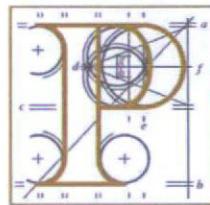


Our Case Number: ABP-313981-22

Planning Authority Reference Number: 3200/22



An
Bord
Pleanála

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

PLANNING DEPARTMENT

07 JUL 2022

RECEIVED

Date: 06 July 2022

Re: For development at Holiday Inn Express (Formerly known as Findlater House). The proposed development will consist of alterations and provision of an extension (comprising 7 storeys over basement) to the existing / permitted 8 storey hotel building (an additional eighth storey, permitted under Reg. Ref.: 2084/18 & ABP Ref.: 301378-18, and a fire fighting shaft, permitted under Reg. Ref.: 2850/19, have yet to be implemented).

28-32 O'Connell Street Upper and Cathal Brugha Street / Findlater Place, Dublin 1.

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

- (i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,
- (ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,
- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,

Teil Glao Áitiúil	Tel LoCall	(01) 858 8100 1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin Ríomhphost	Website Email	www.leanala.ie bord@leanala.ie

64 Sráid Maoilbhride 64 Marlborough Street
Baile Átha Cliath 1 Dublin 1
D01 V902 D01 V902

- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,
- (vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,
- (vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,
- (viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,
- (ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,
- (x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,
- (xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:- Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

- a) Certified Manager's Order,
- b) the site location, site layout maps, all plans and
- c) particulars and all internal reports.
- d) details of any extensions of time given in respect of previous decisions.

Copies of I-plan sheets are not adequate.

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a **period of 4 weeks beginning** on the date of this letter. Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

Contingency Submission

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Facs Láithreán Gréasáin Riomphhost	Fax Website Email	(01) 872 2684 www.leanala.ie bord@leanala.ie

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D01 V902 D01 V902

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act (Development / Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act. Any such contingency submission, in circumstances which your authority decided to refuse permission, would be without prejudice to your authority's main submission in support of its decision.

Please quote the above appeal reference number in any further correspondence.

I hereby certify that the planning authority has complied with section 128 and section 37(1)(b) of the 2000 Act, (as amended), and that all material relevant to (ABP-313981-22) the request at 1 on page 1 of this letter has been forwarded.

Signed: _____

Print: _____)

Date: _____

Yours faithfully,

Sinead White

Sinead White
Administrative Assistant
Direct Line: 01-8737202

BP07

Teil Glao Áitiúil Facs Láithreán Gréasáin Ríomhphost	Tel LoCall Fax Website Email	(01) 858 8100 1890 275 175 (01) 872 2684 www.leanala.ie bord@leanala.ie
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64 Sráid Maoilbhride 64 Marlborough Street
Baile Átha Cliath 1 Dublin 1
D01 V902 D01 V902

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

LDG-	AN BORD PLEANÁLA
ABP.	OS4982 - 22
Fee: €	220
Time:	04 JUL 2022
	Type: Cheque
	By: Hand



O'NEILL
Town Planning
PLANNING AND DEVELOPMENT CONSULTANTS
OAKDENE, HOWTH ROAD, HOWTH, CO. DUBLIN, D13 DK31.
Tel: (01) 8391306 Cell: 086 2659634
e-mail: planmon46@gmail.com

July 1, 2022.

APPEAL RE: NOTIFICATION OF DECISION TO GRANT PLANNING PERMISSION FOR DEVELOPMENT AT HOLIDAY INN EXPRESS (FORMERLY KNOWN AS FINDLATER HOUSE), 28-32 O'CONNELL STREET UPPER AND CATHAL BRUGHA STREET / FINDLATER PLACE, DUBLIN 1. THE APPLICATION SITE IS LOCATED ON THE JUNCTION OF O'CONNELL STREET UPPER, FINDLATER PLACE AND CATHAL BRUGHA STREET, DUBLIN 1. THE SUBJECT SITE IS LOCATED WITHIN THE O'CONNELL STREET ARCHITECTURAL CONSERVATION AREA. THE PROPOSED DEVELOPMENT WILL CONSIST OF ALTERATIONS AND PROVISION OF AN EXTENSION (COMPRISING 7 STOREYS OVER BASEMENT) TO THE EXISTING / PERMITTED 8 STOREY HOTEL BUILDING (AN ADDITIONAL EIGHTH STOREY, PERMITTED UNDER REG. REF.: 2084/18 & ABP REF.: 301378-18, AND A FIRE FIGHTING SHAFT, PERMITTED UNDER REG. REF.: 2850/19, HAVE YET TO BE IMPLEMENTED). (REG. REF. 3200/22)

A Chara,

We have been instructed by our clients, Noel Murray and Anne Murray¹, Moathill House, Lucan, Co. Dublin, the owners of, and/or the lease holder of, the properties surrounding the subject site, to appeal the notification of decision to grant planning permission, subject to fourteen conditions, issued by the Planning Authority on June 7, 2022. Our clients have a lease to the open area (the courtyard)² to the rear of their properties and on which the proposed development is to be built. The hugely popular courtyard is currently occupied and used by three of our clients' premises - The Living Room, Murray's Bar & Restaurant and Fibber Magees. Our clients have occupied the space since 1979, and are, quite understandably, vehemently opposed to the redevelopment of this space for another central city budget hotel. The outdoor space has been a vibrant mixing ground for the three pubs, creating a fantastic atmosphere due to the diverse mix of cultures and interests.

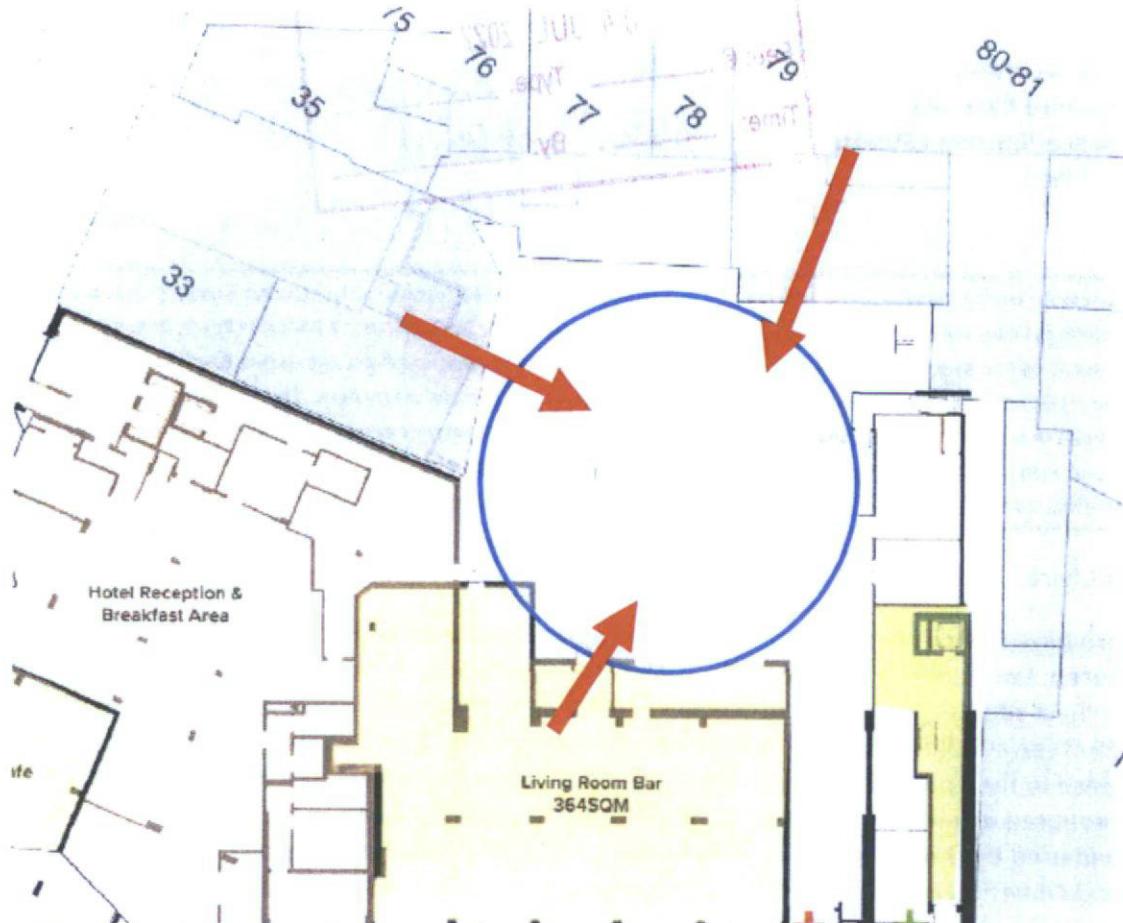


Site plan submitted with the planning application and the surrounding buildings in the ownership, or on lease, of our clients

¹ Between them and their family they have interests in a number of properties surrounding the subject site. The following is a summary of their various interests in the area Noel Murray lessee of The Living Room Public House and the courtyard to the rear; Telstar Investments Limited (owner of The Gate Hotel 80-82 Parnell Street, Nearys 76-78 Parnell Street; and Murrays 33, 34 & 35 Upper O Connell Street; Thomclarke Real Estate Limited (owner of 36 Upper O'Connell Street and 75 Parnell Street); Murcian Limited (owner of 79 Parnell Street).

² The lease of the Living Room Public House and the courtyard held by Noel Murray is permanently renewable under the Landlord and Tenant acts. The right is commonly called a "business equity." This means that at the end of each cycle of the tenancy the tenant is entitled to a renewal on the same terms and for the same length of term but subject to the prevailing market rent at the time of the renewal.





Map showing the open area which is presently in use as an open garden space and is leased to our clients and their linked companies.

While our clients support the proper planning and sustainable development of the area which includes the provision of accommodation and services to support the tourist industry, they are however at one with the views expressed by the Planning Authority in the Dublin City Development Plan 2016 – 2022, and the Draft Dublin City Development Plan 2022-2028. In the two plans the Planning Authority call for a balance, and multiplicity, of land uses in the main (category 1) shopping streets in the city centre. We would ask the Bord to take particular note of the Draft Dublin City Development Plan 2022-2028, which is at the penultimate stage of its adoption, and to note that the objectives and policies contained within the draft plan have not been recommended for change in the Manager's recommendations, of April 2022, to the elected members. As we will discuss in the main grounds of appeal below, we believe that the retention of cultural diversity in the city, so promoted in the new plan, is likely to be destroyed with one stroke in the event that the proposed budget holiday hotel is allowed in preference to the existing mix of land uses at this location. Our clients are concerned that the intensification of hotel rooms by the Holiday Inn at this location, and the possible exempt conversion of any approved hotel use on the site to a direct provision centre, would undermine, and possibly destroy, the diversity and mix of uses presently in the area, and would remove a much used and admired vibrant social gathering area from the heart of the city. Alone the removal and change of use of this space would destroy this very unique facility at a key location in the centre of the city. The attractiveness of this facility for the general public would be gone leading to a widespread reimagination of the area and the facilities it can offer. In essence an increase in the number of budget holiday bedrooms at this location, and the number of hotel rooms in the immediate area, appears to be totally at odds with the underlying objectives and policies of the Planning Authority as expressed in the statutory development plans for the area, which

includes a proposed study of hotel development and tourist beds in the city centre. We will deal with this in later sections to this appeal.

In terms of Development Control Standards for the area, we are concerned that the proposed development is a serious and material breach of the Dublin City Development Plan 2016 – 2022, and the Scheme of Special Planning Control, O'Connell Street & Environs 2016. In particular the plot ratio proposed is almost twice the maximum permitted in Z5 areas, and the scale and use proposed fails to protect the specific policies and objectives of the Planning Authority as they apply to the O'Connell Street, particularly the Scheme of Special Planning Control, O'Connell Street & Environs 2016 report was approved by the City Council in 2016 and which will run to the end of 2022. Clearly the Planning Authority's vision to re-establish O'Connell Street and its environs as a place of importance - in the social and cultural life of citizens and visitors, where buildings and their uses reflect a civic dignity and pride, and property owners and occupiers acknowledge their obligations as stakeholders – must be seen to be under threat.

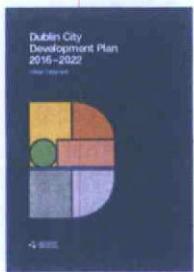
One of the Key Objectives for the area is, "To promote an appropriate mix and balance of uses in the O'Connell Street Area of Special Planning Control."

It is a general objective of this scheme to seek the redevelopment of vacant, underutilised and underperforming sites located in the O'Connell Street Area in order:

- *To reinstate the streetscape*
- *To create opportunities for the provision of a more balanced range of uses*
- *To provide for the intensification of land use*
- *To develop a strong land use culture in the Upper O'Connell Street area.*

We will argue that the proposed development does nothing to underpin these objectives, and if anything will take from the reasonable objectives of the Planning Authority in this regard.

1.1 STATUTORY DEVELOPMENT PLAN FOR THE AREA



The subject site is within the functional area of Dublin City Council, and is therefore governed by the objectives, policy and Development Control Standards as set out in the statutory Development Plan for the area, which is the Dublin City Development Plan 2016-2022

The application site has a Zoning **Objective Z5: 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.'** The subject site is also located in the O'Connell Street Architectural Conservation Area and the O'Connell Street Special Planning Control Scheme area.

The vision for Z5 lands is..... 'The primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses, which interact with each other, creates a sense of community and which sustains the vitality of the inner city both by day and night. Ideally, this mix of uses should occur both vertically through the floors of the building, as well as horizontally along the street frontage.'



Extract from Dublin City Development Plan 2016 - 2022 showing the location and zoning on the site

The application site is located in the centre of Dublin. It forms the central part of an urban block that is defined by Parnell Street to the north, O'Connell Street to the west, Cathal Brugha to the south, Marlborough Street to the east. To the north of the site, Nos. 76-78 Parnell Street are protected structures under RPS Ref. No's 6425, 6426 and 6247. The potential for restoration of these protected structures depends entirely on all floors above ground level being suitable for residential occupation and they should not be inhibited by overbearing structures. No. 79 comprises retail / restaurant on the ground floor (currently being refurbished) and residential apartments on the 1st 2nd and 3rd floors and Nos. 80-82 comprises the Gate Hotel with Fibber Magees a live music and performance event venue on part of the ground floor and basement. To the east on Findlater Place, the site is bound by the eight-storey Academy Plaza Hotel.

RELEVANT POLICIES FOR THE AREA

Policy CHC4 of the plan is to protect the special interest and character of all of Dublin's conservation areas. Development within or affecting conservation areas should contribute positively to the character and distinctiveness of the area, and take opportunities to protect

and enhance the character and appearance of the area and its setting, where possible. Development should not harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the conservation area, harm the setting of a conservation area or constitute a visually obtrusive or dominant form.

Section 16.2.2.3 of the plan states that alterations and extensions should respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings **not result in the loss of, obscure or otherwise detract from architectural features which contribute to the quality of the existing building, retain characteristic townscape spaces or gaps between buildings and not involve infilling, enclosure or harmful alteration of front lightwells. In addition alterations and extensions at roof level, including roof terraces, are to respect the scale, elevational proportions and architectural form of the building, and will:**

O'CONNELL STREET AREA OF SPECIAL PLANNING CONTROL

The Scheme of Special Planning Control, O'Connell Street & Environs 2016 report was approved by the City Council in 2016 and is to run until 2022. The Vision to re-establish O'Connell Street and environs as a place of importance in the social and cultural life of citizens and visitors.....

Our client's properties are all within, or on the edge of, the Conservation area as can be seen from the map below.



Outline of Scheme of Special Planning Control, O'Connell Street & Environs 2016 showing the location of the subject site (red star).

Key Objectives for the area include:-

To promote an appropriate mix and balance of uses in the O'Connell Street Area of Special Planning Control.

To attract and encourage a strong and complementary mix of uses on the upper floors of all buildings.

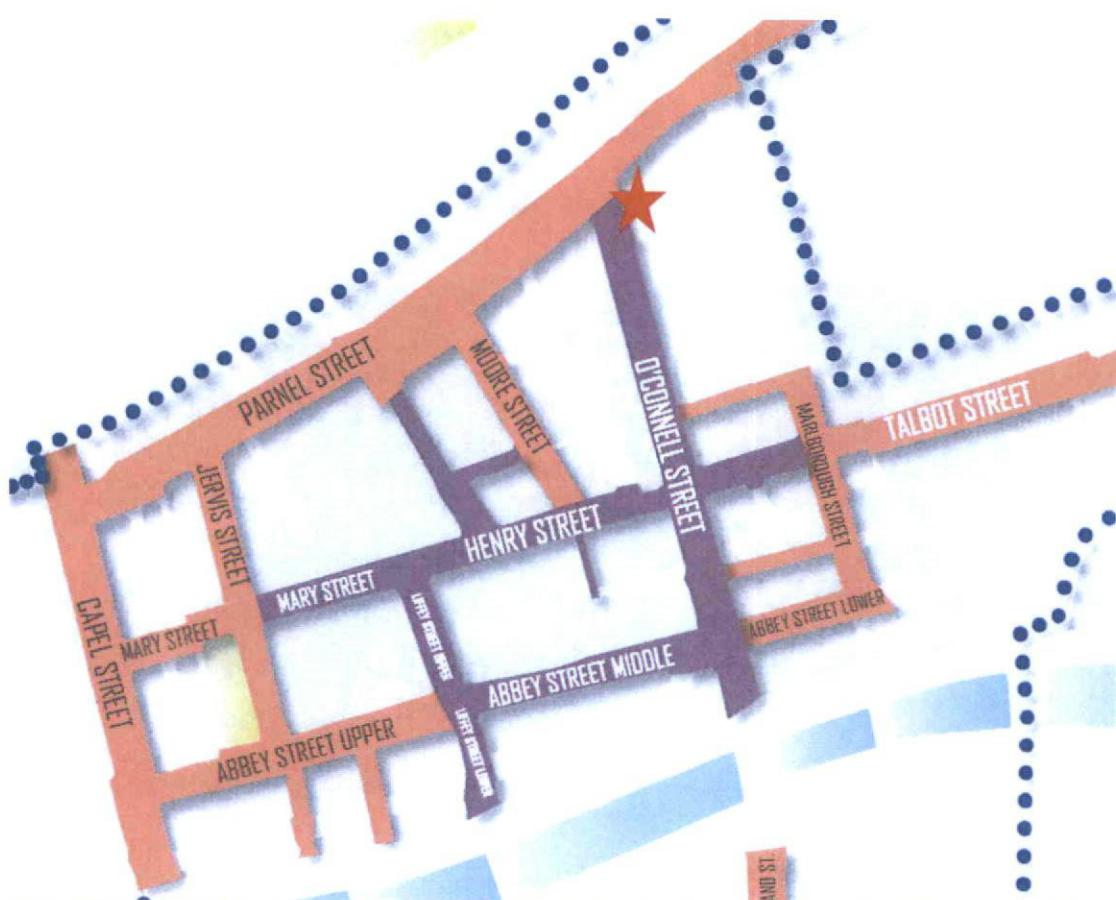
To seek the more intensive use of the upper floors and basement levels of buildings in the area.

It is a general objective of this scheme to seek the redevelopment of vacant, underutilised and underperforming sites located in the O'Connell Street Area in order, inter alia:

-To create opportunities for the provision of a more balanced range of uses
- To provide for the intensification of land use
- To develop a strong land use culture in the Upper O'Connell Street area.

Section 7.3 of the Dublin City Development Plan 2016-2022 highlights the challenges for retail facing the city centre:-

Dublin's city centre shopping experience is currently heavily concentrated on the main shopping streets or spines of Henry Street and Grafton Street and there remains the challenge to expand pedestrian footfall beyond these immediate areas and to strengthen the cross-river links also. This will be vital as large sites are re-developed, particularly north of the River Liffey. A key challenge remains the strengthening the pedestrian routes linking the north and south retail core areas to create a more cohesive retail core.....,



Extract from Dublin City Development Plan 2016-2022 showing the Category 1 (purple) and Category 2 (red) streets north of the Liffey and site location(Red star).

O'Connell Street is defined as a Category 1 Shopping Street and is on a primary strategic pedestrian route.

The policies of the Planning Authority for shopping streets, which includes the subject street, is to provide choice and locally accessible shopping in a quality environment to cater for the regular needs of communities throughout the city; To maintain the role of the city centre as the main retail centre for comparison goods in the country through continuing to develop the retail environment, the quality of the public realm, the range of retail uses and to facilitate complementary uses to retail.

Ideally, this mix of uses should occur both vertically through the floors of the building as well as horizontally along the street frontage. While a general mix of uses e.g. retail, commercial, residential etc. will be desirable throughout the area, retail will be the predominant use at ground floor on the principal shopping streets.

Section 7.6.1 of the Dublin City Development Plan 2016-2022 deals with the Primacy of the City Centre & Retail Core Area, where it states that,

In order to maintain and strengthen the retail character of the city centre retail core, which can be adversely affected by dead frontage and lower-order retail uses, the premier shopping streets in the city centre retail core are designated Category 1 and Category 2 shopping streets.

The purpose of this designation is to protect the primary retail function of these streets as the principal shopping streets in the retail core with an emphasis on higher order comparison retail and a rich mix of uses.but also allows for uses complementary to the main shopping focus such as a cafés, bars, restaurants and galleries

1.2 DRAFT DUBLIN CITY DEVELOPMENT PLAN 2022-2028³

Section 8.2 of the Draft Plan deals with Diversifying the City Centre Offer, when they state that, *It is recognised internationally that the retail sector has become one element of a wider leisure and cultural city experience. A vibrant mix of shopping and leisure and cultural uses such as cafes, restaurants, exhibition spaces, cultural and leisure uses and family friendly attractions, can support the future success of the city centre. Such uses are an important part of a shopping experience and will attract people to the city centre and encourage them to stay longer. A key objective of this strategy is to diversify the city centre as a place to shop, work and spend leisure time without compromising the importance of retaining a strong retail function.*

Section 8.3 of the Draft Plan deals with Supporting Cultural Vibrancy in the City, where they state that, *Cultural attractions and facilities such as theatres and museums as well as activities such as street entertainment play a key role in attracting additional day and evening footfall in the city and boosting the day and evening economy.*

Policy CU7 - in Chapter 12 - states that, *It is the Policy of Dublin City Council: To support existing, and encourage the growth of, emerging cultural clusters and hubs within the city, which bring together cultural activities interlinked with supporting uses (such as restaurants, retail, galleries and venues) to create vibrant, defined cultural quarters and communities within the city that give a variety of cultural experiences to all.*

Culture of this plan outlines how Dublin City Council will continue to support, develop and nurture the city's existing and new cultural clusters and hubs. utilising / providing spaces in the public realm that enable a wider range of cultural activities, events, festivals, street markets, street art / art installations, buskers / street entertainers and tourist trails attracts visitors, creates a lively and vibrant street scene thereby, attracting people to the city centre.

Section 12.5.3: Supporting Cultural Vibrancy in the City, makes the point that, A wide range of cultural facilities is the lifeblood of a city. It provides vitality and vibrancy and attracts people to the city. It is essential that as Dublin city delivers its agenda of

³ It should be noted that there are no material changes to any of the script mentioned below in the Chief Executives report to the Council of April 2022.

sustainable compact growth, that this growth is not at the cost of what makes Dublin a great place to be, to visit and to work. As cities grow and land values change, pressures emerge on more vulnerable uses such as privately run facilities including venues, theatres, art galleries, nightclubs and historic public houses.

It is important that the Plan recognises that such pressures now exist within Dublin and responds accordingly to preserve and grow the cultural diversity of the city. As Dublin changes, there is also a need for the cultural offer to grow to reflect these changes, and to reach out and engage with those who traditionally have not partaken in mainstream cultural experiences.

As part of the preparatory work for the Plan, a cultural infrastructure study was undertaken of the city, and was published as a background document for the Plan.

It is the Policy of Dublin City Council:

CU12

Cultural Spaces and Facilities

To grow the range of cultural spaces and facilities in tandem with all new developments and across existing developments to meet the needs of an increased population within the city.

CU13

Protection of Cultural Uses

To protect cultural uses within the city that have been negatively impacted by the Covid pandemic and seek to preserve such spaces so they are not lost to the city as a result of the economic impact of the extended closure during the pandemic.

CU16

Temporary Use for Cultural Provision

To facilitate the temporary use of underused sites or buildings for artistic or cultural provision.

CU023

Demolition or Replacement of a Use of Cultural Value

Where applications are made seeking to demolish or replace a cultural space/use, the development must re-accommodate the same or increased volume of space/use or a similar use within the redevelopment. Cultural uses include theatres, cinemas, artist studios, performance spaces, music venues, nightclubs, studios and dance space.

 **HOTEL DEVELOPMENTS IN THE CITY CENTRE**

The Draft Plan states the following in relation to hotel developments in the city Centre:-

While such development is to be welcomed in that it provides for much needed additional accommodation for tourists visiting the city, it will be important to avoid the overconcentration of hotel development in areas of the city which currently have high levels of existing hotel, apartment and student accommodation development, or in areas

where significant number of planning applications have been made for new or expanded hotel and aparthotel development.

Avoiding an overconcentration of hotel development in certain areas of the city centre is particularly important in the context of wider objectives to create a rich and vibrant range of uses in the city centre. As a result, the Council will consider applications for additional hotel and aparthotel development having regard to the existing and proposed mix of uses associated in the vicinity of any such proposed development.

Development Standards (Section 15.14.1), where the Planning Authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment and justification that the development will not undermine the principles of achieving a balanced pattern of development in the area.

Objective CEE28 Tourism Accommodation includes the following objective:-

To consider applications for additional hotel, tourist hostel and aparthotel development having regard to, Inter alia,:

- *the existing character of the area in which the development is proposed including local amenities and facilities;*
- *the existing and proposed mix of uses (including existing levels of tourism accommodation i.e. existing and permitted hotel, aparthotel and student accommodation uses) in the vicinity of any proposed development;*
- *the impact of additional tourism accommodation on the wider objective to provide a rich and vibrant range of uses in the city centre;*

Objective CEEO1 - Study on the Supply and Demand for Hotels, Aparthotels and Hostels

To carry out an analysis of the supply and demand for tourism related accommodation including hotels, aparthotels and hostels in the Dublin City area.

SECTION 15.14.1 HOTELS AND APARTHOTELS

To counter balance the recent over development of hotels, there will be a general presumption to avoid an overconcentration of hotels and aparthotels pending the outcome of a hotel study. Hotels and aparthotels will be considered on a case by case basis having regard to the location of the site and existing hotel provision in the area.

1.3 GROUNDS OF APPEAL

We are appealing the notification of decision to grant planning permission for the proposed development on a number of grounds, which can be summarised under the following headings:-

- Procedural
- Objectives and Policies of the current and draft development plans for the city, i.e Dublin City Development Plan 2016 – 2022, and Draft Dublin City Development Plan 2022-2028
- Scheme of Special Planning Control, O'Connell Street & Environs 2016*

- Development Control Standards of the Dublin City Development Plan 2016 - 2022
- Impacts on Residential Amenity and Safety of adjoining residential properties
- Ministerial guidelines

In the next section of this planning appeal we will deal, in summary with each of the grounds we have identified above.

PROCEDURAL

Our clients' land holdings at this location has been examined by a Chartered Surveyor and a consultant architect who are of the opinion that there might be some discrepancies between the subject site outlined in the subject planning application and the extent of lands owned by the applicants. As such we would ask the Bord to ensure that that the outline of the site owned by the applicants is correct, and that all of the development proposed is taking place within the legal boundaries of the site.

There are a number of fire exits from our clients' buildings which transverse the subject site, these are in the form of fire exits and rights of way and the expulsion of same would be contrary to fire certs issued to our clients, and long term rights of way that exist on and through the subject property. These are important legal entitlements and cannot be ignored in any planning permission on the site.

CONTRARY TO OBJECTIVES AND POLICIES OF THE CURRENT AND DRAFT DEVELOPMENT PLANS FOR THE CITY

As set out above we would submit that the proposed development is a material, and widespread, contravention of the statutory development plan for the area in terms of the objectives, policies, and Development Control Standards as set out in the current and draft plans for the city area. In particular we would ask the Bord to note that the Planning Authority, as per the plan, state that the - *Culture of this plan outlines how Dublin City Council will continue to support, develop and nurture the city's existing and new cultural clusters and hubs. utilising / providing spaces in the public realm that enable a wider range of cultural activities, events, festivals, street markets, street art / art installations, buskers / street entertainers and tourist trails attracts visitors, creates a lively and vibrant street scene thereby, attracting people to the city centre.*

Section 12.5.3: Supporting Cultural Vibrancy in the City, makes the point that, A wide range of cultural facilities is the lifeblood of a city. It provides vitality and vibrancy and attracts people to the city. It is essential that as Dublin city delivers its agenda of sustainable compact growth, that this growth is not at the cost of what makes Dublin a great place to be, to visit and to work.

We would submit that the proposed development, which is an extension and intensification of hotel bedrooms in a small part of the north inner city, on category 1 streets, is a clear contravention of the Planning Authority's objectives and policies to retain the vitality and vibrancy of the area which makes the area a great place to visit and recreate, and is premature pending the completion of the hotel study proposed by the Council.

CONTRARY TO SCHEME OF SPECIAL PLANNING CONTROL, O'CONNELL STREET & ENVIRONS 2016*

The application site is located within an architecturally sensitive area, adjacent to protected structures and within the O'Connell Street area of Special Planning Control. The submitted information provides short-range visualisations from within the immediate area, and it is apparent that the current application would represent a significant step-change in scale and massing on the existing building. While there is scope for some increase in height, we would have serious concerns in relation to the current proposal and the associated impact on the adjoining streetscape and on our clients' properties. The proposed design approach, which seeks to replicate and reinforce the existing elevation, treatment, and fenestration pattern which is poorly articulated and it therefore not considered to result in a high-quality contextual design and would fail to result in a high-quality redevelopment of the existing property. Furthermore the proposed development is a relatively small infill site and therefore does not have the scope to deliver significant changes in terms of new streets etc.

Where a proposal is not able to meet all of the daylight provisions, this must be identified and a rationale for any alternative compensatory design solutions must be set out, having regard to local factors, including site constraints, and the need to achieve wider planning objectives such as the securing of comprehensive urban regeneration. We would submit that the applicant has not provided an appropriate assessment of the impact of the proposed development upon the surrounding existing, and proposed, residential properties or the adjoining street network, particularly Parnell Street.

 **CONTRARY TO THE DEVELOPMENT CONTROL STANDARDS OF THE DUBLIN CITY DEVELOPMENT PLAN 2016 – 2022**

The site has a stated area of approx. 2117sqm. The overall gross floor area will increase from c. 10,880 sq.m. to c. 13,490 sq.m. and it is proposed to increase the number of bedrooms from 214 to 311 rooms, i.e. a net increase of 97 no. hotel rooms. The indicative site coverage and plot ratio standards are set out in the Dublin City Development Plan 2016 - 2022. Site coverage standards are 90% for Z5 lands and the plot ratio standards are 2.5-3.0. The site coverage for the proposed development is stated as 100% and the stated plot ratio for the development is 6.3 – excluding the basement.

"Plot ratios can determine the maximum building floor space or volume on a given site, but on their own cannot determine built form. The same area or volume can be distributed on a site in different ways to generate very different environments. Consequently, plot ratio standards need to be used in conjunction with other development control measures including site coverage, building height, public and private open space, the standards applied to residential roads and parking provision"

While the Dublin City Development Plan 2016 - 2022 sets no actual upper unit density limit for any zoned lands, including Z5, each proposal has to be assessed on its own merits.

The subject site is located close to adjoining O'Connell Street and Parnell Street Luas stops. Furthermore, the proposed development is located on a category 1 retail street and close to category 1 and 2 streets of Abbey Street, Henry Street and Parnell Street. Given the central location of the subject site combined with numerous public transport facilities in close proximity, the applicants argue that the subject property represents, *ceteris paribus*, a site which could be developed at a higher density.

While the Development Plan states that the Council will consider higher plot ratios on sites which adjoin major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed, and/or to facilitate comprehensive redevelopment in areas in need of urban renewal, to maintain existing streetscape profile,

or where a site already has the benefit of a higher plot ratio, in the present instance the location of the site in an Architectural Conservation Area, close to Protected Structures and within the Scheme of Special Planning Control for O'Connell Street would suggest that while a higher plot ratio might be feasible, to allow a plot ratio over twice the maximum allowed in Z5 zoned lands must be deemed a material contravention of the statutory development plan for the area.

While the site coverage is at the maximum allowed under the zoning, its appropriateness is counterbalanced by the huge discrepancy in the proposed plot ratio, height, and its impact on the Protected Structures and streetscape in the area. As such the proposed development must be considered a serious and material breach of the statutory development plan for the area and therefore must be considered to be contrary to the proper planning and sustainable development of the area.

Section 16 of the plan deals with car parking space requirements and while some relaxation of standards is alluded to in the plan close to public transport nodes the wholesale removal of car parking from a proposed development is not expressed in the plan. In the present instance the hotel is located in Parking Zone 1 and the standards applicable to the various land uses is set out in Table 16.1. Hotel land uses in parking Zone 1 are expected to provide one car parking space per four bedrooms. Given that the proposed hotel will have a total of 311 bedrooms the number of car parking spaces that should be provided is eighty. The extension is for 97 extra bedrooms which suggests a minimum of twenty four car parking spaces. No car parking spaces are to be provided for the existing hotel, or for the increased number of bedrooms. Furthermore the current planning application seeks to remove the fourteen existing car parking spaces in the basement and the conversion of that space to hotel accommodation. The deficiency in car parking spaces is material, and while some relaxation of the standards is understandable and acceptable, the wholesale removal of car parking spaces and the failure to provide any new car parking spaces must be considered a material contravention of the statutory development plan for the area, and therefore an immediate refusal of planning permission.

IMPACTS ON RESIDENTIAL AMENITY AND SAFETY OF ADJOINING RESIDENTIAL PROPERTIES

The application site is located within a confined inner-city urban block, which is typified by close relationships between buildings. It is noted that the existing property is surrounded by commercial and residential uses. The development plan states that in assessing new development, consideration will be given to how the design has responded to the existing context and its relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid to void relationships, degree of uniformity and the composition of elevations, roof and building lines.

Policy CHC4 of the City Development Plan outlines that it is the council's policy "*to protect the special interest and character of all of Dublin's conservation areas*". In particular, it is noted that new developments within or affecting conservation areas should contribute positively to the character and distinctiveness of the area, and take opportunities to protect and enhance the character and appearance of the area and its setting, where possible. Furthermore, new development should not harm the setting of a conservation area or result in a visually obtrusive or dominant form of development.

The proposed development would be approximately five/six storeys taller than our clients' adjoining buildings and would result in an overbearing relationship which would significantly

affect the amount of daylight and sunlight getting to their buildings.⁴ It would also seriously affect the redevelopment potential for our clients' properties as the proposed development is built on the boundaries of their properties thus affecting our clients' ability to construct viable building on their adjoining sites. It should also be noted that the windows on the boundary of our clients properties effectively sterilises our clients' sites from redevelopment. No assessment of this has been provided as part of the application submission, or the Planning Authority reports, and as such must be deemed unacceptable.



CONTRARY TO MINISTERIAL GUIDELINES

The proposed development submitted for planning permission, though amended in the Additional Information submission, would be a part seven, part eight, storey building that would have a maximum height of approximately twenty six metres. The highest part of the building would be positioned onto the northern and western side of the application site- next to our clients' properties. The fact that the height is below the maximum twenty eight metres allowed is not, in our view, supportable as the balance between amenity, urban design, architectural quality and placemaking has not been achieved in the proposed design.

In December 2018 the Department of Housing, Planning and Local Government issued statutory guidelines for planning authorities on Urban Development and Building Heights. The guidelines note that, in determining planning policy and making planning decisions in relation to appropriate building heights, the planning process has to strike a careful balance between enabling long term and strategic development of areas and ensuring the highest standards of urban design, architectural quality and placemaking. The Guidelines importantly state that, in order to meet the objectives of the National Planning Framework, significant increases in building heights and overall building densities need to be not only facilitated but actively sought out and brought forward by the planning process, particularly at local authority and An Bord Pleanála level, with increased building heights having a critical role to play in delivering more compact growth in urban areas.

What is clear from the above is that the onus was put onto the Planning Authorities through their statutory development plans to become more proactive and more flexible in securing compact urban growth, through a combination of facilitating increased densities and building heights, while also being mindful of the quality of development and balancing amenity and environmental considerations. In identifying areas suitable for increased density and height, planning authorities will need to consider the environmental sensitivities of the receiving environment as appropriate.

SPPR1 of the Guidelines is that:

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

SPPR 2 is that:

⁴ We attach in the Annex a report on the impacts of the proposed development on daylight and sunlight, and the failure of the proposed development to comply with minimum BRE standards.

In driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy.

Assessment criteria for buildings taller than the prevailing height in an area are set out in Section 3 of the guidelines. Broad principles to be followed include whether the proposal positively assists in securing National Planning Framework objectives in relation to focussing development in key urban centres, whether the proposal is in line with the policies of the relevant development plan, where this has taken clear account of the requirements set out in Section 2 and, where a development plan predates the guidelines, where it can be demonstrated that the implementation of the pre-existing policies and objectives of the relevant plan or planning scheme do not align with or support the objectives and policies of the NPF.

Importantly SPPR1 states that a Planning Authority "shall not provide for blanket numerical limitations on building height".

1.5 CONCLUSIONS

We would submit that the proposed development must be seen as a gross overdevelopment of the subject site and out of keeping with the diverse character and pattern of development already in the area; and as such is inconsistent with the objectives and policies of the Planning Authority with regard to the maintenance of cultural clusters within the city, i.e. Policy CU7 in the Draft Dublin City Development Plan 2022-2028 where it states that It is the Policy of Dublin City Council: *To support existing, and encourage the growth of, emerging cultural clusters and hubs within the city, which bring together cultural activities interlinked with supporting uses (such as restaurants, retail, galleries and venues) to create vibrant, defined cultural quarters and communities within the city that give a variety of cultural experiences to all.*

Having regard to the requirements of the Dublin City Development Plan and the Draft Plan, and the O'Connell Street Area Special Planning Control Scheme and the O'Connell Street Architectural Conservation Area, it is considered that the proposed development, by reason of the overall scale, bulk and massing would present an unduly monolithic building façade to the adjoining streets and be seriously injurious to the visual amenities of the area. Furthermore the development would detract from the overall architectural composition of the neighbouring Protected Structures and would adversely affect the O'Connell Street Architectural Conservation Area. The proposed development would therefore be contrary to Policy CHC4 of the Dublin City Development Plan 2016-2022 and well as Section 16.2.2.3 and Section 16.10.10 of the Dublin City Development Plan 2016-2022 and if permitted would set an undesirable precedent contrary to the proper planning and sustainable development of this location.

Section 16 of the Dublin City Development Plan 2016 - 2022 deals with car parking standards in the city and the failure of the applicants to provide any car parking spaces for the proposed development must be deemed to be a material contravention of the statutory development plan for the area, in that the required car parking space demand for a hotel of 311 rooms in Parking Zone 1 is eighty car parking spaces. The applicants are providing no car parking spaces and have removed the existing car parking spaces from the basement level.

Furthermore there are many objectives and policies in the draft plan that would suggest that the present planning application should at best be refused on the grounds of cultural diversity, and at worst be deemed premature pending the completion of the Planning

Authority's Hotel Study, as per Section 15.14.1 of the draft plan, i.e. *To counter balance the recent over development of hotels, there will be a general presumption to avoid an overconcentration of hotels and apartment hotels pending the outcome of a hotel study. Hotels and apartment hotels will be considered on a case by case basis having regard to the location of the site and existing hotel provision in the area.*

To conclude while there are many planning related reasons for refusing planning permission for the proposed development, of concern to the Bord should be to the exempted changes of use from hotels to direct provision centres, and the recent decision by the applicants to provide a recently constructed hotel for that use close to Dublin Airport. This must be a particular concern given the location of the site on the main throughfare of the capital city of the country, and the fact that direct provision centre uses are excluded from the list of permitted uses in the O'Connell Street Area Special Planning Control Scheme and the O'Connell Street Architectural Conservation Area. While arguments can be made about the impacts the proposed development would have on the residential amenities of adjoining properties, and on the O'Connell Street Architectural Conservation Area, the most worrying and enduring problem that would be created by the proposed development would be the immediate and terminal effect it would have on the use of the subject site, the courtyard, and the surrounding mix of entertainment venues, which with one stroke of the pen delete an important hub of cultural activity from the north inner city. For all the above reasons we would suggest that it would be prudent to refuse planning permission for the proposed development and allow the existing mix of uses continue around this outdoor courtyard.

We are enclosing the requisite fee of €220.00 to cover the cost of this Appeal along with the letter of acknowledgement from the Planning Authority to our original observation, and we respectfully request An Bord Pleanála to refuse planning permission for the proposed development, for the reasons set out above.

Yours Sincerely,

Michael A. O'Neill
Michael A. O'Neill MIPPI

ANNEX

- Report from Chris Shackleton on Daylight analysis.
- Maps on Fire Exits
- Letter from Hegarty McCarthy solicitors, on Rights of Way in, through, and around the subject site



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Ref: 1479-cathalbrugha-pta-20220630-1447

04 July 2022

An Bord Pleanála,
No 64 Malborough Street
Dublin 1
c/o: Paul Tyndall - PAUL TYNDALL ARCHITECTURE + DESIGN

1479 – Cathal Brugha St

Dear Sir/Madam,

Further to the above and planning application Reg. 3200/22 Chris Shackleton Consulting have been retained by Noel Murray and Anne Murray, who own or have a legal interest between them and their family to a number of properties around the subject site to review the Daylight Assessment of the proposed new development Findlater House (Holiday Inn Express), 28-32 O'Connell Street Upper, Dublin prepared by Arup issue 2 (11th March 2022) as part of an FI response as downloaded from the Dublin City Council Planning Site. We have also reviewed and refer the parent report submitted Issue 1 (1st Feb 2022).

This letter examines the same as it relates to the impact on adjacent residential units. References may be made on the analysis as it relates to these properties. This response is a review and commentary on the process, report and conclusions provided by Arup and not an alternative or competing analysis, to be submitted as part of a third party appeal to An Bord Pleanála.

Analysis - Methodology

The analysis was undertaken in accordance with "Site Layout Planning for Daylight and Sunlight" (2nd edition) - 2011" this document has recently been updated to its 3rd edition – 2022 but in relation to the Impact on Neighbours little has changed. We would concur with the usage of this document as referenced by the Dublin City Council Development Plan 2016-2022. The report notes that:

"The guidelines given here are intended for use for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed. The guidelines may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight; this would normally include schools, hospitals, hotels and hostels, small workshops and some offices."

We would highlight in this case Residential: Living rooms/Kitchens/Bedrooms and non-domestic where occupants have a reasonable expectation of daylight: Hotels and hostels.

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Directors Chris Shackleton BA BAI, Elizabeth Shackleton

Company Registration No: 662854

A standard commentary on the legal status of the document is indicated and noted:

"The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy, its aims is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design."

The author has undertaken the analysis in accordance with the above with reference to the DCC guidelines.

For impact on neighbours best practice looks at the impact on neighbours' windows and amenity against a baseline condition. It is unclear here what is tested as the baseline condition.

- Standard BRE analysis would examine existing vs proposed
- When extant permissions exist the baseline condition may include the same since in planning terms they exist even if they are not yet acted upon.
- The Body text, however, indicates a mirrored building method which we do not see defined.

- Baseline Condition:** This configuration is the existing site condition (including the previously permitted amendments) and includes all surrounding (existing) buildings. The baseline massing includes the mirror building method as given in Appendix E of BR 209
- The Graphics of the analysis model show the proposed condition but include the existing hotel & relevant extant permissions
 - It is unclear what baseline condition this report analyses against.

The standard tests are as follows:

- Skylight VSC windows to all relevant habitable rooms
- Sunlight Annual PASH to living rooms spaces
- Sunlight Winter PWSH to living room spaces
- No Sky line where internal rooms layouts are known.
- Sunlight on the Ground (Shadow) to amenity

The report provides results only for VSC, PASH and PWSH.

There are no neighbouring amenity spaces relating to our client's properties.

The No Sky line test should be completed if internal room layouts are known. We accept that there are difficulties associated with gathering relevant and/or accurate information for such a test and for that reason it is rarely performed. However, given the level of impact of this proposal to some windows we would expect the same to have been investigated or at least commented on.

We note that the appellant has floor plans for these buildings and is prepared to provide the same to the applicant for analysis purposes if requested.

2.2.8 Where room layouts are known, the impact on the daylighting distribution in the existing building can be found by plotting the 'no sky line' in each of the main rooms. For houses this would include living rooms, dining rooms and kitchens; bedrooms should also be analysed although they are less important. In non-domestic buildings each main room where daylight is expected should be investigated. The no sky line divides points on the working plane which can and cannot see the sky (Figure 15). (In houses the working plane is assumed to be horizontal and 0.85 m high; in offices 0.7 m high; in special interiors like hospital wards and infant school classrooms a different height may be appropriate.) Areas beyond the no sky line, since they receive no direct daylight, usually look dark and gloomy compared with the rest of the room, however bright it is outside. According to BS 8206-2[1], supplementary electric lighting will be needed if a significant part of the working plane lies beyond the no sky line. Appendix D gives hints on how to plot the no sky line.

Overview of project:

The proposed development comprises of alterations and provision of a 7-storey extension located within the existing courtyard to the rear of the site to the existing / permitted 8-storey hotel building which has not yet been implemented.

While it is correct to utilise the existing and extant permission as the baseline condition the impact on neighbours from these and the proposed development is cumulative and the loss of skylight and sunlight to residents of these properties will be the combination of both developments.

The declared baseline states that it has used a mirror building method. What has been mirrored is not defined and there are no graphics of the baseline condition used in this assessment.

The overall perceived impact within these rooms and loss may thus be considerably greater than declared in this report.

Further we note that there are a large number of windows which pass on the minimum 0.8 change ratio target. Since the baseline is not just the existing situation this does not reflect the cumulative loss of light to these properties which will be greater.

2.2.7 ... If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. The area lit by the window is likely to appear more gloomy, and electric lighting will be needed more of the time.

Parnell Buildings report windows 1..6 – report Extract

A3.1 VSC: Parnell Street

Point	Target	Baseline	Proposed	Reduction	Meets targets / reduction?
1	27	18.5	12.5	0.7	no
2	27	15	11	0.7	no
3	27	19.5	14.5	0.7	no
4	27	19	14	0.7	no
5	27	11	8.5	0.8	yes
6	27	21.5	16	0.7	no
7	27	13.5	12.5	0.9	yes

A3.2 PASH: Parnell Street

Point	Target	Baseline	Proposed	Reduction	Meets targets / reduction?
1	25	46	28	0.6	no
2	25	26	15	0.6	no
3	25	36	26	0.7	no
4	25	44	35	0.8	yes
5	25	18	11	0.6	no
6	25	45	33	0.7	no
7	25	21	22	0.8	yes

Note: In the table A3.2 test windows 1 & 3 although they have change ratios <0.80 would pass the BRE -PASH requirements since the Proposed value >25%

A3.3 PWSH: Parnell Street

Point	Target	Baseline	Proposed	Reduction	Meets targets / reduction?
1	5	6	2	0.3	no
2	5	1	0	0.0	no
3	5	3	1	0.3	no
4	5	6	3	0.5	no
5	5	1	0	0.0	no
6	5	4	2	0.5	no
7	5	6	5	0.8	yes

O'Connell St Buildings windows 2..3 – report Extract**A3.7 VSC: 33-36 O'Connell St Upper**

Point	Target	Baseline	Proposed	Reduction	Meets targets / reduction?
1	27	14.5	12.5	0.9	yes
2	27	17.5	0.5	0.0	no
3	27	10.5	1.5	0.1	no
4	27	20.5	18.5	0.0	yes

A3.8 PASH: 33-36 O'Connell St Upper

Point	Target	Baseline	Proposed	Reduction	Meets targets / reduction?
1	25	-	-	-	yes
2	25	-	-	-	yes
3	25	-	-	-	yes
4	25	-	-	-	yes

A3.9 PWSH: 33-36 O'Connell St Upper

Point	Target	Baseline	Proposed	Reduction	Meets targets / reduction?
1	5	-	-	-	yes
2	5	-	-	-	yes
3	5	-	-	-	yes
4	5	-	-	-	yes

Daylight/Skylight

Our focus in this case in the impact on daylight to rooms VSC.

Tabulated the problem windows are as follows along with their usage.

Results for non-habitable rooms are Not Applicable (N/A).

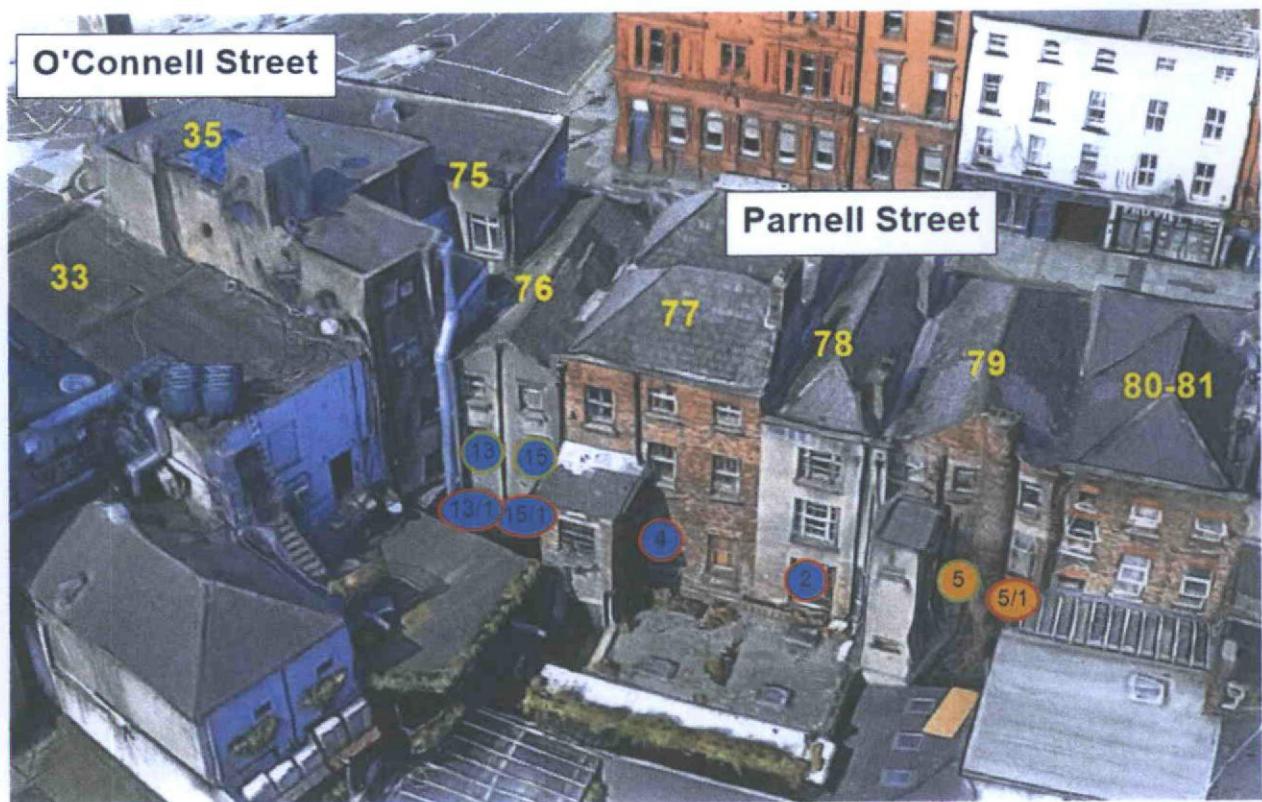
Point	Usage	Target	Baseline	Proposed	Reduction	Meets targets /Reduction
Parnell Street						
1	Bathroom	27	26	24	N/A	N/A
2	Hotel Bedroom	27	15	11	0.7	No
3	Ensuite	27	26	24	2.2	N/A
4	Hotel Bedroom	27	19	14	0.7	No
5	Apartment living room/Kitchen	27	11	8.5	0.8	Yes
5/1	Missing window	-	-	-	-	Extrapolated No
6	Non-habitable	27	24	24	3.3	N/A
15	1 st Floor below not tested	27	21.5	17.5	0.8	Yes
15/1	Hotel bedroom below expected fail	-	-	-	-	Extrapolated No
16	1 st Floor below not tested	27	16	13.5	0.8	Yes
16/1	Hotel bedroom below expected fail	-	-	-	-	Extrapolated No
33-36 O'Connell St Upper						
2	Bathroom	27	27	26	3.7	N/A
3	Bathroom	27	22	24	2.2	N/A

We note that some windows have not been assessed and we have extrapolated from the results to provide the most likely conclusions to the same.

The apartment living room / kitchen to building window 5 which is a marginal pass has a second window which would by inspection likely fail, providing an average fail for this living space. This coupled with sunlight (PASH) loss would have a negative impact on this unit.

Hotel Bedrooms 2 & 4 fall below requirements with skylight losses of -30%

Hotel Bedrooms 15 & 16 are marginal passes 0.80 so by inspection the windows on the 1st floor windows below will expect to also fail.



Given the declared impact Appendix F in its final clause issues a specific warning of problems which this sort of approach can give rise to:

"F9 *Notwithstanding the above guidance, the developer should still be aware of the rights to light of adjoining properties, as the higher levels of obstruction resulting from such a flexible approach may result in infringement of rights to light (see Appendix E).*"

Loss of light to the hotel bedrooms may impact their usage and may have a commercial impact on the hotel as a whole.

Sunlight (PASH/PWSH)

We are generally comfortable with the sunlight results other than the annual sunlight to the apartment living/kitchen/dining space notionally named 5 which will see a 40% loss of sunlight and well below BRE apartment guidelines.

Annual sunlight PASH the remainder of our clients windows generally pass. Indeed windows 1 & 3 appear to be incorrectly noted as fails as they both pass the 25% requirement, albeit with a large change ratio.

Winter sunlight WPSH in cities is difficult to maintain, with low sun angles and tall buildings sunlight may sometimes only be available through a narrow arcs over typically short timescales trying to protect the same would limit development and we also place less emphasis on the same.

Conclusions

- There is a lack of clarity on what baseline model was used
- All impacts shown are cumulative and at least include the granted applications, the perceived loss between the existing situation (now) and when this proposed development and the granted applications are built will be significantly greater.
- Several windows to habitable rooms fail to pass the BRE requirements and this will have impact on their usage.
- No sky line analysis for rooms, particularly those most impacted have been provided. The applicant will provide floor plans if requested for such an analysis.
- Several windows to habitable rooms have not been assessed
- Impact on curtilage of protected buildings 76, 77 & 78

Yours faithfully,

Chris Shackleton

Windows Falling PWSH Study



Windows Falling PASH Study



Windows Falling VSC Study





O'Neill Town Planning,
Oakdene, Howth Road,
Howth,
Co. Dublin,
D13DK31

30th June 2022

Our Ref: LH/PH/3639/22

Explanation of the Origins of the Rights of Way

Planning appeal – register reference 3200/22

Rights-of-way affecting the property known as the courtyard attaching to the rear of The Living room Pub (formerly 1-5 Findlater Place) 28-32 Upper O Connell Street and to the rear of 33-35 Upper O Connell Street and 76-82 Parnell street Dublin 1. ("the affected property")

Dear Mr O'Neill,

You asked us to examine title documents to establish whether or not there are rights-of-way over the affected property attached to certain properties.

CONCLUSION - There are unrestricted rights-of-way for all purposes at all times attached to the properties 33, 34 and 35 Upper O'Connell Street, 76 – 77 Parnell Street, and the Gate Hotel 80/82 Parnell Street.

33, 34 and 35 Upper O'Connell Street and 76 – 77 Parnell Street.

There are a large number of documents to examine. The simplest demonstration of those rights in respect of these properties, and other properties on Upper O'Connell Street, is by examining two deeds dated 1970 and 1951.

The 1970 deed has a map attached that shows a lane marked "Stable Lane (White Lane)" at the rear of the properties on Upper O'Connell Street and Parnell Street. It is a stable lane. A stable lane is a service road giving access to the rear of properties fronting onto a main road. It is usually built by the developer who constructed the main houses, and often remains his property. The deeds suggest that

the stable lane remained the property of the developer. The stable lane can be either a public road or a private road. The documents suggest that this one is a private road. This is deduced from a map attached to the 1951 deed showing a gateway across the exit to Gregg's Lane, now Findlater Place.

The deed of 1951 consists of a relinquishment by a subtenant of the subtenant's right to use the right of way, thereby confirming the existence of the right-of-way. The deed also conveys the rear wall of number 33 Upper O'Connell Street as it then was to Alex Findlater and Company Limited. But this is only the subtenant's entitlement. It does not affect the freehold. The purpose of this was probably to permanently prevent access from number 33 to the stable lane. This was not effective. It is always possible to reopen a disused right-of-way. This may have consisted of a trespass over the wall, but such a trespass would be cemented by long usage. This is in fact what occurred when the owners of number 33 broke out a new entrance to the stable lane in or about the year 1998.

The rear of numbers 35 Upper O'Connell Street and 76 - 77 Parnell Street are at present blocked up with permanent walls. The case law shows many instances where permanent walls can be opened up again where evidence of no intention to use the right of way ever again can be proved. It will not be assumed except in the most stringent circumstances. This evidence is often unavailable.

Presumptions favour the right of way. The principal presumption is that no one will be presumed to abandon or give up a valuable property right like a right-of-way without a price being paid and formally evidenced by deed.

In any event, there is no such deed of relinquishment for number 34 or any of the other properties facing onto the stable lane. In addition, the title of Alex Findlater and Company Limited to extinguish a right-of-way at that time was doubtful. They were not the owners of the stable lane. The owners were probably the developers who built the houses and the stable lane. To this day, the successors in title of Alex Findlater and Company Limited have still not established title to the stable lane. They are at present in the process of an application to the land registry for a possessory title by way of adverse possession.

The map on the 1951 deed shows that Alex Findlater and Company Limited had built a bottling warehouse on the site, but excluding the stable lane. This respects the rights of way. Later documents show that the warehouse was demolished soon afterwards, at a time not recorded in the deeds. In those circumstances, there was nothing to prevent the owners of the Upper O'Connell Street properties from reopening the rear access, as in fact happened.

The reconfiguration of the former warehouse site led to its replacement by a car park with an exit onto Findlater Place/Cathal Brugha Street. The original exit from the stable lane is not shown on these maps. In legal terms, this means that the route of the right-of-way was altered, but remains in effect. Nothing that has happened since then alters this situation, that is to say, that numbers 33, 34 and 35 Upper O'Connell Street and 76 - 77 Parnell Street have unlimited rights-of-way for all purposes at all

times from the rear of the premises across the courtyard to exit onto Findlater Place/Cathal Brugha Street.

There are also questions of fire escape licences being granted to the premises. This was never necessary in terms of availability of rights-of-way.

The Gate Hotel.

All of the documents show a right-of-way from the rear of the Gate Hotel to exit onto Findlater Place/Cathal Brugha Street. As before, it was reconfigured from its original route a small distance to the east of the present route without altering the nature of the right. Later documents suggest that this right-of-way may be limited to an emergency exit only. But there is nothing in the earlier documents containing this limitation. None of the later documents show this change occurring. Therefore the original purpose still holds, that is to say, that there is attached to the Gate Hotel an unlimited right-of-way for all purposes at all times to cross the courtyard to exit onto Findlater Place/Cathal Brugha Street.

All of these rights were established long before the commencement of the lease that is due to expire in October 2022. They have not been extinguished by that lease, and will spring up again if and when it terminates.

Yours sincerely,

Hegarty McCarthy & Co.

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

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Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8

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Mr O'Neill Town Planning on behalf of
Noel Murray & Anne Marie Murray
81b,Oakdene
Howth
Dublin
D13DK31

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

PLAN NO.	3200/22
DATE RECEIVED:	02-Feb-2022
LOCATION :	28-32 O'Connell Street Upper and Cathal Brugha Street / Findlater Place,Dublin 1
PROPOSAL :	Planning permission for development at Holiday Inn Express (Formerly known as Findlater House),28-32 O'Connell Street Upper and Cathal Brugha Street / Findlater Place,Dublin 1. The application site is located on the junction of O'Connell Street Upper,Findlater Place and Cathal Brugha Street,Dublin 1. The subject site is located within the O'Connell Street Architectural Conservation Area.

The proposed development will consist of alterations and provision of an extension (comprising 7 storeys over basement) to the existing / permitted 8 storey hotel building (an additional eighth storey,permitted under Reg. Ref.: 2084/18 & ABP Ref.: 301378-18, and a fire fighting shaft,permitted under Reg. Ref.: 2850/19, have yet to be implemented).

The proposed development comprises of the following:

- Alterations to the existing basement level involving the omission of the existing car parking spaces and access ramp to provide 9 no. hotel rooms,plant,bin store and ancillary back of house areas;
- The demolition of c. 355 sq.m of existing hotel floorspace and external ancillary structures within the existing courtyard and alterations to the existing bar/restaurant at ground floor level, and provision of a proposed extension including an additional 9 no. hotel rooms at ground floor level. It is also proposed to provide 34 no. cycle spaces at ground floor level;
- A proposed seven storey extension (located within the existing courtyard to the rear of the site) from basement to 6th floor level to provide for an additional 103 no. hotel rooms;

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

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

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

- Alterations to existing hotel rooms and removal of 6 no. rooms from first to sixth floor level to provide access to stair/lift cores and the proposed extension;
- The proposed development will increase the total number of existing / permitted hotel rooms from 214 no. to 311 no. rooms, i.e. a net increase of 97 no. hotel rooms, and will increase the overall gross floor area from c. 10,880 sq.m to c. 13,490 sq.m.; and
- The proposed development also includes for the decommissioning of an existing ESB substation and provision of a new ESB sub-station at ground floor level, and all associated and ancillary works.

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

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

To Whom It May Concern,

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

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

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

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

A weekly list of planning applications and decisions is available for inspection at all Dublin City Council Libraries & on Dublin City Council's website. www.dublincity.ie.

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Yours faithfully,

For ADMINISTRATIVE OFFICER

TYNDALL



2 Montague Street
Dublin
D02 Y922

4th July 2022

By e-mail

Mr. Michael O'Neill,
O'Neill Town Planning,
Oakdene,
Howth Road,
Howth,
Co. Dublin

Re – Appeal to Granted Planning Permission (reg.ref. 3022/22)

Dear Michael,

Paul Tyndall Architects have been retained by Mr. Noel & Ms. Anne Murray to comment of the effect of the proposed extension to The Holiday Inn, 28-32 O'Connell Street Upper and Cathal Brugha Street/ Findlater Place, Planning Ref 3022/22, on their properties at O Connell Street Upper and Parnell Street.

Please find attached 3 drawings that we prepared to demonstrate the effects of the proposed development at The Holiday Inn, 28-32 O'Connell Street Upper and Cathal Brugha Street/ Findlater Place to the existing Fire Exit Routes from 80-81 Parnell Street & 33-35 O'Connell Street. These drawings are to be read in conjunction with the correspondence prepared by MJP Fire Consultants.

1. 1479/1 Survey
2. 1479/2 Existing Condition
3. 1479/3 Proposed Condition under Pl. Ref. 3200/22

These drawings clearly show that the existing exit routes from our client's properties will be obstructed if the proposed development is built.

Our client has also engaged Chris Shackleton Consultant to comment on the effects of the proposed development to the Sunlight and Daylight amenity of their properties. Their letter is also attached.

We trust the above is to your satisfaction and in this regard if you have any queries, please do not hesitate to contact us.

Yours sincerely,

Paul Tyndall
BArch (hons) Dip Arch MRIAI
RIAI Accredited Conservation Architect Grade III
TYNDALL ARCHITECTS + Designers



Date 10-Jun-2022

Mr O'Neill Town Planning on behalf of Noel Murray & Anne Marie Murray
81b, Oakdene
Howth
Dublin
D13DK31

DESCRIPTION: Planning permission for development at Holiday Inn Express (Formerly known as Findlater House), 28-32 O'Connell Street Upper and Cathal Brugha Street / Findlater Place, Dublin 1. The application site is located on the junction of O'Connell Street Upper, Findlater Place and Cathal Brugha Street, Dublin 1. The subject site is located within the O'Connell Street Architectural Conservation Area.

The proposed development will consist of alterations and provision of an extension (comprising 7 storeys over basement) to the existing / permitted 8 storey hotel building (an additional eighth storey, permitted under Reg. Ref.: 2084/18 & ABP Ref.: 301378-18, and a fire fighting shaft, permitted under Reg. Ref.: 2850/19, have yet to be implemented).

The proposed development comprises of the following:

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- A proposed seven storey extension (located within the existing courtyard to the rear of the site) from basement to 6th floor level to provide for an additional 103 no. hotel rooms;
- Alterations to existing hotel rooms and removal of 6 no. rooms from first to sixth floor level to provide access to stair/lift cores and the proposed extension;
- The proposed development will increase the total number of existing / permitted hotel rooms from 214 no. to 311 no. rooms, i.e. a net increase of 97 no. hotel rooms, and will increase the overall gross floor area from c. 10,880 sq.m to c. 13,490 sq.m.; and



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The proposed development also includes for the decommissioning of an existing ESB substation and provision of a new ESB sub-station at ground floor level, and all associated and ancillary works.

LOCATION: 28-32 O'Connell Street Upper and Cathal Brugha Street / Findlater Place, Dublin 1

PLAN NO: 3200/22

To Whom It May Concern,

I wish to inform you that by Order dated 07-Jun-2022 it has been decided to GRANT PERMISSION for the above proposal. Please refer to the related conditions/reasons attached.

- **An appeal may be made against this decision within 4 weeks, beginning on 07-Jun-2022. (The date of the decision).** Appeals must be received by An Bord Pleanala within FOUR WEEKS of the decision. Please check www.leanala.ie for the last day to submit an appeal,
- All appeals relating to the decision issued by the Planning Authority & correspondence in relation to new and existing appeals, should be addressed to the Secretary, An Bord Pleanala, 64 Marlborough Street, Dublin 1. (Tel: (01) 8588100).

Submissions/observations made to the Bord in relation to an appeal must be accompanied by the correct fee. Fees in respect of appeals and submissions may be ascertained by contacting An Bord Pleanala.

•

Reminder – In order to lodge an appeal with An Bord Pleanala you must present the letter issued by the Planning Authority in acknowledgement of your submission. Copies of your acknowledgement letter are available from this office.

Yours faithfully,


For Administrative Officer



CONDITION(S) AND REASON(S) FOR CONDITION(S)

1. Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made there under are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, as amended by the Further Information received on 11/05/22, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.

Reason: To comply with permission regulations.

2. A development contribution in the sum of €271,671.52 shall be paid to the Planning Authority as a contribution towards expenditure that was and/ or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme. The contribution is payable on commencement of development. If prior to commencement of development an indexation increase is applied to the current Development Contribution Scheme or if a new Section 48 Development Contribution Scheme is made by the City Council the amount of the contribution payable will be adjusted accordingly.

Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development.

Reason: It is considered reasonable that the payment of a development contribution should be made in respect of the public infrastructure and facilities benefitting development in the administrative area of the Local Authority.

3. A development contribution in the sum of €99,207.36 shall be paid to the Planning Authority in respect of the LUAS Cross City Scheme. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed in writing with the Planning Authority.

The amount due is payable on commencement of development. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development.

Reason: It is considered reasonable that the payment of a development contribution in respect of the public infrastructure and facilities benefitting development in the Luas Cross City area as provided for on the Supplementary Development Contribution Scheme made for the area of the proposed under Section 49 of the Planning & Development Act 2000 (as amended).

4. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of Planning Permission.



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Reason: To safeguard the visual amenities of the area in general
Dublin City Council

5. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

6. (a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'

(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

7. The developer shall comply with the following requirements of the Drainage Division of Dublin City Council;

a) The development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).

b) Records of public surface water sewers are indicative and must be verified on site.

c) The drainage for the proposed development shall be designed on a completely separate foul and surface water system with a combined final connection discharging into Irish Water's combined sewer system.

d) The development shall incorporate Sustainable Drainage Systems in the management of surface water. The measures described in the 'Civil Engineering Infrastructure Report for Planning' dated Feb 2022, including Green Roofs, shall be implemented in full. Full details of the surface water management plan shall be agreed in writing with Drainage Division prior to commencement of construction.

e) To minimise the risk of basement flooding, all internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer.

f) All private drainage such as, downpipes, gullies, manholes, armstrong junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve.

Reason: In order to ensure a satisfactory standard of development.



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8. The developer shall comply with the following requirements of the Dublin City Transportation Planning Division:

- a) Prior to commencement of development, and on appointment of a demolition contractor and following consultation with Transport Infrastructure Ireland, a Demolition Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended demolition practice for the development, including detailed traffic management, hours of working, noise and dust management measures and off-site disposal of demolition waste and access arrangements for labour, plant and materials, including location of plant and machine compound. The Demolition Traffic Management Plan shall seek to minimise impact on the public road and potential conflict with pedestrians, cyclists and public transport and shall identify mitigation measures to protect operational Luas Infrastructure and reduce the impact of construction traffic on adjoining businesses. The appointed contractor shall liaise with DCC Road Works Control Division during the demolition period.
- b) Prior to commencement of development, and on appointment of a main contractor and following consultation with Transport Infrastructure Ireland, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise and dust management measures and off-site disposal of construction waste and access arrangements for labour, plant and materials, including location of plant and machine compound. The Construction Traffic Management Plan shall seek to minimise impact on the public road and potential conflict with pedestrians, cyclists and public transport and shall identify mitigation measures to protect operational Luas Infrastructure and reduce the impact of construction traffic on adjoining businesses. The appointed contractor shall liaise with DCC Road Works Control Division during construction period.
- c) Prior to occupation of the development and following liaison with both Transport Infrastructure Ireland and the tram operator, a Servicing Management Plan shall be submitted to the Planning Authority.
- d) Prior to the occupation of the proposed development, a Mobility Management Strategy shall be prepared and submitted to the Planning Authority. The strategy shall address the mobility requirements of employees and patrons and shall promote the use of public transport, cycling and walking. The occupier of the development shall implement the measures outlined in the Mobility Management Plan and to ensure that employees/patrons of the hotel and ancillary units comply with this strategy. A Mobility/Travel Plan Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of the plan. The Plan shall be a living document and objectives shall be reviewed regularly and revised as necessary during the lifetime of the development.
- e) No part of the development shall extend across, encroach upon or overhang public land. The canopies shall be omitted. With the exception of fire escape doors and ESB substation access doors, no other access doors shall open outwardly across the public footpath, including access doors to the bicycle parking area and service access areas.
- f) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.
- g) The developer shall be obliged to comply with the requirements set out in the Code of



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Dublin City Council

Reason: In order to ensure a satisfactory standard of development

9. Prior to the commencement of development,details of the materials,colours and textures of all external finishes including samples,shall be submitted to and agreed in writing by the Planning Authority.

Reason: In the interests of orderly development and the visual amenities of the area.

10. The developer shall comply with the following requirements of Transport Infrastructure Ireland:

- The applicant is required to comply with the Code of Engineering Practice for works on,near or adjacent to the Luas Light Rail system. The Code is available to view at <https://www.luas.ie/work-safety-permits.html>

Reason: To ensure there is no adverse impact on Luas operations and safety concerns.

11. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division,the Transportation Planning Division and the Noise & Air Pollution Section.

Reason: To ensure a satisfactory standard of development.

12. Prior to the commencement of development,the developer shall lodge with the planning authority a cash deposit or a bond of an insurance company/bank .

(a) to secure the satisfactory maintenance,completion and any reinstatement of services/infrastructure currently in the charge of Dublin City Council,including roads,open spaces,car parking spaces,public lighting,sewers and drains.

or

(b) to secure the satisfactory completion of services until taking in charge by a Management Company or by the Local Authority of roads,footpaths,open spaces ,street lighting,sewers and drains to the standard required by Dublin City Council.

The form and amount of the security shall be as agreed between the planning authority and the developer,coupled with an agreement empowering the planning authority to apply such security or part thereof.

In the event that land to be used as open space is taken in charge,the title of any such land must be transferred to Dublin City Council at the time of taking in charge.

Reason: To achieve a satisfactory completion of the development.

13. (a) The site and building works required to implement the development shall only be carried out between the hours of:



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~~Mondays to Fridays - 7.00am to 6.00pm~~
Dublin City Council

Saturday - 8.00 a.m. to 2.00pm

Sundays and Public Holidays - No activity on site.

b) Deviation from these times will only be allowed where a written request with compelling reasons for the proposed deviation has been submitted and approval has been issued by Dublin City Council. Any such approval may be subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

14. Notwithstanding the provisions of the Planning & Development Regulations 2001(As Amended), no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission.

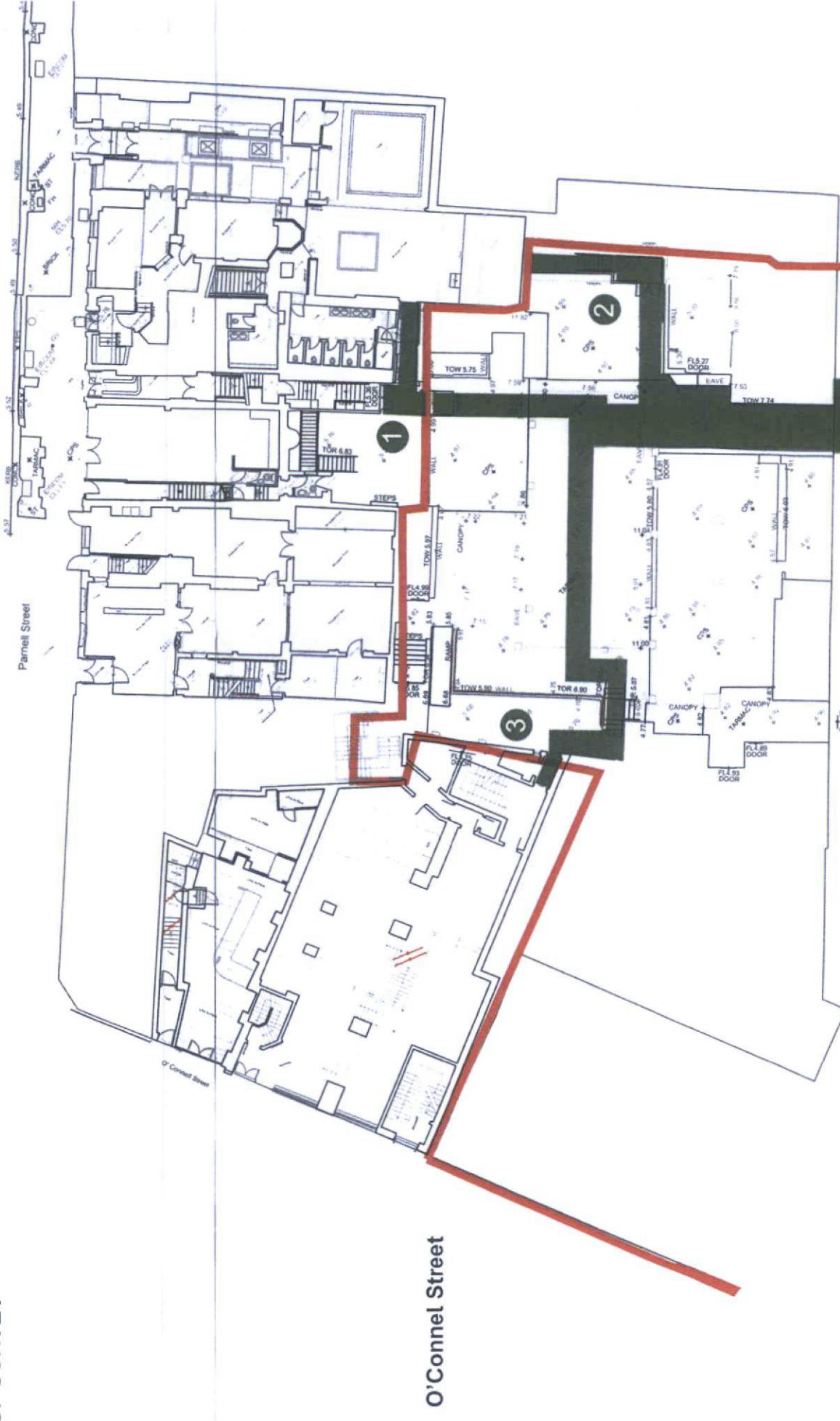
Reason: In the interests of visual amenity.

OVERLAY OF ROUTES ON GF SURVEY

PARNELL STREET

Parnell Street

HOLIDAY INN



O'Connell Street

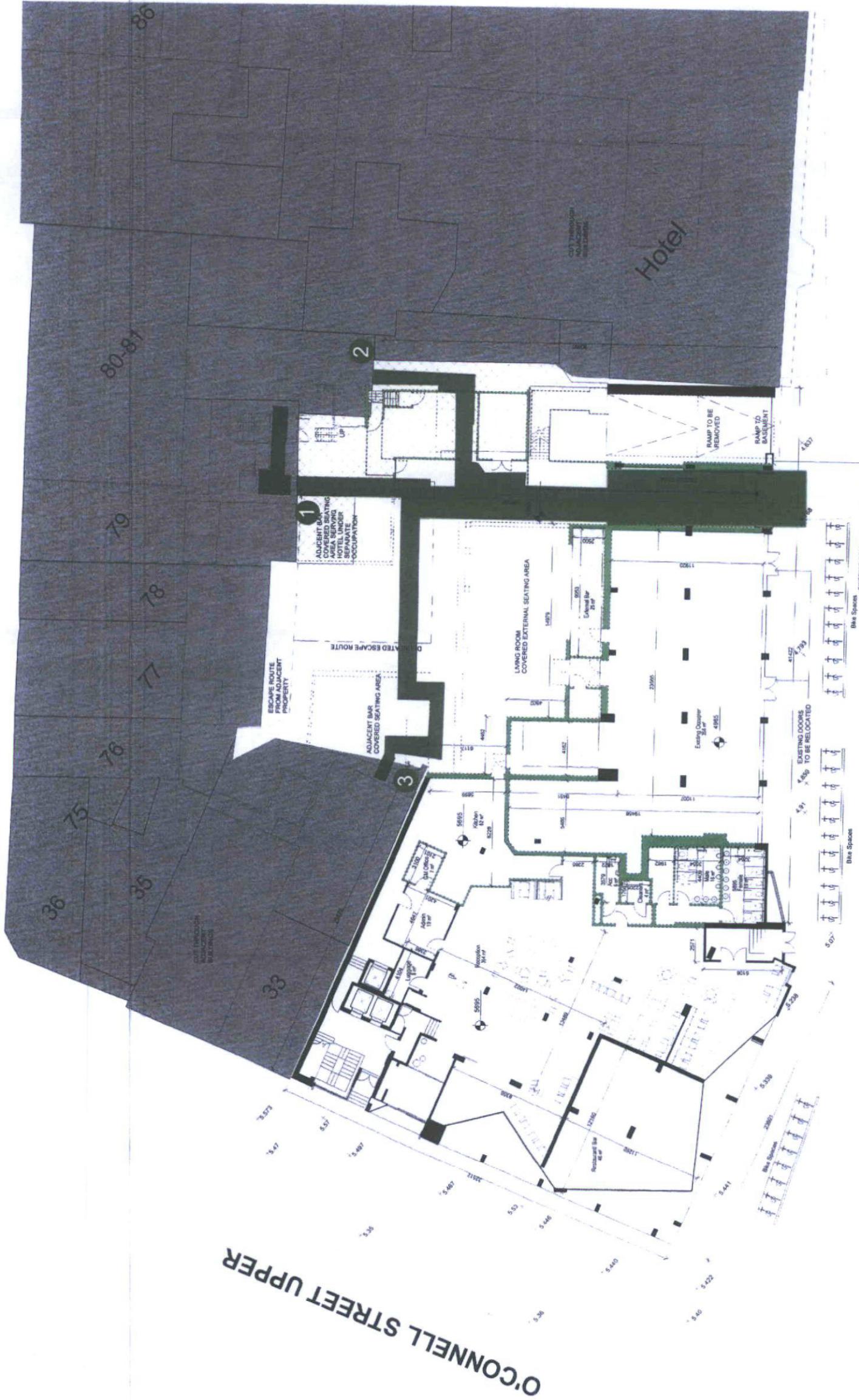
AN BORD PLEÁNALA	
04 JUL 2022 FROM _____	
LTR DATED	LDG-
ABP.	3139831

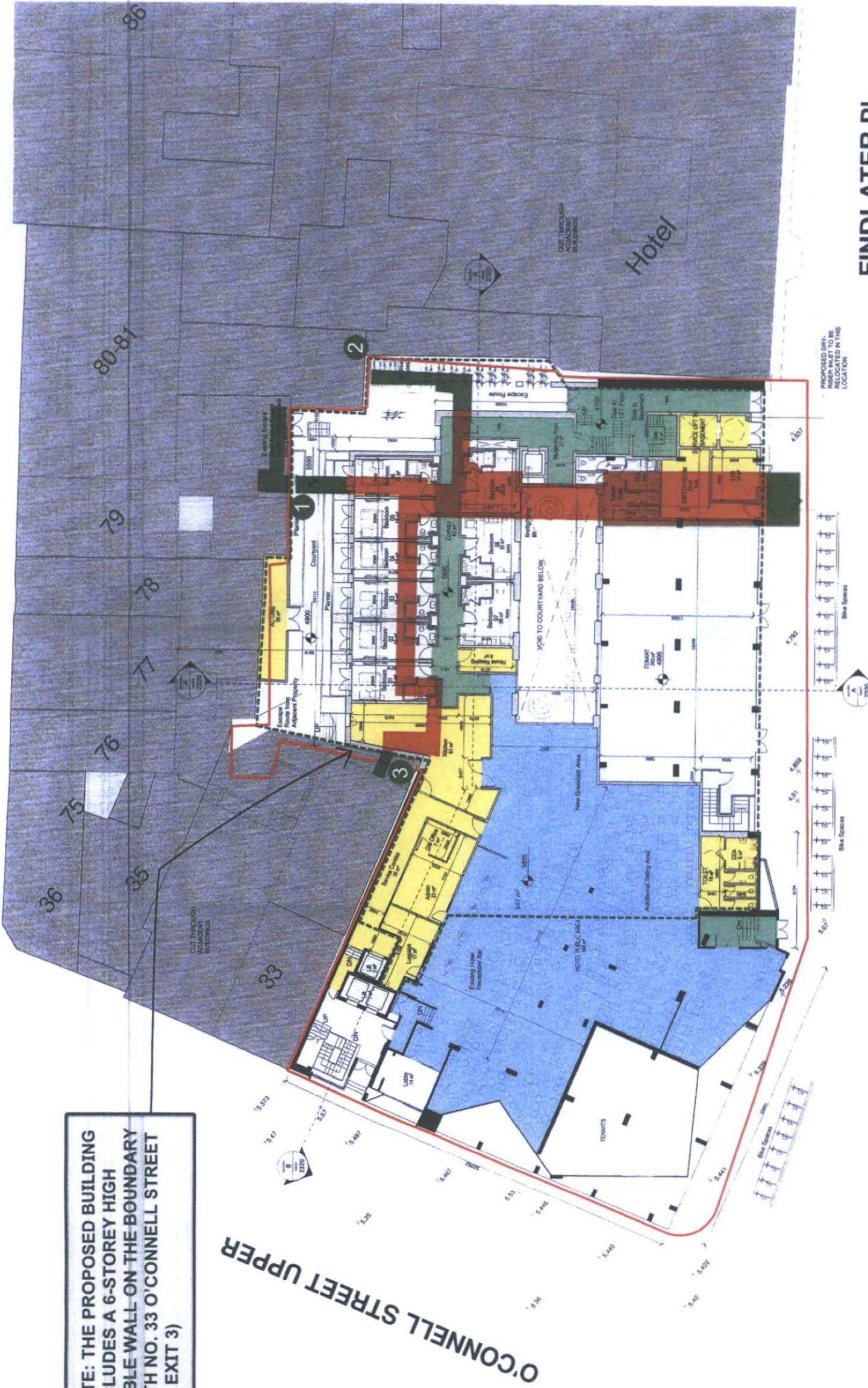
Findlater Place

EXISTING FIRE EXITS AND EXISTING
ROUTES OVERLAYERED OVER FLOOR PLAN

- 1 Existing Fire Exit from Gate Hotel & Fibbers (80-81 Parnell Street)
- 2 Existing Fire Exit from Basement of 80-81 Parnell Street
- 3 Existing Fire Exit from Murray's Bar (33-34 O'Connell Street)

Existing Exit Route





AN BORD PLEÁNALA

04 JUL 2022

LTR DATED _____ FROM _____

LDG-
ABP. 313981

EFFECTS OF NEW DEVELOPMENT TO EXISTING FIRE EXITS

1. Existing fire exit blocked off by proposed planter
 2. Existing fire exit staircase from basement removed
 3. Existing fire exit blocked off by proposed solid wall against the existing external wall
- Extent of existing exit route obstructed by proposed building

PROPOSED GROUND FLOOR PLAN
1:200

FINDLATER PL

EXISTING FIRE EXITS AND EXISTING ROUTES OVERLAYED OVER FLOOR PLAN

- 1 Existing Fire Exit from Gate Hotel & Fibbers (80-81 Parnell Street)
 - 2 Existing Fire Exit from Basement of 80-81 Parnell Street
 - 3 Existing Fire Exit from Murray's Bar (33-34 O'Connell Street)
- Existing Exit Route

CATHAL BRUGHA ST