Street Preservation Trust raise concerns regarding works in proximity to the National Monument. Furthermore, the appeal highlight that Ministerial Consent was not included as part of the planning for alleged 'alterations and interference' to the National Monument.

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 adjacent the National Monument. Again, for the avoidance of doubt, no work are proposed to the National Monument as part of the Site 2 proposal.

Consideration has been given to the protection of the National Monument during the works being carried out adjacent to it. Detail of the protection measures are set out in the Site 2 Outline Construction & Demolition Management Plan, prepared by Waterman Moylan Consulting Engineers in this respect and have been assessed and considered in the EIAR.

Prior to demolition of any existing buildings, an external survey control system is to be established around the site, including all protected structures, retained buildings, retained facades and the National Monument. This will be carried out using traditional closed traverse surveying techniques and will involve the setting up of sufficient external control stations to allow monitoring of the neighbouring structures during and after demolition.

We respectfully submit that no works are proposed to or adjacent the National Monument as part of the proposed redevelopment of Site 2. All necessary measures to protect the National Monument during the construction phase of Site 2, including demolition and enabling works, will be implemented. As such, no adverse impacts are anticipated to the integrity of the National Monument.

3.3.1 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 Dublin City Development Plan 2022 – 2028 (RPS Nos. 5282 – 5285).

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). The works donated in blue in Figure 3 below, in proximity to the National Monument, do not form part of this planning application.

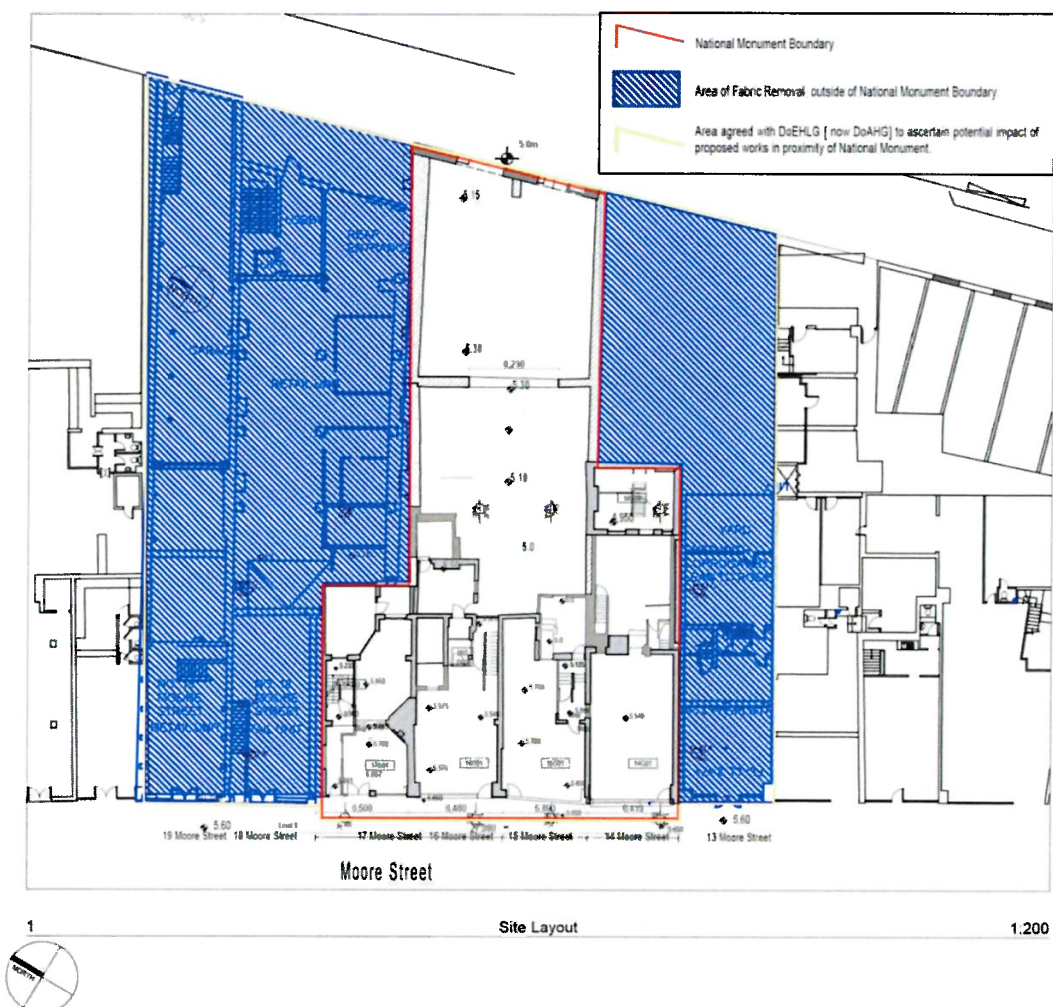


Figure 3: Delineation of the National Monument (Nos. 14 – 17 Moore Street in a red outline) including proximity zone (blue hatch) under the existing Ministerial Consent (C392).

3.4 Design, Density, Scale & Layout

The Moore Street Preservation Trust has raised concerns in relation to the design, scale and layout of the proposed development is out of context, in particular in the context of the National Monument (Nos. 14 – 17 Moore Street).

Concern was raised by the Conservation Officer regarding the height and massing of the proposed development as part of Site 2. However, the Planning Officer states the following: -

"Site 2's suitability for buildings exceeding 28m has been fully considered in light of the Building Heights Guidelines 2018 as described above. The provision of buildings exceeding 28 metres in this area of the city would generally be considered appropriate in accordance with said Guidelines.

In some areas as described above, certain revisions and reductions will be required given localised sensitivities in this location, which can be made by way of an additional information request."

On foot of the request for Further Information, revisions were made to the scheme along the O'Connell Street Upper façade and to the upper levels of tallest element of Site 2C. Notwithstanding the commentary provided by the Conservation Section regarding the proposed scale and height, the Planning Officer, on review of the response to Further Information states that: -

"The Conservation Section's comments are noted. The Planning Authority consider the proposed amendments appropriate and are generally satisfied with the amendments made to the higher elements which reduce the visual and overbearing impact of the development."

We refer the Board to the Architectural Design Statement, prepared by Grafton and ACME & RKD Architects submitted at planning application stage, which provides a clear illustration and description of the design context and evolution of Site 2. It covers the topics of building form, height and massing, architectural expression and materiality, amongst other detailed design matters. Furthermore, comprehensive landscaping proposal is set out in the Dublin Central Site 2 Landscape Planning Report and Drawings, prepared by GrossMax Landscape Architects, which accompanied the application.

We also refer the Board to the Further Information Architectural Design Statement, prepared by prepared by Grafton and ACME & RKD Architect, which sets out comprehensive design response to the concerns raised by the Planning Authority in respect to building height and treatment of the O'Connell Street elevation.

We respectfully submit that the design, scale and layout of Site 2 respectfully responds to the site characteristics and context, and will make an significant positive contribution to the rejuvenation of this area of O'Connell Street Upper, Moore Lane and Henry Place.

3.5 Climate Change

The Moore Street preservation Trust raise concerns regarding the extent of demolition and obligations to reduce carbon emissions and climate change.

The planning application was accompanied by a comprehensive EIAR. Chapter 9: Climate (Air Quality & Climate Change), prepared by Awn Consulting assessment the potential impacts as they relate to climate change. The Planning Authority was satisfied that *"based on the information submitted, the issue of air quality and climate consideration appears to have been adequately addressed by the applicant and no significant adverse effect is likely to arise."*

It is noted that a key climate mitigation action for all new development relates to the need to reduce energy demand, to increase energy efficiency and to provide renewable energy on-site if possible. We refer the Board to the Dublin Central – Site 2 Energy & Sustainability Statement, prepared by BDP M&E Consulting Engineers which accompanied the planning application. The proposal contained in the BDP Report align with the requirements set out in Policy CA5 Climate Mitigation and Adaptation in Strategic Growth Areas, of the Development Plan which seeks to: -

"To ensure that all new development including in Strategic Development and Regeneration Areas integrate appropriate climate mitigation and adaptation measures. See also Section 15.4.3. Sustainability and Climate Action and Section 15.7.3 Climate Action and Energy Statement."

Furthermore, the energy efficiency measures to be adapted in the proposed development will assist in achieving the target set out in the Climate Action Plan 2023 to reduce carbon emissions within the built environment.

3.6 Construction / Traffic Management

The Appellants objects to the development on grounds relating to construction and traffic management, we address this as follows: -

3.6.1 Duration of Permission

The Appellants object to the duration of the permission granted for the proposed development.

The Planning Authority considered that a Planning Permission duration of 11 years is reasonable in this instance: -

“While there will be a significant excavation area over a long number of years and given the constraints explained in the documentation submitted, in particular the MEW, it is considered reasonable that a duration of 11 years be sought, in this instance.”

Condition 1 of the notification of decision to grant of permission requires compliance with the plans and particulars, including anything adequately stated in the site notice. It should be noted that the 11 year permission was adequately and expressly stated on the statutory notices and was supported in multiple reports included with the application. As there was no Condition attached to the notification of decision to grant of permission dated 3 October 2023 that dealt with the duration of permission, and considering the positive assessment from the Planning Authority in relation to duration of permission and the application explicitly stating that Permission was sought for a duration of 11 years at this site, we are satisfied that the notification of decision to grant permission in this case is for a period of 11 years.

Notwithstanding, the Applicant submitted a First Party Appeal inviting the Board to attach a Condition to the ultimate permission confirming the duration of permission is 11 years for the avoidance of doubt.

3.6.2 Noise, Vibration & Dust

We refer the Board in the first instance to the Outline Construction & Demolition Management Plan (OCDMP), prepared by Waterman Moylan Consulting Engineers, which accompanied the Planning Application. This includes management of the construction process for Site 2 including appropriate mitigation measures for the control of noise, dust and vibration, amongst other matters. The following is an outline of the measures outlined in the OC&DMP: -

- Site Setup including but not limited to location of hoarding, location of site compound, access and egress into individual sites, crane strategy, parking provisions, services for the construction site (drainage, power etc.) and on site facilities (wheel washing, security etc.)
- Construction Methodology including but not limited to surveys required, approach to enabling works (demolition, excavation etc.), basement / foundations, superstructure and retention of existing building fabric where relevant.
- Construction & Demolition Waste including the management of all waste generated from the demolition and construction of each site.
- Protection of Existing Buildings including the retention of buildings / façade where relevant, exclusion zones (in particular adjacent No. 14 – 17 More Street – National Monument / Protected Structure) and movement monitoring programme.
- Control of **Noise, Dust and Vibration** including all appropriate mitigation measures.
- Approach to Archaeological Monitoring.
- Compliance with Building Control Regulations.

- Liaison with Third Parties.

The DCC Environmental Health Officer has no objections to the proposal subject to appropriate conditions being attached to any grant of planning permission (Condition 9 of the Notification of Grant of Permission).

On the appointment of a contractor, the OC&DMP will be updated and agreed with DCC (Condition 6 of the Notification of Grant of Permission by DCC) to ensure best construction practice is implemented, including the management of noise, dust and vibration.

Chapter 11 – Noise & Vibration of the EIAR sets out detailed mitigation measures in relation to the control, as far as practicable, of noise, dust and vibration during the construction process.

3.6.3 Traffic Management

We refer the Board to the Preliminary Construction Traffic Management Plan (PCTMP), prepared by Waterman Moylan Consulting Engineers, which accompanied the Planning Application. This was done in close consultation with Dublin City Council and its Roads and Transportation Departments.

It may be noted that the PCTMP provides a guide as to how construction traffic will be managed as part of any construction works. The final detailed Construction Traffic Management Plan will be prepared by the appointed Contractor for agreement with DCC at the appropriate time. It is normal practice that the Construction Traffic Management Plan is a live document, which is updated throughout the construction period to take account of any changes to the surrounding road network and / or other factors that might influence construction traffic. An appropriate condition (Condition 6 of the Notification of Grant of Permission) has been attached to the Council's decision to this effect.

In the PCTMP two construction routes to the site have been identified both to Parnell Street. One would be via Summerhill and Parnell Street and the second preferred route via Dorset Street and Dominick Street Lower as shown in Figure 4 below. At pre-planning stage, the Planning Authority noted that construction access via O'Connell Street would be very challenging, in particular due to disruption to public transport facilities in proximity to the Masterplan site and thus not favourable.

Traffic and other movements on the road network during the construction phase will be managed by carrying out the works in a number of stages to a sequence to be prepared in conjunction with Dublin City Council and implemented by the main Contractor.



Figure 4: Emerging Haul Routes for Construction Traffic (Inbound in green and outbound in red) – See Chapter 13: Material Assets (Transportation) of the EIAR submitted at application stage also.

As such, the two alternative scenarios of access via Parnell Street were developed in detail, based on clockwise and anti-clockwise circulation around the block bounded by Moore Street, O'Rahilly Parade and Moore Lane.

The preferred option is the anticlockwise circulation included the local traffic management proposals presented in Figure 4 above. Inbound access for the majority of construction vehicles is proposed from Parnell Street to Moore Street / O'Rahilly Parade and outbound departures from Moore Lane to Parnell Street. This preferred option was selected on the basis of a number of local constraints including: -

- The lack of a stacking lane on Parnell Street in advance of the left turn into Moore Lane should there be a delay entering Moore Lane for whatever reason.
- The restricted width of the left turn from Parnell Street around Conway's public house into Moore Lane which could cause delays due to the slow deliberate turning for vehicles across a busy restricted area.
- The relatively easy right (and left) turns from Parnell Street to Moore Street.
- The availability of a stacking area for the right (and left) turns from Parnell Street into Moore Street.
- Local traffic management on Moore Lane would require the presence of temporary traffic signals and / or flagmen at different locations and at different times to facilitate vehicles passing depending on the movements in progress.

Arrivals are proposed from Parnell Street via Moore Street and O'Rahilly Parade. Some limited departures are proposed to O'Connell Street Upper via Henry Street up to 11h00 after which Henry Street is restricted to pedestrians only. The remaining departures are proposed to Parnell Street via Moore Lane.

Traffic and other movements on the road network during the construction phase will be managed by carrying out the works in a number of stages to a sequence to be prepared in conjunction with Dublin City Council and implemented by the main Contractor.

Dublin City Council Roads Streets & Traffic Department Road Planning Division, in its Report to the Planning Department identifies that: -

"Extensive consultation occurred prior to the submission of this application with the Roadworks Control Division in order to ascertain the potential construction traffic routes for the proposed development. It is acknowledged however, that subject to the appointment of a contractor, a revised construction traffic management plan will be required to be approved and this is subject to ongoing reviews and consultation with the Roadworks Control Division during the demolition and construction stages. There are also several separate statutory processes with regards Road Opening Licenses and hoarding etc to be agreed with Dublin City Council in the event of a grant of permission. It is noted from third party submissions that concern has been raised in relation to a detailed traffic management plan. As noted previously, the preliminary CMP submitted is to ensure the feasibility of the construction of the development to be carried out which was considered at an early stage in the design process to ensure any necessary amendments/requirements could be taken into consideration. On appointment of a contractor, a finalised CMTP and D&CMP will be required to be submitted and agreed with the Planning Authority and ongoing consultation with Roadworks Control will occur throughout the construction of the development and during the application for the necessary licenses."

[Bold Font emphasis by SLA]

As noted previously, on the appointment of a contractor, the PCTMP will be updated and the full details of the arrangements for construction traffic routes at all stages of demolition and construction agreed with DCC at the appropriate time (Condition 6 of the Notification of Grant of Permission by DCC). This is normal practice as the Construction Traffic Management Plan will be a live document that will be updated throughout the construction period and to take account of any changes to the surrounding road network or other factors that might influence the construction traffic.

3.6.4 Junction Widening Measure

Stephen Troy has raised concerns with the temporary works proposed to the junction of Moore Street and O'Rahilly Parade to facilitate construction access.

The proposals are set out in the PCTMP, prepared by Waterman Moylan Consulting Engineers, which accompanied the Planning Application.

It is noted that the Appellant raises concerns regarding the practicality of the widening measures proposed having regard for the awning which was granted planning permission to the front of their premises (DCC Reg. Ref. 1823/07 refers – Unit No. 6 Greeg Court, Moore Street).

Having reviewed the planning file associated with the planning application we note that permission was granted for an awning which extended approximately 900mm.

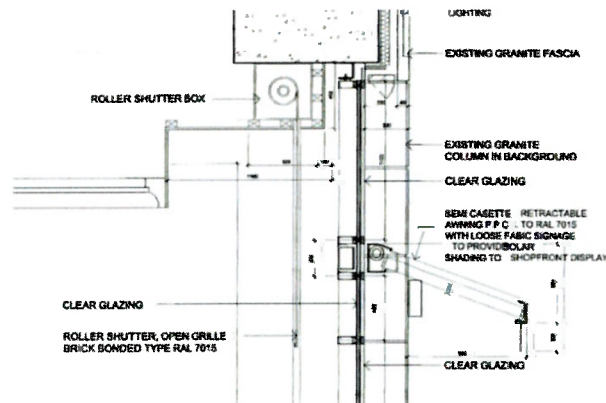


Figure 5: Extract from the Section Drawing submitted with DCC Reg. Ref. 1823/07 which shows the horizontal dimension of the awning being 900mm.

It would appear that the awning currently in place is significantly larger than what was granted permission for (see extract from Google Street View below).



Figure 6: Extract from Google Maps Street View from 2009.



Figure 7: Extract from Google Maps Street View from 2019.

We acknowledge the DCC are ultimately responsible for planning enforcement matters should concerns be raised regarding unauthorised development.

As noted above, on the appointment of a contractor, the PCTMP will be updated and the full details of the arrangements for construction traffic routes at all stages of demolition and construction agreed with Dublin City Council at the appropriate time (Condition 6 of the Notification of Grant of Permission by DCC).

Furthermore, the exact detail of the temporary junction works will be subject to a separate Road Opening Licence Agreement which is standard practice in relation to works within the public street. Cognisance will be taken of all authorised works associated with adjoining businesses / buildings in formulating a workable layout to facilitate future construction traffic movements.

3.7 Archaeology

The Moore Street Preservation Trust 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 Site 2 O'Connell Street Upper.

A portion of Site 2, located approximately between No.43 to No. 60 O'Connell Street Upper is part of a archaeology zone for Dublin (RMP DU018-020). The Dublin Central site lies to the south of a possible a possible Viking cemetery (RMPDU018-020495), to the north of what was the precinct of St. Mary's Cistercian Abbey (RMP DU18-02048) and an 18th century brickfield (RMP DU018-020506), has been identified at the western side of the site.

We refer the Board to the Archaeological Impact Assessment, prepared by Courtney Deery Heritage Consultancy as submitted with the planning application. The Report generally concludes that there will be a direct impact on any subsurface archaeological features that might be encountered during earthmoving works within Site 2. It is recommended by way of mitigation that all excavation associated with Site 2 is monitored by a suitably qualified archaeologist. See also EIAR Chapter 16: Cultural Heritage (Archaeological), prepared by Courtney Deery, including mitigation measures as submitted with the application (note there is no change to this chapter arising from to the changes at Further Information stage).

The Planning Officer's Report confirms that DCC Archaeology Section had no objection to the proposal subject to conditions being attached to any grant of planning permission. Furthermore, the Department of Housing, Local Government & Heritage confirmed also that there was no objection to the proposal subject to the implementation of appropriate archaeological mitigation.

Condition 8 of the Notification of Grant of Permission by DCC will ensure the appropriate archaeological resolution of Site 2.

3.8 Impact on Market Traders

Stephen Troy object to the development on grounds that the proposed development will have significant effects on the Moore Street Markets.

Issues are raised regarding the impact of construction related impacts such as noise, vibration, dust and traffic. This has been discussed in Section 3.6 above. Any significant redevelopment of the site will give rise to some construction nuisance effects. Subject to the implementation of best practice construction mitigation such nuisance will be controlled as far as practically possible.

The Applicant has met the Moore Street traders on numerous occasions prior to making the planning application, both directly and via the Government appointed Moore Street Advisory Group (MSAG). The MSAG proposed a process be established to address trading issues arising during the construction phase.

3.9 Sunlight Analysis

Stephen Troy argues that there will be a direct impact on commercial and residential properties on O'Rahilly Parade and Moore Street. It should be noted that the Appellant noted accepts that the residential units on Moore Street (Greeg Court) already "receive relatively low levels of sunlight". This is generally arising from the orientation and urban built form.

The building height strategy adopted for Site 2 has been considered in the context of the Masterplan vision, to ensure appropriate height modulation and varied building form across the entire city block. This also allows for necessary sunlight / daylight penetration into the existing and new streets and spaces, for a more pleasant urban experience, given our cool, damp climate.

We refer the Board to the Dublin Central – Site 2 Sunlight, Daylight and Shadow Assessment, prepared by BDP M&E Engineers which outlines that a "site survey and analysis of existing properties in the area highlighted that there were no existing residential units materially impacted by the new shadow environment created by the proposed development in Site 2. This is illustrated in the shadow plans appended to this report."

The Planning Authority considered the potential impact and were satisfied with the change having regard for the pattern of development, stating that: -

"Overall, the scale of the development at Site 2 will have an impact on the shadow environment directly adjacent the site, however this change is consistent with a pattern of change that would be reasonable in an urban city centre environment. The Planning Authority is satisfied that there will not be an overly significant negative impact in terms of overshadowing and loss of daylight/sunlight."

3.10 Planning Procedure

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

3.10.1 MetroLink Enabling Works

The Moore Street Preservation Trust states that it is unclear why the MetroLink Enabling Works (MEW) have been included as part of the planning application and the impact of same has not been fully considered. It is further noted that MEW should not have been included “knowing that Metro may never proceed”.

The Applicant has agreed a Memorandum of Understanding with the NTA/TII to complete the enabling works that would accommodate the planned future MetroLink O'Connell Street station under Dublin Central Site 2AB and Site 2C. This would also ensure that the Applicant's project is structurally independent of, and not prejudicial to, the TII MetroLink Project.

The Site 2 proposals accommodate a structural box beneath ground floor level that has been designed to accommodate the independent construction and operation of the planned O'Connell Street MetroLink Station by TII, including provision of the structural envelope and co-ordinated voids to accommodate station entrances, ventilation and fire escape shafts through this part of the proposed development. These MEW ensure that the Dublin Central proposed development is structurally independent of, and not prejudicial to, the MetroLink project. This application does not include any request for permission for railway works, the use of railway works or the operation of a railway.

A Railway Order was made by TII for MetroLink on 28 June 2022 (ABP Ref. NC06F.302010) and a decision was expected to be made by 22 May 2023 (this is now delayed).

The Applicant fully expects MetroLink to be completed and bring about a transformative improvement, not only the O'Connell Street area but to Dublin City as a whole. As for the doubt cast by the Appellant regarding the project, we note that funding has been allocated for the project by Government, a Railway order has been submitted to An Bord Pleanála (as noted above) and construction is forecast to begin in 2025, with services set to start in the early 2032. For the Applicant not to have engaged and co-ordinated to facilitate the future provision of the O'Connell Street Station would have been a significant missed opportunity for the Dublin City.

In relation to the assessment of MEW we note that the planning application drawings and Further Information drawings, prepared by Grafton and ACME & RKD Architect clearly show the extent of the MEW structure. Various assessment including the Basement Impact Assessment, prepared by Waterman Moylan Structures (submitted at Further Information stage) and the EIAR have had full regard for the potential impact of the MEW. We refute any suggestion that MEW has not been fully considered.

3.10.2 Multiple Planning Applications

The Appellant 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, 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 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.

3.10.3 References in the Notices to the Scale Model

The Moore Street Preservation Trust raise concerns that the Significant Further Information Notices, published on 9 August 2023, did not expressly state that a scale model had been produced and was on display in Dublin City Council office.

In response, we respectfully submit that there is no such requirement in the Planning & Development Regulation 2001, as amended, to make statements to this effect. The Significant Further Information Notices were set out in accordance with Schedule 3, Form No. 4 of the Planning & Development Regulation 2001, as amended.

The Significant Further Information response 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.

We would also comment that it was a matter of public record for many months that the Planning Authority had requested a physical model in this case as part of the Request for Further Information. As such, it is unreasonable to imply that Third Parties would not have been aware of the scale model. Furthermore, as the Board will see from correspondence on file, many of the Third Parties did in fact make further submissions to the Planning Authority on foot of the statutory notices being published / erected and had clearly reviewed the material on file. That material clearly pointed to the fact a model was submitted in this case.

3.10.4 Letters of Consent

The Appellants allege that the provision of letters of consent (for lands not under the control of the Applicant) by DCC, the Office of Public Works (OPW) and Córas Iompair Éireann (CIE) to the Applicant is a conflict of interest.

Under Article 22(g) of the Planning & Development Regulations 2001, as amended, consent is required for lands which are not under the ownership of the Applicant. Furthermore, Question 7 of the DCC Planning Application Form requires confirmation of the 'legal interest' in the site and goes on to request details of ownership of any lands not in their control.

The Application duly engaged with the relevant landowners and sought the appropriate letter of consent to ensure that a valid planning application was made. There was no other motive behind what is standard procedure in making a planning application where parts of the application site are not under the control of the Applicant.

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.

3.10.5 Pre-Planning Meetings

The Moore Street Preservation Trust allege that DCC 'assisted' the Applicant in facilitating a pre-planning meeting in advance of submitting the response to Further Information and offering commentary on the same.

Under Section 247 of the Planning & Development Act 2000, as amended there are no restrictions placed on the number of pre-planning meetings which can take place nor is there any restriction from engaging with a Planning Authority at Further Information stage. The Applicant and their experienced Design Team are well aware that all commentary provided in a pre-application meeting / engagement is wholly without prejudice. It would have been remis of the Applicant not to engage prior to responding to the request for Further Information to ensure the response broadly met the expectation of the Planning Authority.

The response to Further Information was rigorously assessed on its merits and subject to commentary and input from various DCC Department. The Applicant refutes the suggestion that the Applicants engagement with DCC at Further Information stage assisted in or influenced any independent decision made by the Planning Authority.

3.10.6 Alternative Schemes

The Appellants suggest indirectly in their appeals that, in their opinion, more suitable alternatives should be considered for the development of the general Moore Street area.

The proposed development (Site 2) within the context of the Dublin Central Masterplan will see the redevelopment and rejuvenation of lands broadly bound by Moore Street, Henry Place and Henry Street.

The Applicant has put forward a proposal for development following c. 24 months of detailed and constructive engagement with the Planning Authority culminating in a Notification of Grant of Permission by DCC on 3 October 2023.

The Planning Authority has assessed the proposal put in front of it by way of a Planning Application under Section 34 of the Planning & Development Act 2000, as amended. It has considered the 'Alternatives' in Chapter 4 of the EIAR that accompanied the Planning Application.

It must be noted that the Applicant has employed an experienced multi-disciplinary team in developing its proposals considering all complexities within its context, across the Masterplan area as well as within the subject site itself. Primary design considerations such as heritage and architectural considerations have underpinned the Site 2 proposal. These are in addition to but not limited to design consideration relating to servicing and waste management strategies, fire access, disabled access, pedestrian movement, public transport, public safety, anti-terrorism, security and sustainability.

3.11 Other Matters

The Appellants have 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.
- Compensation for Independent Traders.
- Alleged conflict of interest in the planning process by DCC Executive and the Department of Housing, Local Government & Heritage.
- The credibility / formulation of the MSAG Report.
- Judicial Review proceeding by Dublin Central GP Limited in relation to the additional of buildings to the Record of Protected Structures.

- Suggestion of a potential Judicial Review on basis of being 'treated unfairly by the planning process'.

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.

Without prejudice to the foregoing, it is self-evident that the assertions made about the conduct of the Planning Authority are not proven and, in any event, could never undermine the integrity or independence of the Board in the exercise of its appellate functions. For completeness, the Applicant does not rely in this application (or appeal) on the outcome of the process of engagement with Market Traders. Finally, with respect to the MSAG Report, that does not purport to comprise an environmental assessment or appraisal of the proposed development, so should not suffer criticism of that nature.

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 proposed scheme has been appropriately resolved by the Applicant and its design team: -

- The proposed development complies with the Land Use Zoning, density and building height objectives for this site.
- The proposed materials and finishes, signage, landscape strategy, daylight and sunlight assessment were all considered appropriate.
- The Conservation Section raised some concerns with the responses to Further Information but ultimately recommended a grant of permission with conditions.
- Ultimately, the Planning Authority considered that the request for Further Information was adequately addressed and conditions were attached where necessary.

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 new issues 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 Dublin City Council 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 Dublin City 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 Site 2 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.
- Site 2, 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

21 November 2023