



An
Bord
Pleanála

Inspector's Report

ABP-316233-23

Development

PROTECTED STRUCTURE:
Construction of an 8-storey mixed-use development comprising of: (a) restaurant use at ground floor level; (b) residential use at upper floor levels comprising 7 apartments; (c) all associated site ancillary works and services.

Location

The Woollen Mills, No. 41/42 Ormond Quay Lower, Dublin 1 (A corner site with frontage along Liffey Street Lower and including 'The Yarn' No. 37 Liffey Street Lower, Dublin 1).

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

3059/23.

Applicant(s)

SRM Book & Cook Limited.

Type of Application

Planning Permission.

Planning Authority Decision

Refused.

Type of Appeal

First Party.

Appellant(s)

SRM Book & Cook Limited.

Observer(s)

1. Frank McDonald.
2. An Taisce.
3. Cllr Mannix Flynn.
4. Taurus Management Consultancy Ltd.

Date of Site Inspection

16th day of September & 10th day of October, 2024.

Inspector

Patricia M. Young.

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1.0 Site Location and Description

- 1.1. 'The Woollen Mills' No. 41/42 Ormond Quay Lower and 'The Yarn' No. 37 Liffey Street Lower is an L-shaped corner site with a stated site area of 0.023ha occupying a prominent location on the historic northern quayside in Dublin's city centre. At the corner of Ormond Quay Lower and Liffey Street the site contains a period four-storey painted brick with hipped roof over building that dates back to circa 1840s. This building is designated a Protected Structure (Note: 6074) with the RPS description given as 'Dublin Woollen Co.' This building is also listed under the National Inventory of Ireland Reg. No. 50010335 with the address given as 'Dublin Woollen Mills, 41 Ormond Quay Lower, Liffey Street Lower, Dublin 1'.
- 1.2. The four-storey period corner building of No. 41 & 42 Ormond Quay Lower is referred to in the documentation accompanying this application as 'The Woollen Mills' and at the time of inspection it was mainly in use as a restaurant with ancillary staff facilities. It also includes linkage at upper floor levels to the adjoining 'The Winding Stairs' building from its internal stairway. At ground floor level waste storage for the restaurant use was accommodated in an undercroft alley type link that opens onto the public domain of Ormond Quay to the immediate west of its ground floor level commercial unit that accommodates a book store. With this link also providing connectivity to the ground floor space at No. 37 Liffey Street Lower that is in use as 'The Grand Social'.
- 1.3. The ground floor frontage that addresses Ormond Quay Lower consists of a simple painted and glazed frontage with the upper floor level consisting of painted brick with symmetrically placed timber sash windows. At this the adjoining pedestrian Ormond Quay Lower pedestrian footpath is of restricted width and contains a period light standard. The eastern frontage of No.s 41 & 42 Ormond Quay Lower is similar to the Ormond Quay Lower frontage but contains a decorative metal canopy with a modest sloping mono pitched weather proofed roof over. The associated space underneath this canopy is used as a covered external outdoor dining space for customers of 'The Woollen Mills' restaurant and it extends northwards along the frontage of an adjoining glazed link addition. This link building is connected to the northern elevation of the four storeys No.s 41 & 42 Ormond Quay Lower at ground and first floor level. With the first-floor level relating to an enclosed additional dining space created on its flat roof and is covered by a retractable awning. This link building is also connected at ground and

first floor level to a three-storey flat roofed c1920s building that above ground floor level is characterised by its painted brick finish (Note: No. 37 Liffey Street Lower). This building is referred to in the accompanying documentation as 'The Yarn' and at the time of site inspection it appeared to be in use as kitchen preparation space for 'The Woollen Mills' restaurant but also opens as pizza restaurant in the early evening time with indoor dining at ground floor level. The aforementioned canopy does not extend in front of the ground floor level of 'The Yarn' building and this building has a zero setback from the adjoining civic plaza of Lower Liffey Street Lower.

- 1.4. Both the glazed link building and the three storeys 'The Yarn' building form part of the NIAH description of Reg. No. 50010335.
- 1.5. The eastern frontage of the site excluding the area encompassed by the canopy has been subject to extensive public realm improvements in recent times and since this application was lodged Liffey Street Lower to the south of its junction with Strand Street Great has been pedestrianised with the space around its three mature trees soft landscaped. Additionally decorative lighting, seating and bollards have been erected which limits access to this space for vehicles outside of loading/unloading.
- 1.6. Adjoining the four-storey period building of No.s 41 & 42 Ormond Quay Lower, is the more substantial four storey period building of No. 40 Ormond Quay Lower ('The Winding Stairs'), a Protected Structure. The curtilage of this building extends northwards bounding the eastern red line area of the site along its entire length. The curtilage of No. 40 Ormond Quay Lower is outlined in blue in the site layout plan. To the north the site is bound by No. 35 Liffey Street Lower. Where this fronts onto the civic plaza on its southern side it is three stories in height, with this height reducing by a storey on its western side and where it adjoins the subject site. This is a mixed-use building containing 'The Grand Social' and the Dublin Well-Woman Centre. Access to the Dublin Well-Woman Centre is via a ground floor entrance that is in proximity to 'The Yarn' building. Additionally, 'The Grand Social' is accessed from No. 35's southern ground floor elevation that opens onto the civic plaza.
- 1.7. This appeal site occupies a highly prominent and visible corner site on the historic quays of Dublin's city centre and forms part of a mixed-use vibrant location. On the opposite side of the Ormond Quay and Bachelors Walk junction from the civic plaza is the Ha'penny Bridge which provides access to Wellington Quay, Aston Quay and is

a busy pedestrian thoroughfare between north and south side of the historic quays with Henry Street located in close proximity to the north and Temple Bar located in close proximity to the south.

2.0 Proposed Development

2.1. Planning permission is sought for the following development at No.s 41 – 42 Ormond Quay Lower, a Protected Structure (RPS No. 6074) and No. 37 Liffey Street Lower:

- Demolition of non-original two-storey extension to the rear of the 'Woollen Mills' building. The existing canopy fronting onto Liffey Street Lower will be retained.
- Partial external and internal demolition to three-storey 'The Yarn' building. Existing brick facade at first and second floor levels will be retained.
- Construction of an 8-storey mixed-use development to the rear of the 'Woollen Mills' along Liffey Street Lower, incorporating the remaining facade of 'The Yarn' at first and second floor level and a new facade to Liffey Street Lower at ground floor level, comprising of:
 - (a) Restaurant use at ground floor level as part of existing 'Woollen Mills' establishment. Access to the restaurant will be from the existing entrance on Ormond Quay Lower and proposed new entrance on Liffey Street Lower.
 - (b) Residential use at upper floor levels comprising 7 no. apartments. The unit mix will consist of 6 no. three-bed apartments and 1 no. two-bed apartment. Access to the apartments will be from Liffey Street Lower. Each apartment will have access to private amenity space in the form of a private balcony and 79m² of external communal amenity space provided via rooftop terrace.
 - (c) The ground floor level will also accommodate an apartment lobby; lift shaft; bike store for 25 no. spaces and refuse storage which will serve the residential units at upper floors. Access will be provided from 2 no. entrances from Liffey Street Lower. The rooftop will also accommodate a plant room (16m²) with solar PV mounted to the roof.
- Internal works to existing Woollen Mills building comprising blocking up of openings at rear (northern) elevation.

- The development will also include the provision of SuDS measures together with all ancillary works and services necessary to facilitate the development.

The planning application form indicates that a floor area of 215.3m² would be retained on site and that the floor area of new development would be 776.65m².

The total floor area of new and retained is given as 1,231m²; the site coverage is given as 100% and the plot ratio is given as 4.3. I note to the Board that the submitted documentation does not provide clarity on the actual floor area to be demolished.

This application is accompanied by the following documentation:

- Covering Letter.
- Planning Report.
- Pre-Planning Report.
- Architects Design Statement.
- Architectural Heritage Impact Assessment.
- Visual Photomontages.
- Social Housing Exemption Certificate.
- Daylight, Sunlight & Shadowing Assessment.
- Engineering Services Report
- Mobility Management Plan
- Sustainability Report/Energy Statement.
- Outline Resource & Waste Management Plan.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 14th day of March 2023, the Planning Authority issued a notification to **refuse** permission, for the following stated reasons:

“1. The proposed development by virtue of its scale, height and massing constitutes an over-bearing, excessive and inappropriate form of development

in the context of the historic setting of the Liffey Quays which is iconic and unique to the built heritage of the Inner City. The development would result in significant over-development of this sensitive site to the rear of The Woollen Mills, a Protected Structure, and adjacent to the (red-hatched) Conservation Area of the historic Liffey Quays, whose setting will be adversely impacted. The proposed 8 storey building would cause serious injury to the amenity, legibility, special architectural character and setting of the Protected Structure and would cause serious injury to the visual amenities and presentation of the Liffey Quays Conservation Area. Accordingly, the proposed development would contravene Policy BHA2, BHA9, BHA10 and BHA11 of the Dublin City Development Plan 2022- 2028, and would set an undesirable precedent for development within and adjacent to historic buildings and protected structures within a Conservation Area.

2. *The proposed development, by virtue of its height, scale and massing would constitute a visually jarring building that would be contrary to Appendix 3 Section 6.0 Guidelines for Higher Buildings in Areas of Historic Sensitivity of the Dublin City Development Plan 2022-2028, adversely impacting key views and vistas along the river corridor, the amenities of the protected structure and those within the Liffey Quays Conservation Area. The proposed development would therefore be contrary to the proper planning and sustainable development of the conservation area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer’s report dated the 15th day of March 2023, notes:

- The site coverage and plot ratio exceed Development Plan standards.
- Developments of significant height and scale are generally not considered appropriate in historic settings.
- The proposed building height would be at an amplified height when compared to the Protected Structure and the established built forms and height of buildings fronting the Liffey Quays at this location.

- There should be a more appropriate transition in scale between any development on this site and Liffey Street Lower, particularly in the context of the new plaza works to be undertaken as part of the Liffey Street Public Realm project.
- Of concern part of the ground floor includes inactive uses.
- Concern is raised in relation to the proposed residential element and its proximity to 'The Grand Social' which is a late-night music venue.
- Concerns are raised regarding the bulk of the building when viewed towards its western and eastern elevations which comprise of blank facades.
- No commentary is provided on the roof terrace and how it would be landscaped.
- This proposal fails to consider micro-climate effects.
- The residential amenity spaces are acceptable.
- The pop-ups at roof level appear crude and would be clearly visible over a wide area.
- This proposal would detract from visually important views and prospects.
- This proposal would be contrary to the City Height Strategy.
- The precedents provided are not comparable.
- The scale, mass and height of the 8-storey building would fail to respect or enhance the Protected Structure and its setting.
- Proposal would result in overdevelopment of this site in a manner that would be contrary to Policy BHA 2 and BHA 9 of the Development Plan.
- There is increased demand for two- and three-bedroom properties.
- The proposed partial external and internal demolition of the three-storey 'The Yarn' building is considered to be tokenism.
- No consultation was had with the City Archaeologist and there is no archaeological impact assessment provided.
- Concludes with a recommendation for refusal.

3.2.2. Other Technical Reports

Conservation: Concludes with a request for additional information. It notes:

- The principal building fronting onto Ormond Quay Lower is a surviving authentic building on Ormond Quay that is an integral part of the remaining historic streetscape.
- It is acknowledged that the three-storey brick building at No. 35 (The Grand Social) adjoining the rear of the subject site and the two-storey brick terrace that extends from the corner of Liffey Street Lower and runs along Strand Street Great are not included in the RPS or NIAH. Notwithstanding, they are considered to be of local interest with their modest nature reflecting the historic urban grain and scale of their setting. These together with No.s 32, 33 and 34 Liffey Street Lower add to the level of animation of their streetscape scene.
- Although modern infill buildings exceed the height of the historic parapets, their window to wall ratio, materiality and general architectural character are considered to be successful sensitive interventions within the context of the Liffey Quays Conservation Area and the Protected Structures it contains.
- The recently completed 2 no. seven storey six bay blocks permitted by the Board under ABP Ref. PL29N.249258 creates a substantial back drop to the rear.
- The two-storey glazed link provides a comfortable buffer zone between the rear of the Protected Structure and the early 20th century three storey building.
- The proposed demolition and replacement of the existing two storey glazed link as well as the partial external and internal demolition of the three storeys 'The Yarn' building with an eight-storey building is not appropriate.
- The overall height of the proposed eight storey building relative to the Protected Structure on site with its limited setback is inappropriate. It would also be seriously injurious to its character and setting.
- The precedents given by the applicant are not accepted.
- The new building would be an excessive tower block that would be overbearing and visually jarring interruption to the scale as well as presentation of the historic Liffey Quays as well as from vistas along the river.
- The submitted photomontages show the adverse and injurious impacts of the proposed development.
- Refusal recommended.

Archaeology: Concludes with a recommendation of additional information. It notes:

- Site is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Historic City).
- No consultation was had with the City Archaeologist nor is this application accompanied by an Archaeological Assessment and there is no discussion on potential archaeological impact in the accompanying documentation.
- There is potential for any development on this site to negatively impact on sub-surface remains of earlier structures and/or archaeological deposits/features.
- The lack of a basement under 'The Woollen Mills' allows for potential archaeological material to remain undisturbed here.

Drainage: No objection, subject to safeguards.

Transportation: Concludes with a request for additional information. It notes:

- Potential for the development to overhang the public domain during construction.
- The zero-car parking approach is deemed acceptable.
- Additional information required in relation to the bicycle facility provision.
- No information has been provided on servicing and logistics of the site.

Air Quality Monitoring & Noise Control Unit: No objection, subject to safeguards.

3.3. Prescribed Bodies

- 3.3.1. **An Taisce – The National Trust for Ireland:** The substantive concerns raised in their submission to the Planning Authority in my view correlate with those raised by them in their submission to the Board (See: Section 6.0 of the report below).
- 3.3.2. **TII:** It is requested that a Section 49 Contribution Scheme Levy be imposed.

3.4. Third Party Observations

- 3.4.1. During the course of the Planning Authority's determination of this application they received 3 No. Third Party Observations. Having read observations, I consider the substantive concerns they raise correlate with those raised by Third Parties Observations received by the Board from these parties (See: Section 6.0 below).

4.0 Planning History

4.1. Site

4.1.1. P.A. Ref. No. 4311/17 – No. 41 Ormond Quay Lower, Protected Structure.

On the 23rd of January, 2018, retention permission was **granted** subject to conditions for the painted lettering signage to the existing timber fascia fronting onto Lower Liffey Street and planning permission was **refused** for a new projected hanging sign with a straight black metal bracket including integrated LED light strip and decorated timber hanging sign board with painted lettering to match the existing fascia lettering, also fronting onto Lower Liffey Street. The single given reason for refusal considered that this component of the development would detract from the visual amenities and character of the area as well as would contribute to visual clutter.

Decision date: 23.01.2018.

4.1.2. P.A. Re. No. 2123/13 No. 40 & 41 Ormond Quay Lower, Protected Structure.

Permission was **granted** subject to conditions for the change of use from retail to retail and restaurant use at ground, first, second and third floors, with retail sales and dining areas and kitchen and servery at ground floor and dining areas at first floor an external terrace dining area at the flat roof with glass protective rail at first floor level, staff and office areas at second and third floor levels, a preparation kitchen at second floor rear, provision of a passenger lift and food hoist, provision of toilets at basement level; the formation of a door opening in the party wall with the Winding Stair Restaurant at No. 40 Lower Ormond Quay, at first and second floor levels to provide access to the stairwell at No. 41 Lower Ormond Quay as a means of fire escape; minor alterations to the shopfront at ground floor level; Refurbishment of existing glazed canopy at the Lower Liffey Street frontage; and planning permission for retention of extension to kitchen at first floor rear of Winding Stair restaurant and refurbishment/repair of existing windows in the frontages of the Wollen Mills premises and refurbishment of the slated roof.

Decision date: 28.03.2013.

5.0 Policy Context

5.1. Local – Development Plan

- 5.1.1. The Dublin City Development Plan, 2022-2028, is applicable under which the subject site forms part of a larger parcel of land zoned 'Z5'. The stated objective for such lands is: *"to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity."*
- 5.1.2. Section 14.7.5 of the Development Plan states that: *"the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development"* and that the strategy is: *"to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night. As a balance, and in recognition of the growing residential communities in the city centre, adequate noise reduction measures must be incorporated into development, especially mixed-use development."*
- 5.1.3. This section of the Development Plan also states that: *"a general mix of uses, e.g. retail, commercial, residential, will be desirable throughout the area and active, vibrant ground floor uses promoted"* and that: *"in the interests of promoting a mixed-use city, it may not be appropriate to allow mono office use on Z5 zoned lands"*.
- 5.1.4. The appeal site contains No.s 41/42 Ormond Quay Lower which is a designated Protected Structure (Note: RPS Ref. No. 6074). Section 11.5 of the Development Plan sets out the Policies and Objectives for Protected Structures. It provides the following definition for Protected Structures: *"any structure or specified part of a structure, which is included in the RPS. Unless otherwise stated, it includes the interior of the structure, the land lying within the curtilage of the structure, any other structures lying within that curtilage and their interiors, and all fixtures and features which form part of the interior or exterior of the above structures. The protection also extends to any features specified as being in the attendant grounds including boundary treatments."*
- 5.1.5. In relation to External and Internal Works Section 11.5.1 states: *"City Council will manage and control external and internal works that materially affect the architectural character of the structure through the development management process."*

5.1.6. On the matter of Demolition Section 11.5.1 states: *“permission shall not be granted for the demolition or substantial demolition of a protected structure or a proposed protected structure except in exceptional circumstances (Section 57(10)(b) of the Planning and Development Act, 2000 (as amended)). It is accepted that in some circumstances, the loss of a protected structure may be the only option, and this may be permitted where it will secure substantial public benefit or where there is no other viable option. Any proposal regarding the demolition of a protected structure will require the strongest justification provided by a qualified professional with expertise in architectural conservation. The applicant will be required to provide preservation by written and visual record of the structure or any element of the structure that contributes to its special interest, or the architectural salvaging or reinstatement of any such element before the authorised development takes place.”*

5.1.7. The following policies are relevant:

- BHA2: This policy seeks to conserve and enhance protected structures and their curtilage.
- BHA3: This policy sets out that the City Council will resist the total or substantial loss of protected structures in all but exceptional circumstances.
- BHA4: Sets out that regard will be had to the NIAH.
- BHA5: This policy states: *“that there is a presumption against the demolition or substantial loss of any building or other structure assigned a ‘Regional’ rating or higher by the National Inventory of Architectural Heritage (NIAH), unless it is clearly justified in a written conservation assessment that the building has no special interest and is not suitable for addition to the City Council’s Record of Protected Structures (RPS); having regard to the provisions of Section 51, Part IV of the Planning and Development Act, 2000 (as amended) and the Architectural Heritage Protection Guidelines for Planning Authorities (2011)”*.
- BHA6: Presumption against demolition of buildings or structures shown in the historic maps up to and including the Ordnance Survey of Dublin City, 1847.

5.1.8. The site is located within the area identified under Figure 11-1 of the Development Plan as Dublin City Centre/Medieval Core.

5.1.9. The site forms part of a red hatched area in Map 'E' of the Development Plan and as such Section 11.5.3 is of relevance. It states that: *“Designated Conservation Areas include extensive groupings of buildings, streetscapes and associated open spaces and include (parts of) the medieval/walled city, the Georgian Core, the 19th and 20th century city, and the city quays, rivers and canals. The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas”* and that: *“as with Architectural Conservation Areas, there is a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area. Such proposals will require detailed justification from a viability, heritage, and sustainability perspective.”*

5.1.10. The following policies are relevant:

BHA9: This policy sets out that the City Council will seek to protect the special interest and character of all Dublin's Conservation Areas and that development within or affecting them must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

BHA10: This policy states that: *“there is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such loss would also contribute to a significant public benefit”*.

BHA11: This policy seeks the rehabilitation and reuse of existing older buildings which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment. It also seeks to ensure that appropriate materials are used to carry out any repairs to the historic fabric.

BHA15: This policy seeks to encourage the retention and reinstatement of internal and external features, which contribute to the character of

exemplar twentieth century buildings that are considered worthy of retention.

- 5.1.11. Section 11.5.4 (and Policy BHA21) of the Development Plan on the matter of Retrofitting, Sustainability Measures and Addressing Climate Change states that: *“enhanced thermal performance requirements (Part L) of the Building Regulations do not apply to buildings included on the Record of Protected Structures. Notwithstanding such exemptions, and in the overall interest of promoting sustainability, the Council recognises the need to improve energy efficiency, provided that the retrofitting of energy efficiency measures does not harm or compromise the special interest of protected structures.”*
- 5.1.12. Policy BHA24 of the Development Plan states that: *“City Council will positively encourage and facilitate the careful refurbishment of the historic built environment for sustainable and economically viable uses and support the implementation of the National Policy on Architecture as it relates to historic buildings, streetscapes, towns and villages, by ensuring the delivery of high quality architecture and quality place-making”*.
- 5.1.13. Section 11.5.5 of the Development Plan deals with the matter of Archaeological Heritage. Under Figure 11-2: Dublin’s Historic Core the site is located within the city’s Georgian Core.
- 5.1.14. Policy BHA26 of the Development Plan seeks to: *“protect and preserve Monuments and Places listed on the statutory Record of Monuments and Places (RMP) as established under Section 12 of the National Monuments (Amendment) Act 1994”* and *“to protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way of re-use of standing buildings, the construction of light buildings, low impact foundation design, or the omission of basements (except in exceptional circumstances) in the Monuments and Places listed on the statutory Record of Monuments and Places (RMP) as established under Section 12 of the National Monuments (Amendment) Act 1994”*.
- 5.1.15. Objective BHAO19 of the Development Plan states that the City Council will: *“provide for the protection, preservation and promotion of built heritage, including architectural heritage, archaeological heritage and underwater heritage, and support the in-situ presentation and interpretation of archaeological finds within new developments”*.

- 5.1.16. Policy BHA27 of the Development Plan seeks to implement the City Heritage Plan and to prepare and implement the Dublin City Strategic Heritage Plan, 2022-2028 (Note: not implemented at the time this report was prepared).
- 5.1.17. Section 4.5.5 of the Development Plan deals with the matter of Urban Design and Architecture and sets out that: *“well-considered urban design and architecture, including use of high quality materials and finishes, and well-designed buildings, spaces and landscapes make a positive contribution to the urban environment and improve the environmental performance, competitiveness and attractiveness of the city”*.
- 5.1.18. Section 4.5.4 of the Development Plan states that: *“higher density does not necessarily equate to high rise buildings and plot ratio and site coverage all contribute to the density of a particular built form”* and that: *“the appropriateness of building heights is also a key consideration within the historic core, particularly in key sensitive areas of the city such as the Georgian core, the Liffey Quays and medieval centre”*. It goes on to state that: *“proposals for increased height in these areas must demonstrate that they do not have an adverse impact on these sensitive environments and that they make a positive contribution to the historic context”* and that the: *“City Council remains committed to the need to protect and enhance conservation areas, Architectural Conservation Areas and the historic core of the city”*.
- 5.1.19. Appendix 3 of the Development Plan sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted and also performance criteria for the assessment of such development. It also details the different classifications of building height in the city. Of note are the requirements of Policy SC14: In relation to the Building Height Strategy, it states: *“to ensure a strategic approach to building height in the city that accords with The Urban Development and Building Height Guidelines for Planning Authorities (2018) and in particular SPPR 1 to 4”*. Further policies of relevance for buildings of height include:
- SC16: It states that in relation to building height locations that the City Council will: *“recognise the predominantly low rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre”*...*“as identified in*

Appendix 3, provided that proposals ensure a balance with the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area”.

SC17: Seeks to protect and enhance the skyline of the city, and to ensure that all proposals with enhanced scale and height. Additionally, this policy seeks that buildings of height demonstrate that they make a positive contribution to the urban character of the city and that responds positively to the existing or emerging context through to that they have regard to the performance-based criteria set out in Appendix 3. Moreover, this policy requires all proposals in the inner city must demonstrate sensitivity to the historic city centre, the River Liffey and quays, civic spaces of local and citywide importance.

SC18: Promote a co-ordinated approach to the provision of landmark/tall buildings, in order to prevent visual clutter or cumulative negative visual disruption of the skyline and that such proposals comply with the performance-based criteria set out in Appendix 3.

5.1.20. Figure 4.1 of the Development Plan illustrates key views and prospects.

5.1.21. Policy SC19 of the Development Plan seeks: *“to promote development which positively contributes to the city’s built and natural environment, promotes healthy placemaking and incorporates exemplar standards of high-quality, sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods”.*

5.1.22. Policy SC22 of the Development Plan seeks: *“to promote understanding of the city’s historical architectural character to facilitate new development which is in harmony with the city’s historical spaces and structures”.*

5.1.23. Policy QHSN10 of the Development Plan sets out that the Planning Authority will seek to promote sustainable densities with due consideration for design standards and the surrounding character. It refers to Appendix 3 of the Development Plan which it sets out provides guidance on urban density, compact growth, building height, plot ratios and site coverage.

5.1.24. The Development Plan includes several policies addressing and promoting apartment developments. These include policies: QHSN36, QHSN37, QHSN38 and QHSN39.

5.1.25. Section 4.5.6 of the Development Plan deals with the matter of Public Realm.

5.1.26. It is an objective of Dublin City Council under CCUVO13 to implement a programme of environmental and public realm improvements including but not limited to along the city quays.

5.1.27. Under Figure 7.2 of the Development Plan the site is located in the city centre retail core and Liffey Street Lower is designated a Category 2 street and pedestrian connectivity in a southerly direction. In this regard the following policies are relevant:

CCUV16: It is policy to provide for a mix of retail and other complementary uses on Category 2 streets and to promote active uses at street level on the principal shopping streets in the city centre retail core.

CCUV18: It is policy to encourage, support and promote more residential apartments as part mixed use developments in Category 2 Shopping Streets.

5.1.28. Section 7.5.6 of the Development Plan states that: *“Dublin City has a huge range of food and drink establishments. They play a vital role in supporting the visitor economy (day and evening), providing local employment opportunities and contributing to the city’s vitality.”* Of note is the following policy:

CCUV30: Seeks to promote and facilitate the provision of cafés / restaurants in the city and support their role in making the city more attractive for residents, workers, and visitors and in creating employment.

5.1.29. Section 7.5.7 of the Development Plan deals with the matter of Evening and Nighttime Economy. It states: *“there has been growing recognition of the role the nighttime sector plays / can play in the economy of international cities”* and that: *“evening and nighttime economy uses contribute to the vitality and vibrancy of the city centre and contributes positively to the visitor experience and local economy.”* Policy CCUV35 seeks to support and facilitate evening / nighttime economy uses that contribute to the vitality of the city centre and that support the creation of a safe, balanced, and socially inclusive evening / night time economy.

- 5.1.30. Section 7.5.8 of the Development Plan deals with the matter of Public Realm and states that: *“the public realm plays an important role in how Dublin’s urban centres function; it comprises the spaces that people move through in their daily lives and spaces for recreation, social contact, and civic engagement. The quality of the public realm affects how people experience and perceive the city in terms of its attractiveness as a place to live, work and visit as well as influencing a range of health, wellbeing and social factors. The quality of the public realm is, therefore, vital to the liveability and health of the city and to its economic success”* and that it is their intention to review their public realm strategy within the development plan period. Of note Policy CCUVO16 of the Development Plan supports the implementation of ‘The Heart of the City’ Public Realm Masterplan for the City Core 2016 and Policy CCUVO17 of the Development Plan seeks to improve the north south links the said public realm masterplan contains.
- 5.1.31. Chapter 5 of the Development Plan deals with the matter of Quality Housing and Sustainable Neighbourhoods and Policy QHSN16 promotes: *“built environments and outdoor shared spaces which are accessible to all. New developments must be in accordance with the seven principles of Universal Design as advocated by the National Disability Authority, Building for Everyone: A Universal Design Approach 2012 and consistent with obligations under Article 4 of the United Nations Convention on the Rights of People with Disabilities”*.
- 5.1.32. Chapter 6 of the Development Plan deals with the matter of the City Economy and Enterprise. It sets out that: *“that the focus of the strategy for the inner city and its immediately surrounding neighbourhoods within the canals will be to encourage balanced economic investment with an increased focus on liveability, enhanced public realm and mobility measures. The city centre will retain and build upon its existing role as one of Ireland’s most important employment areas with a mix of office, retail, residential, tourism related and cultural activities.”*
- 5.1.33. Policy CEE of the Development Plan seeks: *“to support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre and to facilitate the regeneration.”* This chapter of the Development Plan also deals with the matter of Climate Action and Quality of Life under Section 6.5.3. It includes a number of policies including CEE12 – which supports transition to a low carbon, climate resilient city economy; CEE13 – which supports the growth of a ‘green economy’ and CEE14 –

which recognises the quality of place, 'clean, green and safe', as being crucial to the economic success of the city.

5.1.34. Policy CEE26 seeks to promote and facilitate tourism as one of the key pillars of the city's economy and a major generator of employment through to seeks to enhance Dublin as a world class tourist destination.

5.1.35. Chapter 15 of the Development Plan sets out the Development Management Standards including those relevant to apartment units (Note: Section 15.9). Additionally, Section 15.5.1 of the Development Plan on the matter of Brownfield/Regeneration Sites sets out that regard will be had to several considerations including but not limited to:

- Encourage innovative, high quality urban design and architectural detail in all new development proposals.
- Review the surrounding built environment to ensure the new development is consistent with the character of the area.
- Contribute to the streetscape creating active and vibrant public realm.
- Create animation and create activity at street level and vertically throughout the building.
- Provide an appropriate mix of uses comprising retail, residential, recreational, cultural, community- and/or employment generating uses to improve the existing range of uses and facilities in the area.

Section 15.14.7.2 and 15.14.7.4 of the Development Plan provides the development management standards for restaurants.

Section 15.15 provides the development management standards for Built Heritage and Archaeology and under Section 16.18 it provides the development management standards for Environmental matters.

5.2. Local – The Heart of Dublin City Centre Public Realm Masterplan, 2016.

5.2.1. Section 7.1 includes Liffey Street and its Environs as one of the Short-Term Projects with it including the partial pedestrianisation of Liffey Street Lower alongside the eastern boundary of the appeal site. As part of this upgrading its public realm, including

its paving, lighting and furniture is set out with this to be carried out as part of the first phase of works, i.e. 2016 to 2022.

5.3. Local - DUBLIN CITY CENTRE Developing the Retail Core

- 5.3.1. Section 7.3 on the matter of public space strategy indicates that Liffey Street Lower together with Henry Street space marks an important junction and to mark its significance it should be redesigned as a small plaza incorporating special paving, planting, and seating. It also sets out that it is pavement widening is proposed for Liffey Street Lower.
- 5.3.2. Additionally, Section 7.3 sets out that the 'Woollen Mills Space' which it describes as being located prominently on the northern side of Ha'penny Bridge, is: "*one of the main north-south pedestrian routes*" and it: "*provides an ideal spot for a vibrant hub incorporating lively ground floor uses, seating, planting, and performance space*".

5.4. Local – Other – RPS

- 5.4.1. I note to the Board that the RPS not only lists No.s 41 & 42 Ormond Quay (RPS Ref. No. 6074) as a designated Protected Structure it also includes the address of Liffey Quays and Docks Area (north) in its list but does not include a RPS reference number. The Liffey Quays are indicated to include Ormond Quay Lower and Bachelors Walk. The quays on the opposite side are similarly listed under the heading of 'Liffey Quays and Docks Area (south)', similarly without an RPS reference number. The adjoining period building to the west No. 40 Ormond Quay Lower is a designated Protected Structure (RPS Ref. No. 6073) with its description given as 'Shop'.

5.5. Local - Dublin City Heritage Plan, 2002 – 2021.

5.6. Local – Shopfront Design Guide, 2001.

5.7. Regional

- 5.7.1. **Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES), 2019.**

This Strategy Document supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the region. It advocates sustainable consolidated growth of the Metropolitan Area, including brownfield and infill

development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs.

5.8. National

- **Project Ireland 2040 - National Planning Framework (NPF), 2018-2040.**
- **Architectural Heritage Protection Guidelines for Planning Authorities (2011).**
- **Places for People – the National Policy on Architecture, 2022.**
- **Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.**
- **Urban Development and Building Heights, Guidelines for Planning Authorities (2018).**
- **The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020, updated December 2022, and July 2023).**
- **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the accompanying Urban Design Manual.**
- **Housing for All – A New Housing Plan for Ireland, 2021.**
- **Rebuilding Ireland – Action Plan for Housing and Homelessness, 2016.**
- **Climate Action Plan, 2024.**
- **Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010).**
- **National Sustainable Mobility Policy, 2022.**
- **Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).**

5.9. Natural Heritage Designations

5.9.1. None in the vicinity.

5.9.2. The nearest Natura 2000 Sites are:

- South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) which is located c.2.7km to the northeast of the site at its nearest point.

- South Dublin Bay SAC (Site Code: 00210) which is located c3.6km to the southeast of the site at its nearest point.

5.10. EIA Screening

- 5.10.1. See completed Appendix 1- Form 1 attached to this report.
- 5.10.2. On the matter of environmental impact assessment screening regarding the proposed development sought under this application, the proposed development comprises of the part of an existing two storey extension to the rear of the main Woollen Mills buildings and the partial demolition of a three storey 1920s building that is also located to the rear of the main Woollen Mills building and construction of an eight storey mixed used building together with all associated site works and services on a stated 0.023ha hectare site.
- 5.10.3. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district and 20 hectares elsewhere. I note that in this paragraph, “*business district*” means a district within a city or town in which the predominant land use is retail or commercial use. I also note that Class 14 of Part 2 to Schedule 5 of the Planning Regulations is also in this case relevant.
- 5.10.4. This proposal is located on brownfield serviced lands in inner city Dublin that are zoned ‘Z5’ in the current Dublin City Development Plan, 2022-2028. The objective of such lands seeks to: “*to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.*”
- 5.10.5. Whilst the proposed demolition relates to the Protected Structure of No. 41/42 Ormond Quay South, it relates to later building layers and these works to facilitate the proposed eight storey mixed use building would retain the Georgian building layers and the 1920s façade of the later addition fronting Liffey Street Lower. The site is also adjoined on its western side by a Georgian period Protected Structure and there are a number of such structures that are sensitive to change in its immediate vicinity. This component of the proposed development could be undertaken in a reasonable and safe manner complying with final Construction Environmental Management Plan

(CEMP), Demolition Plan through to Operative Waste Management Plan for the project together with oversight by an Architectural Conservation Expert to ensure compliance with best accepted practices and guidance in dealing with such built heritage sites.

- 5.10.6. Further, excavations works therefore have the potential to impact on the Recorded Monument DU018-020 that the site forms part of its zone of archaeological constraint and as such this component of the proposed development would be required to accord with best accepted practices and guidance in dealing appropriately with any yet to be discovered subsurface archaeology that may still be present, including but not limited to oversight of this phase by an Archaeological Expert to ensure full adherence with the requirements of the City Archaeologist.
- 5.10.7. The proposed development is not one that is uncommon with the level of change to be expected in the evolving built heritage sensitive location of inner-city Dublin.
- 5.10.8. This site does not form part of any Natura 2000 Site and is situated at a significant lateral separation distance from the nearest such site. As set out in Section 5.9 above the nearest such sites are the South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) which is located c2.7km to the northeast and the South Dublin Bay SAC (Site Code: 00210) which is located c3.6km to the south east of the site at their nearest point respectively.
- 5.10.9. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other mixed-use developments in this inner-city neighbourhood, including those that include restaurant and residential land uses. It would not give rise to a risk of major accidents or risks to human health. The existing public infrastructure, including foul drainage, has sufficient capacity to accommodate the scale of development proposed subject to standard safeguards. I consider that the issues arising from the proximity/connectivity to a Natura 2000 Site, including connectivity to Dublin Bay via the nearby River Liffey, can be adequately dealt with under the Habitats Directive. I have also assessed the proposed development having regard to the above criteria and associated sub criteria having regard to the Schedule 7A and other information which accompanied this application including all relevant information on file. I have also completed a screening

assessment which are set out in the accompanying appendices attached to this report. I recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation as well as submission of an Environmental Impact Assessment Report would not therefore be required in this case. This conclusion of this is assessment is based on:

- The nature, scale, and extent of the proposed development, which is below the threshold in respect of Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- The nature, scale, and extent of the proposed development, which is under the mandatory threshold in respect of Classes 14 of the Planning and Development Regulations 2001, as amended,
- The location of the site on lands on zoned lands which seek to consolidate and facilitate the development of the central area, subject to standard safeguards.
- The location of the development is outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations, 2001, (as amended).
- The results of the strategic environmental assessment of the Dublin City Development Plan, 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC).
- The existing pattern of development in this area, its setting as well as in the intervening lands between it and the nearest Natura 2000 sites. They consist of compact, dense, and urbanised serviced brownfield lands.
- The availability of mains water and wastewater services to serve the additional quantum of development sought under this proposed development.
- The features and measures proposed by applicant to ensure no connectivity to any sensitive location.
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended).

- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).
- The criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, (as amended).

Conclusion:

On the basis of the foregoing, I have concluded that by reason of the nature, scale and extent of the quantum of development sought, the location of the subject site in a serviced urbanised landscape through to the lateral separation distance between it and the nearest European site, that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required in this case.

5.11. Built Heritage

5.11.1. Site

No. 41/42 Ormond Quay Lower (Dublin Woollen Mills: Shop/Retail – NIAH Reg No. 50010335) (Note: RPS Ref. No. 6074)

Rating: Regional

Categories of Special Interest: Architectural

Description:

“Corner-sited end-of-terrace three-bay four-storey building, built c.1840, with three-bay elevation fronting onto Liffey Street Lower with projecting canopy and shopfront spanning both elevations. Roof hidden behind parapet wall with granite coping. Freestanding profiled red brick chimneystack with clay pots with steel support to rooftop billboard. Painted brick walls laid in Flemish bond curved to corners. Rough cast rendered walls to north rear elevation. Gauged brick flat-arched window openings with painted masonry sills and replacement timber sliding sash windows and ogee horns. Diminutive square-headed window openings to rear elevation at eaves level with four-pane casement windows. Timber-framed shop display windows and glazed doors to both elevations surmounted by timber fascia with modern steel canopy to east elevation supported on steel posts extending across single-storey rear extension with

further shop display windows. Three-bay three-storey brick structure abutting single-storey extension with shop display window, built c.1920, opening onto Liffey Street Lower. Canopy to east opens onto informal public space."

Appraisal:

"This corner-sited building terminates the east end of its terrace and overlooks the Ha'penny Bridge. The graduated fenestration and timber sash windows give the building a Georgian appearance. The modest scale of the building adds variety to the quay front and provides an appropriate backdrop to the Ha'penny Bridge while successfully turning the corner from Ormond Quay Lower onto Liffey Street Lower."

5.11.2. Adjoining Property to the Immediate West of the Appeal Site

No. 40 Ormond Quay Lower (The Winding Stair : shop/retail outlet – NIAH Reg. No. 50010336) (Note: RPS Ref. No. 6073)

Rating: Regional

Categories of Special Interest: Architectural, Artistic, Social

Description:

"Terraced three-bay four-storey commercial building, built c.1875, remodelled c.1920, with shopfront to ground floor. Flat roof hidden behind parapet wall with moulded coping and squat piers to either end. Brick chimneystacks with clay pots to east party wall. Painted brick walls laid in Flemish bond with channelled rusticated brick pilasters framing front façade, and moulded cornice to base of parapet. Yellow brick walls laid in English garden wall bond to rear and east side elevations with granite coping to parapet. Arcaded fenestration to upper floors with gauged brick round-headed bays to top floor and keystones rising from giant brick pilasters. Original round-headed tripartite timber casement windows to third floor with glazed central hub and spoked outer glazing, resting on continuous masonry sill and brick aprons below. Square-headed window openings to first and second floors with original tripartite timber casement windows and overlights, also on continuous masonry sill and brick aprons to second floor. Decorative symmetrical shopfront to ground floor with central door opening having encaustic tiled floor to porch with timber glazed porch screen. Replacement timber display window to east bay with recessed tiled entrance to west bay. Each bay flanked by brick pilasters having plinth and capital mouldings supporting

replacement timber fascia and original cornice framed by pair of elaborate brackets with ball-head finials. Gauged brick flat-arch window openings with masonry sills to rear elevation having timber casement windows and steel fire escape.”

Appraisal:

“This arcaded building was built as an auction room in 1875 and remodelled in the 1920s. Standing taller than the other buildings on the terrace, the decorative front elevation and intact shopfront give the structure a pronounced presence on the river front overlooking the Ha’penny Bridge. A well-known bookshop, recently adapted to incorporate a restaurant ‘The Winding Stair’ is a local landmark and greatly enhances the character of the area.”

5.11.3. **Immediate vicinity:** within urban block the site forms part of No. 41/42 Ormond Quay Lower forms part of a city quayside block that is situated between Liffey Street Lower on its easternmost side and Swifts Row on its westernmost side that fronts onto Ormond Quay and is bound by Strand Street Great on its northern side. Of built heritage note are the following structures that are listed as Protected Structures under the RPS that form part of the visual curtilage of No. 41/42 Ormond Quay Lower and also listed in the NIAH Survey:

- **No. 38/39 Ormond Quay Lower** (NIAH Reg. No. 50010337/Rating: Regional/Categories of Special Interest: Architectural, Artistic) c9m to the west of the appeal site at its nearest point. (Note: RPS Ref. No. 6071 (Description - Front façade and roof profile) and 6072 (Description - Business premises)).
- **No. 36-37 Ormond Quay Lower** (NIAH Reg. No. 50010339, Rating: Regional/Categories of Special Interest: Architectural) c22m to the west of the appeal site at its nearest point. (Note: RPS Ref. No. 6070 (Description - Front façade and roof profile)).
- **No. 34-35 Ormond Quay Lower** (NIAH Reg No. 50010340/Rating: Regional/Categories of Special Interest: Architectural) c34m to the west of the appeal site at its nearest point. (Note: RPS Ref. No. 6069 (Description – Façade)).
- **No. 33 Ormond Quay Lower** (NIAH Reg No. 50010341/Rating: Regional/Categories of Special Interest: Architectural) c45m to the west of the appeal site at its nearest point. (Note: RPS Ref. No. 6068 (Description - Business premises)).

- **No. 32 Ormond Quay Lower** (NIAH Reg No. 50010342/Rating: Regional/Categories of Special Interest: Architectural) c51m to the west of the appeal site at its nearest point. (Note: RPS Ref. No. 6067 (Description - Business premises)).
- **No. 29 Ormond Quay Lower** (NIAH Reg No. 50010343/Rating: Regional/Categories of Special Interest: Archaeological, Architectural, Artistic) c72m to the west of the appeal site at its nearest point. (Note: RPS Ref. No. 6066 (Description - Commercial premises)).
- **No. 24 Ormond Quay Lower** (Note: RPS No. 6065 (Description - Commercial premises)).
- **No. 23 Ormond Quay Lower** (NIAH Reg No. 50010344/Rating: Regional/Categories of Special Interest: Architectural) c114m to the west of the appeal site at its nearest point. (Note: RPS Ref. No. 6064 (Description - Business premises)).
- **No.s 1 to 15 Ormond Quay Lower – all designated Protected Structures.**
- **25-28 Strand Street Great** (NIAH Reg No. 50010371/Rating: Regional/Categories of Special Interest: Architectural) c55m to the northwest of the appeal site at its nearest point.

5.12. **Immediate Vicinity:** within the visual setting of the subject site

- **Ha'penny Bridge/Liffey Bridge** (NIAH Reg. No. 50060550/Rating: National/ Categories of Special Interest: Architectural, Artistic, Historical, Social, Technical) c13m to the southeast of the appeal site at its nearest point. (Note: RPS Ref. No. 899)
- **No. 7 Bachelors Walk** (NIAH Reg. No. 50010334/Rating: Regional/ Categories of Special Interest: Architectural, Artistic) c61m to the east of the appeal site at its nearest point. (Note: RPS Ref. No. 318)
- **No. 8 Bachelors Walk** (NIAH Reg. No. 50010333/Rating: Regional/ Categories of Special Interest: Architectural, Artistic) c71m to the east of the appeal site at its nearest point. (Note: RPS Ref. No. 319)
- **No. 13 Bachelors Walk** (NIAH Reg. No. 50010332/Rating: Regional/ Categories of Special Interest: Architectural, Artistic) c102m to the east of the appeal site at its nearest point. (Note: RPS Ref. No. 320)

- **No. 14 Bachelors Walk** (NIAH Reg. No. 50010331/Rating: Regional/ Categories of Special Interest: Architectural, Artistic, Technical) c107m to the east of the appeal site at its nearest point. (Note: RPS Ref. No. 321)
- **No. 15 Bachelors Walk** (NIAH Reg. No. 50010330/Rating: Regional/ Categories of Special Interest: Architectural, Artistic) c114m to the east of the appeal site at its nearest point. (Note: RPS Ref. No. 322)
- **The Lotts, No. 9 Liffey Street Lower** (NIAH Reg. No. 50010373/Rating: Regional/ Categories of Special Interest: Architectural, Artistic) c51m to the northeast of the appeal site at its nearest point. (Note: RPS Ref. No. 4823)
- **No. 25 Liffey Street Lower** (NIAH Reg. No. 50060537/Rating: Regional/ Categories of Special Interest: Architectural, Artistic) c57m to the north of the appeal site at its nearest point.

5.13. **Archaeological**

- Site is located within the zone of archaeological constraint of Recorded Monument **DU018-020** (Historic City).
- **DU018-020395- : Ford** (Note: c80m to the southwest).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The First Party grounds of appeal can be summarised as follows:

Planning Authority Decision

- The Board is sought to overturn the decision of the Planning Authority on the basis that the proposed development accords with the proper planning and sustainable development of the area.
- The Planning Authority's refusal is a deterrent for owners of similar city centre sites.

Alternative Design

- An alternative design reducing the height of the proposed development from eight to seven storeys is proposed should the Board share the concerns of the Planning Authority. It reduces the floor area, gives rise to the loss of one three-bedroom dwelling

unit, includes a revised elevation treatment and basement design. This amended design would give rise to less impact on its surrounding setting.

Dwelling Units

- Proposal provides much needed residential accommodation and would be sold.

Design

- The mixed-use development provides an appropriate use for this site.
- The contemporary architectural approach would be appropriate for its context.
- The height and scale of the proposed development would set a precedent for the efficient future development of similar city centre locations.
- This proposal allows for the sensitive regeneration of Ormond Quay Lower and would provide a visually interesting backdrop to its streetscape scene.

Built Heritage

- The demolition sought under this application relates to the non-original extensions to the building.
- The works relating to the eight-storey development are not proposed at or within the four-storey structure on site and relate to rear of the main Woollen Mills building.
- The proposed works will seek to conserve as well as improve the integrity of original features of the Protected Structure and works to it would be minimal.
- This development would give rise to no adverse built heritage impacts.

Amenity Impact

- No adverse visual and/or residential amenity impact would arise.
- This proposal is designed to prevent overshadowing and loss of light on its vicinity.
- This proposal would create a more active and vibrant street frontage.
- They are willing to comply with a noise condition.

Proposed Dwelling Units

- Each apartment unit be provided with an area of private amenity space and the roof level would also provide a large area of communal open space.

- This development would facilitate residential development at a centrally located site well served by public transport.
- The dwelling units would give rise to an alternative housing option on this underutilised site.
- The units have been designed to maximise daylight access to their interior spaces.
- The apartment units accord with local through to national planning provisions.

Building Height

- There is no prevailing height in this area.
- Provision of a taller building within a highly accessible city centre location accords with proper planning and sustainable development.

Setting

- The site is in the vicinity of O'Connell Street which is a major shopping destination and provides several amenities.
- The site is well served by public transport.
- This location is one that is undergoing change including a civic plaza adjoining the site.

Archaeology

- The archaeological concerns can be dealt with by way of condition.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. The Board received observations from:

- Frank McDonald (07.05.2023)
- Taurus Management Consultancy Ltd (08.05.2023)
- Cllr Mannix Flynn (08.05.2023)
- An Taisce – The National Trust for Ireland (08.05.2023)

In a coherent manner they all seek that the Board uphold the Planning Authority's decision. Given that there are overlapping planning issues raised in these submissions and for the purposes of avoiding repetition I have decided to summarise them under the following broad headings:

Alternative Design

- The reduced in height proposal is still highly visually obtrusive and dominant in its built heritage as well as visually sensitive to change setting.

Built Heritage

- Ormond Quay Lower is one of the most celebrated locations in the city, with the landmark Woollen Mills and the Winding Stair buildings forming a backdrop to the iconic Halpenny Bridge.
- Lower Ormond Quay has retained the historic fabric, scale, character, and form of the quays to a greater extent to other city quays.
- This proposal would be shoehorned into the site and would fail to be subservient to the historic buildings in its setting.
- This proposal relates to a unique corner site in Dublin city's centre that requires a more sensitive built heritage design approach.
- The height and scale of the proposed 8-storey building is inappropriate and would fail to enhance the context of the Protected Structure it would form part of, and it would tower over its existing context.
- The demolition of the structure behind the three-storey brick rear site building facing onto Lower Liffey Street which is a Protected Structure is objected to. Though this structure dates to the 1920s it makes an excellent companion to the main Georgian building on site. The retention of its façade is tokenism.
- Accepted best practices is the reuse and repurposing of existing buildings with the aim of saving their embedded energy and avoiding carbon footprint of new construction where possible.

Design

- The design has failed to have regard to its setting.

- No adequate mitigation measures have been included in the design of the apartments to deal with noise.
- The design fails to provide a transition in height between its proposed 8-storey element and the lower in height surrounding buildings.
- The use of an important frontage for bike and bin storage is inappropriate.
- This proposal would give rise to overdevelopment of the site.
- There is an opportunity on this site for a more appropriate place-making proposal.
- The precedents provided are not comparable to this site and its context.
- This is the wrong location for a 'pop up' tower.
- This proposal would not give rise to appropriate animation of public domain.
- There is no compelling case is provided for the 4.3 plot ratio.

Adequacy of Documentation

- The documentation provided are not satisfactory to allow the Board to make an informed decision.

Depreciation of Property Values

- Concerns are raised that the proposed development has the potential to depreciate and impact the commercial viability of The Grand Social.

Other

- This is an opportunity site to form part of a wider masterplan approach to the treatment of the Liffey Street Plaza and if permitted it would give rise to a piecemeal proposal that would prevent the wider coherent regeneration of this city block.
- This proposal is considered to be speculative.
- The proposed development, if permitted, would give rise to an undesirable precedent.
- It's unclear if the proposed dwelling units would be for sale or rent, including short term lets. It is unlikely that they will be available to locals.
- This proposal would undermine and threaten the cultural offering of this area.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. Introduction

7.1.1. I have carried out an inspection of the site and setting. Together with I have read the entire contents of the file, had regard to the relevant local through to national planning policy provisions and guidance pertaining, had the nature, extent and scale of the proposed development including the sensitivity of the site and its setting to change, I consider that the main issues in determining the current application and appeal arise from the Planning Authority's notification decision to refuse permission for the proposed development which I have set out in Section 2 of this report above. I therefore propose to assess this First Party appeal case under the following broad headings:

- Principle of the Proposed Development
- Retention of Building Labelled 'A' & Justification for Demolition
- Built Heritage Impact & the PA's Reasons for Refusal
- Impact on Properties in its Vicinity
- Piecemeal Development – New Issue
- Other Matters Arising

7.1.2. The matter of 'Appropriate Assessment' also requires examination.

7.1.3. Before I commence my assessment below, I note that the Appellant while seeking that the Board make its determination of this appeal case upon the proposed development as lodged, they have also included an amended design option for the Boards consideration which seeks to address the Planning Authority's given reasons for refusal. I acknowledge that it is not an uncommon practice for a First Party Appellant to submit an 'amended design option' as part of an appeal submission where there has been a refusal of permission for a proposed development. With the main purpose of the amended design option being to reduce the height, scale, and mass of the proposed eight storey building sought which was raised as substantive concerns under

both given reasons for refusal in this built and visual sensitive to change setting. The amended design reduces the height of this building by one floor level. With this giving rise to a reduced in floor area seven-storey building containing six apartment units. It also includes amendments to the elevational detailing of the now reduced in height building.

- 7.1.4. In my considered opinion the overall amendments included by the Appellant as part of their appeal submission does not give rise to any material new planning considerations for Third Parties given that they are confined to the loss of one floor level from the proposed eight storey building and qualitative improvements to the elevational materials, treatments and finishes. They do not include any additional impacts in terms of interventions on historical built fabric to be retained. Including the juxtaposition of the proposed reduced in height seven storey building against No. 41 & 42 Ormond Quay Lower and there is no additional retention of historical built fabric or front elevation of the 1920s three storey 'The Yarn' building. Further no additional subsurface works are proposed to accommodate the reduced in height new building and as such despite the site forming part of the zone of archaeological constraint of the Recorded Monument DU018-020 (Historic City) the amended design would not give rise to any additional archaeological impacts. Moreover, the physical intervention to the adjoining civic plaza which adjoins the site and is an important space within the site's Conservation Area setting remains unchanged.
- 7.1.5. I also note in relation to the amended design option that the submitted documentation indicate that the Appellant is in ownership of the adjoining property of No. 40 Ormond Quay Lower (The Winding Stair) and the land/spaces behind this period building that extends northwards alongside the western redline boundary of the site.
- 7.1.6. Additionally, No. 35 Liffey Street Lower, the adjoining property to the north of the site is an active party to this appeal case. Furthermore, the other Third-Party Observers who made submissions to the Planning Authority are also active parties in this appeal case.
- 7.1.7. I am satisfied that these Parties alongside the Planning Authority all have been afforded an opportunity to comment on the amended design option submitted. With the Third Parties including comments in their submissions on the amended design option. I therefore have no objection to the consideration of the amended design option

as part of the assessment of this appeal case. Notwithstanding, for clarity whilst I have had regard to the amended design option, my assessment below focuses primarily on the proposed development as lodged.

- 7.1.8. In terms of other planning matters that fall outside of the broad headings set out above, including drainage; servicing; waste, bicycle facilities; nuisances that are likely to arise during demolition/construction/operational phases; finalisation of palettes of materials/signage/exterior lighting; protective measures to safeguard the period building layers to be retained; naming of the residential scheme; payment of contributions and such like I am satisfied that these do not give rise to any substantive planning issues that could not be reasonably be addressed by way standard in nature conditions as part of according with the proper planning and development of the area.

7.2. Principle of the Proposed Development

- 7.2.1. The proposed development consists of the demolition of a non-original two storey extension to the rear of the 'The Woollen Mills' main building; the partial demolition of the external elevation of the three storey 1920s 'The Yarn' building; the external and internal demolition of the three storeys 'The Yarn' building behind its principal façade alongside the retention of most of its principal façade with a modern infill of part of its ground floor level southern facade and the construction of an eight-storey mixed-use development together with all associated site works and services. The proposed development seeks to facilitate a mixed-use scheme which would include 7 apartments (Note: 6 No. 3 bedroom and 1 No. 2 bedroom) in the eight-storey component above ground floor level and would maintain No.s 41 & 42 Ormond Quay in restaurant related use.
- 7.2.2. The site is subject to a Protected Structure designation (RPS Ref. No. 6074) and under the Record of Protected Structure the address is given as '41-42 Ormond Quay Lower, Dublin 1'. The description provided simply reads: 'Dublin Woollen Co.' On Map E the designated Protected Structure symbol is positioned on the location of No.s 41 & 42 Ormond Quay Lower and the main site area as well as the canopy which is separately outlined both fall under 'Zone 5' land use zoning objective. In relation to Protected Structures this map indicates that the RPS takes precedence. Further the site forms part of a Red-Hatched Conservation Area that encompasses the historic northern quayside frontage of the River Liffey and at this location extends in a westerly, easterly,

and southern direction to the opposite side of the quays as well as the historic urbanscape beyond. The site is also listed under the NIAH Survey (NIAH Reg. No. 50010335) where its address is given as 'Dublin Woollen Mills, 41 Ormond Quay Lower, Liffey Street Lower, Dublin 1'; it is given a 'Regional' rating; its category of special interest is given as 'Architectural'; and its original use is given as 'Shop/Retail outlet'. Further, the site is located within the zone of archaeological constraint of Recorded Monument DU018-020 (Historic City).

- 7.2.3. In a consistent manner the national planning provisions and guidance advocate compact more efficient use of serviced accessible land in built up areas. For example, National Strategic Outcome 1 Compact Growth of the National Planning Framework, indicates that from an urban development perspective, focus should be had on the delivery of a greater proportion of residential development within existing built-up areas including within cities as part of ensuring that, when it comes to choosing a home, there are viable attractive alternatives available. Additionally, National Policy Objective 35, supports the increase in residential density in settlements, through a range of measures. Including but not limited to site-based regeneration and increased building heights.
- 7.2.4. The proposed mixed-use development sought under this application and relating to zoned, serviced and highly accessible land could be considered as generally consistent with national planning provisions given that it seeks to provide taller, more dense and compact form of development on this city centre site. Notwithstanding, in order to facilitate it, the demolition of part of the existing buildings that occupy the appeal site is first required.
- 7.2.5. On this point as described above the site is one of built heritage significance and as such Chapter 12 and NSO 7 of the National Development Plan is relevant. It recognises that the state's heritage portfolio represents a significant tourism asset, as well as they reflect Ireland's past, its identity, and create a sense of place. On this basis it advocates for the protection and enhancement of the State's built heritage as part of its ten-year plan.
- 7.2.6. In tandem, the National Planning Framework, sets out under Section 1.3 its National Strategic Outcomes. This includes but is not limited to the enhancement of amenities and heritage. It also recognises that built heritage has intrinsic value in defining the

character of urban areas as well as adds to their attractiveness. Of further note, the listed National Strategic Outcome also includes the transition to a low carbon and climate resilient society. To this end it promotes the sustainable management of resources, with for example NPO 53, seeking greater efficiency in land management, greater use of renewable resources and by reducing the rate of land use change from new development. As well as NPO 54 seeks a reduction in carbon footprint by integrating climate action into the planning system in support of national targets for climate mitigation policy. I consider that despite Climate Action Plan, 2024, being more recently adopted nonetheless the NPF strategy and vision for achieving transition to a low carbon and climate resilient society aligns with this plans action change objectives.

- 7.2.7. Having regard to Section 28 Ministerial Guidance I consider that the Architectural Heritage Protection Guidelines for Planning Authorities, 2011, is of particular relevance for consideration to the proposed development sought under this application on the basis of the site and its setting built heritage attributes as well as vulnerabilities to inappropriate change. These Guidelines indicate that the demolition of elements of a Protected Structure which contribute to its special interest, may only be permitted in exceptional circumstances (Note: Section 6.7.3). This is further provided for under Section 6.8.11 of the said Guidelines which refers to this approach according with Section 57(10)(b) of the Planning and Development Act, 2000, as amended. For clarity purposes I note that Section 57 of the said Act provides that permission may only be granted for the demolition of a Protected Structure in ‘*exceptional circumstances*’.
- 7.2.8. Under Section 6.8.13 of the said Guidelines it indicates that caution should be had to proposals to demolish parts of a Protected Structure. It states that: “*these parts may be of importance to the cumulative historic interest of a building*” and “*where partial demolition of a protected structure is proposed, the onus should be on the applicant to make a case that the part – whether or not it is original to the structure – does not contribute to the special interest of the whole, or that the demolition is essential to the proposed development and will allow for the proper conservation of the whole structure*”.
- 7.2.9. In relation to the retention of most of the 1920s façade that forms part of this proposed development it is also of note that Section 6.8.17 of the said Guidelines states: “*façade retention, or the demolition of the substantive fabric of a protected structure behind the principal elevation, is rarely an acceptable compromise, as only in exceptional cases*

would the full special interest of the structure be retained. Such cases may occur if the building had previously been redeveloped behind the façade, in which event proposals for new redevelopment behind the façade could be favourably assessed, subject to receiving adequate assurances on how the historic fabric would be protected during the works.” In this case, I note that it has not been demonstrated that the 1920s three storey building element is comprised of a redeveloped structure behind its 1920s façade and there is no exceptional circumstance given, a matter that I propose to deal with in more detail in my assessment below.

- 7.2.10. It is further of note that the National Policy on Architecture supports safeguarding Irelands built heritage and in relation to the continued development and regeneration of settlements including cities that this requires the conservation and re-imagining of our existing built heritage as well as well the consideration of new architecture.
- 7.2.11. Of further concern in relation to the works that would be required to facilitate the proposed eight storey building this would require more substantial excavation than is likely to have previously been carried out in the past on this historical city centre site. Evidence of this site suggests previous buildings on this site as well as the adjoining public domain that bounds the eastern side of the site dating to c1700s. As also noted above the site forms part of the zone of archaeological constraint for Recorded Monument and Place DU018-020 (Historic City) and is therefore afforded protection under Section 12 of the National Monuments (Amendment) Act, 1994.
- 7.2.12. Having regard to the principle of the proposed development at a national planning context level I consider that there is a general presumption against the demolition of parts of the existing buildings as well as in relation to the retention of most of the 1920s building’s façade and its integration into the eight-storey building proposed as this type of design approach is one that is rarely considered to be an acceptable compromise in terms of achieving positive built heritage outcomes. Further, the archaeological potential of the site must also be appropriately addressed. This matter I note further at a local level which sets out the requirements for a development at such a site sensitive location in a manner that accords with the National Monuments (Amended) Act.
- 7.2.13. At a regional planning context level, the Eastern and Midlands Regional Spatial and Economic Strategy which also includes the Dublin Metropolitan Area Strategic Plan under Regional Policy Objective 4.2 supports the consolidation and intensification of

brownfield sites as well as the provision of high density and people intensive uses within the built-up area of the city. Notwithstanding, in relation to built heritage, under Section 9.7 it states that: *“built heritage assets are a non-renewable resource that contribute to our understanding of our past, and the well-being and quality of life of our current citizens and also represent an opportunity for sustainable economic development”* and that: *“the repair and reuse of historic buildings is an integral part of sustainable development. Design consideration should promote the regeneration of historic buildings.”*

- 7.2.14. I consider that whilst the general principle of the more consolidated and people intensive use of this inner-city site is generally deemed to be acceptable under regional planning provisions, notwithstanding, this is subject to design considerations that have appropriate regard to built heritage assets as important non-renewable assets. Alongside having appropriate consideration of their potential for reuse/regeneration as part of a site sensitive sustainable approach to redevelopment within the built-up area of the city.
- 7.2.15. At a local level, this appeal site is located on lands that are zoned ‘Z5’ under the Dublin City Development Plan, 2022-28. The stated land use objective for such zoned lands is: *“to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.”* Additionally, Section 14.7.5 of the Development Plan indicates that the primary purpose of such zoned land: *“is to sustain life within the centre of the city through intensive mixed-use development”*. It also indicates that the strategy for such land: *“is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night.”* This however is subject to safeguards.
- 7.2.16. The existing use of No. 41 and 42 Ormond Quay Lower / No. 37 and 42 Liffey Street Lower is established restaurant uses (‘The Woollen Mills’ and ‘The Yarn’). This accords with the permissible land uses indicated under Section 14.7.5 of the Development Plan for ‘Z5’ zoned lands. The proposed development seeks to maintain ‘The Woollen Mills’ restaurant use, albeit with a smaller floor level. The accompanying documents indicate single restaurant would operate from the ground floor level of part of the proposed mixed-use scheme and the upper floor levels of the four-storey period corner building of No.s 41 & 42 Ormond Quay. It would also maintain the outdoor

dining space associated with the footprint of its decorative canopy located on the eastern side of the site with this area projecting into the civic plaza of Liffey Street Lower.

- 7.2.17. At upper floor levels of the proposed 8 storey building and behind the part retained 1920s façade 7 apartments are proposed with one located on each floor level and served by a stair and lift (Note: 6 No. 3-bedroom and 1 No. 2-bedroom). I note that permissible land uses listed for 'Z5' zoned land under Section 14.7.5 of the Development Plan includes residential. Alongside this section of the Development Plan also indicates that ideally a mix of uses is encouraged as well as this mix should occur vertically through to it encourages vibrant ground floor uses.
- 7.2.18. Further, having regard to the Housing Strategy and the Housing Need and Demand Assessment (HNDA) carried out by the Planning Authority, with the site forming part of the sub-city level North Inner City - HNDA where there is an increased demand for two and three person households as well as declining demand regarding single person households. In this context the proposed 6 No. 3-bedroom and 1 No. 2 bedroom apartment aligns with apartment unit sizes in demand within the sub-city level of the North Inner City. Moreover, as the scheme contains less than 15 residential units that required mix set out under Section 15.9.1 of the Development Plan are not required.
- 7.2.19. The proposed mixed-use restaurant and residential scheme is consistent with the nature of uses supported under the Development Plan for 'Z5' zoned land, subject to safeguards.
- 7.2.20. To facilitate the proposed eight storey mixed use component of the proposed development scheme demolition of what is described as a non-original link addition which consists of a single storey addition with covered dining space on the roof over connected at ground and first floor level to the four storeys 'The Woollen Mills' building on its northern side and on the southern side of the 1920's three storey 1920's 'The Yarn' building. It also includes the demolition of part of the exterior front elevation and full internal demolition of this three-storey building.
- 7.2.21. In relation to this component of the proposed development the building layers on this appeal site are subject to protection by way of their designation as a Protected Structure, being buildings that are listed in the NIAH survey of Ireland as well as sitting

on land that forms part of an archaeological zone of constraint for a Recorded Monument.

- 7.2.22. Policy BHA2 of the Development Plan sets out that the City Council will seek to conserve and enhance such structures and their curtilage. Under subsection (a) of this policy it indicates that the City Council will seek to ensure that any development proposals to Protected Structures shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities. It also seeks under subsection (c) that developments ensure that: *“the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.”* Of further relevance Policy BHA3 of the Development Plan states: *“that the City Council will resist the total or substantial loss of protected structures in all but exceptional circumstances”* and under Policy BHA4 of the Development Plan it indicates that developments shall have regard to the National Inventory of Architectural Heritage (NIAH) rating of a structure as well as any associated Ministerial Recommendation in the assessment of planning applications. Moreover, as previously discussed, the site is listed under the National Inventory of Architectural Heritage (Note: NIAH Reg. No. 50010335) where it is given a ‘Regional Rating’. Therefore, Policy BHA5 of the Development Plan is also relevant. It indicates that there is a presumption against the demolition or substantial loss of any building or other structure assigned a ‘Regional’ rating or higher by the National Inventory of Architectural Heritage (NIAH), unless it is clearly justified in a written conservation assessment that the building has no special interest and is not suitable for addition to the City Council’s Record of Protected Structures (RPS). Alongside, Policy BHA24 of the Development Plan states that: *“City Council will positively encourage and facilitate the careful refurbishment of the historic built environment for sustainable and economically viable uses and support the implementation of the National Policy on Architecture as it relates to historic buildings, streetscapes”...“by ensuring the delivery of high quality architecture and quality place-making”*.
- 7.2.23. Having regard to the built heritage sensitivity of the site, I consider that there is a presumption against the demolition of period buildings thereon except where exceptional circumstances have been demonstrated by the applicant. In my view this matter requires further detailed examination.

- 7.2.24. In relation to Sustainability and Climate Action, the Development Plan recognises the key role that spatial planning has to play in both reducing waste and emissions which contribute to climate change. Under Section 15.4.3 it sets out that these issues must be considered from the outset of the design process and that development proposals: *“will be expected to minimise energy use and emissions that contribute to climate change during the lifecycle of the development with an aspiration towards zero carbon.”* Through to minimisation of the waste embodied energy in existing structures by way of the re-use of existing buildings. It indicates that this should always be considered as a first option in preference to demolition.
- 7.2.25. In keeping with this approach Section 15.7.1 of the Development Plan states that: *“where development proposal comprises of existing buildings on the site, applicants are encouraged to reuse and repurpose the buildings for integration within the scheme, where possible in accordance with Policy CA6 and CA7. Where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition having regard to the ‘embodied carbon’ of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures”.*
- 7.2.26. This adds to the need for further detailed consideration of whether the applicant has demonstrated a sufficient robust justification for the demolition sought under this application to facilitate the construction of the eight-storey building largely in place of the link building and the 1920s three storey building (No. 37 Liffey Street Lower).
- 7.2.27. The site as previously noted lies within the zone of archaeological constraint for a Recorded Monument and Place. It is a policy of the Development Plan under BHA26 to protect and preserve them as well as to protect archaeological material *in situ* and only minimal impact on archaeological layers is allowed. With this achieved by way of re-use of standing buildings through to low impact foundation design.
- 7.2.28. It is therefore a concern in my view that subsection (4) of Policy BHA26 requires proposals within a Record of Monuments and Places (RMP) to consult with the City Archaeologist prior to a planning application being lodged and be accompanied by an archaeological assessment. The documentation provided with this application does not demonstrate that this has occurred. I note also that the Planning Authority’s

Archaeologist report sought that this matter be addressed by way of additional information. On the basis of the information provided to permit the proposed development in the absence of such information at such an archaeologically sensitive to change site location would be in my view contrary to Policy BHA26 of the Development Plan. I note that the Planning Authority did not include this as a reason for refusal and I am also cognisant that in other similar circumstances developments have been permitted within the zone of archaeological constraint of the same Recorded Monument. Notwithstanding, these have been subject to robust archaeological conditions in the interest of preserving or preserving by record or other deemed suitable means including on site interpretation of archaeological material likely to be damaged or destroyed in the course of development.

- 7.2.29. The site also forms part of a Red Hatched Conservation Area for which Policy BHA9 of the Development Plan seeks to protect its special interest and character. This Development Plan policy also indicates that development within such areas must contribute positively to the character and distinctiveness of such areas as well as take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 7.2.30. This policy whilst indicating that enhancement opportunities may include contemporary architecture that harmonises with their Conservation Area setting. It also indicates that it includes the retention of buildings that contribute to the overall character and integrity of the Conservation Area.
- 7.2.31. It is also of note that Policy BHA10 of the Development Plan sets out that there is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in 'exceptional circumstances' where such loss would also contribute to a significant public benefit. Under Policy BHA11 it indicates that it is policy of the City Council to seek the rehabilitation and reuse of existing older buildings which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment.
- 7.2.32. I consider that the link building between the four-storey corner building and the 1920s building though of limited architectural merit nonetheless is a sympathetic and lightweight addition that positively activates its streetscape scene, a streetscape scene

that in the context of its eastern elevation addresses a recently realised and important civic plaza at the southern end of Liffey Street Lower. It is predominantly used as customer dining space that at ground and first floor level connects to the buildings on its northern and southern side. The covered dining space with its mono-pitched retractable canopy over visually screens associated vents and other projecting infrastructure associated with the restaurant use. The decorative metal canopy in a coherent manner visually connects it to the ground floor level of the eastern elevation of No.s 41 & 42 Ormond Quay Lower. Its modest built form is one that is not at odds with other more diminutive in height buildings that front the western side of Liffey Street Lower between its junction with Strand Street Great to the north and Ormond Quay Lower, the Ha'penny Bridge Crossing and Bachelors Walk to the south. Along this streetscape scene the building heights graduate from the period 4 storey building at the south eastern corner of the appeal site, with it being a focal building marking its prominent corner location, with buildings to the north of it varying from single, two storeys to three storeys in their height.

- 7.2.33. I consider this light weight link building positively contributes to the visual amenities of its streetscape scene at its ground floor and roof level by adding to the vibrancy of recent public realm works at the southern end of Liffey Street Lower that have effectively created a modest but important civic plaza at what is a heavily trafficked north and south route over the River Liffey via the Ha'penny Bridge. Moreover, together with other buildings on this site and those providing containment on the northern side of this space this building overall height and scale graduates between that of the 1920's 'The Yarn' building and the corner building of No.s 41 & 42 Ormond Quay Lower allowing views towards the upper floor of these buildings. In particular the northern side of No. 41 & 42 Ormond Quay Lower it allows this building to have a stronger vertical emphasis that allows this historic building whose main structure dates back to the c1840s to be legible from the public domain. Furthermore, it allows for greater legibility of the western elevation and rear elevation of The Winding Stairs building (No. 40 Ormond Quay Lower, a Protected Structure) which provides increased legibility of this historic streetscape scene and its historic building stock that contribute to its unique sense of place. It is also of note that its modest height allows for greater levels of daylight and sunlight penetration into the civic plaza.

- 7.2.34. While I accept that the link building is no particular architectural or other merit it is of relevance in my view that the description provided by the NIAH that this single storey extension is referenced as a canopy on its eastern side which opens onto recent public realm works that created a civic plaza at this location.
- 7.2.35. In relation to the 1920s three storey building (No. 37 Liffey Street Lower) on site for the most part this proposal seeks that it would be demolished with the exception of the northern part of its ground floor level and the upper-level principal frontage that fronts onto the adjoining public domain/civic plaza on the western side of Liffey Street Lower. This building with its simple period detailing, its use of mainly a brick envelope and ground floor level symmetrical shopfront harmonises with the modified frontage on the eastern side of No.s 41 and 42 Ormond Quay Lower, it harmonises with the frontage of the main eastern elevation of the link building, and it also harmonise, albeit less coherently, with the adjoining three storey southern frontage of No. 35 Liffey Street Lower. In relation to the adjoining building of No. 35 Liffey Street Lower they both share similar parapet height, have active ground floor frontages that contain large areas of glazing, and the predominant external finish is brick.
- 7.2.36. The 1920s building on site, forms part of the description given by the NIAH: “three-bay three-storey brick structure abutting single-storey extension with shop display window, built c.1920, opening onto Liffey Street Lower”. The NIAH given appraisal I consider is of particular relevance with it stating that: *“this corner-sited building terminates the east end of its terrace and overlooks the Ha’penny Bridge. The graduated fenestration and timber sash windows give the building a Georgian appearance. The modest scale of the building adds variety to the quay front and provides an appropriate backdrop to the Ha’penny Bridge while successfully turning the corner from Ormond Quay Lower onto Liffey Street Lower”*.
- 7.2.37. In this context the 1920s three storey building on site harmonises in the manner which it contains the new civic plaza that it addresses in a similar manner to No. 35 Liffey Street Lower which also shares a zero setback from this important city centre public realm. Its three-storey height alongside the link building and the corner building at No.s 41 & 42 Ormond Quay Lower form part of modifications to this site that arose from the loss of the original corner building of No.s 43 & 44 Ormond Quay Lower. As such their graduated four, two and three storey period frontages in a sympathetic manner create a strong period sense of place, activation, and harmonious containment of the western

side of the main space within the civic plaza together with No. 35 Liffey Street Lower. They are highly visible in the context of their historic quayside setting. A setting in terms of the quayside block of Ormond Quay Lower is characterised by the harmony in built form, architectural style, external materials, heights, plot widths through to solid to void treatment period buildings that front onto the River Liffey at a key point where the Ha'penny bridge provides a busy pedestrian crossing over it. Essentially linking Henry Street to Temple Bar and forming part of key views along this historic quayside frontage that further harmonises with the period buildings on the opposite side of the quays. As such it forms part of Conservation Area whose extensive grouping of period buildings, streetscapes, spaces, and the like are of built heritage interest where the harmony adds to their surviving interest. Further the 1920s building and the link building are also consistent with the graduated building heights present on the western side of Liffey Street Lower to the immediate north of the main civic plaza area to where it meets Strand Street Great.

- 7.2.38. In this context in terms of containment of the western side of Liffey Street Lower and the civic plaza it results in the four-storey building on the corner of Liffey Street Lower and Ormond Quay Lower, i.e. No.s 41 & 42 Ormond Quay Lower, is a modest but yet focal four storey building that has strong vertical emphasis. Additionally, having regard to the Development Plan provisions as set out above in my view there would as said be a presumption against the substantial demolition of the 1920s building alongside the token retention of part of its principal facade unless exceptional circumstances are demonstrated and where such a loss would contribute to a significant public benefit.
- 7.2.39. Of concern this proposal is one with less active street frontage at ground floor level, includes a bin storage immediately accessible from the public realm/civic plaza that would adjoin it, the manner in which the 1920s frontage is being retained is tokenism and lacks any appreciable context as a historic building layer that is legible and appreciable from the public domain, its Conservation Area setting through to within the visual setting of Protected Structures within its streetscape scene. These outcomes could not be considered as giving rise to appreciable public benefit. Moreover, this is a private development that during demolition and construction has the potential to diminish the adjoining civic plaza that has been provided at considerable cost and effort by the City Council by way of likely various levels of encroachment and nuisances for its users. While I acknowledge that any encroachment or indeed

nuisance that arises to users of this public realm would be likely to be of a limited and consent to carry out works on lands outside of the applicants legal interest is essentially a civil matter, there is potential when completed that albeit the diminished levels of activation that would arise at ground floor level that the apartment levels above could add to passive surveillance of the public realm.

7.2.40. Overall, I question that demolition proposed to facilitate this commercial led development with no tangible and quantifiable public benefits could be considered to accord with the provisions of Policy BHA10 of the Development Plan.

7.2.41. In relation to the recent public realm improvements between the junction of Strand Street Great along Liffey Street Lower to where it meets the road carriageway of Ormond Quay Lower and Bachelors Walk these works relate to various local planning provisions and documents including it is an objective of Dublin City Council under CCUVO13 to implement a programme of environmental and public realm improvements including but not limited to along the city quays. 'The Heart of Dublin City Centre Public Realm Masterplan' includes as one of the Short-Term Projects with the partial pedestrianisation of Liffey Street Lower as well as upgrading of its public realm. Liffey Street Lower is also a Category 2 Retail Street in the heart of Dublin's city centre. Against this context any development at this location any proposed development sought does not diminish the vibrancy and animation of its streetscape scene, a streetscape scene that forms part of a modest but qualitative civic plaza that primarily focuses on the provision of a safe and attractive pedestrian active and passive public realm.

7.2.42. Conclusion

On the basis of the above considerations, I am satisfied that the general principal of the mixed-use, more compact and people intensive development is acceptable on 'Z5' zoned serviced brownfield accessible lands in Dublin's city centre, notwithstanding, in this case the site and setting specific built heritage through to visual sensitivity to change takes precedence over whether or not the principal of a proposed development generally accords with a land use zoning objective. I am not satisfied that the proposed development is one that is generally permissible on the basis of particularly the local planning provisions relevant to this site, in particular those relating to Protected Structures, Conservation Areas and with this further added to by the lack of

any consideration given to the potential archaeological implications of the proposed development within a zone of archaeological constraint. I therefore recommend that the Board determine the proposed development on its individual merits and on a site-specific basis, having regard to relevant local through to national planning considerations.

7.3. Retention of Building Labelled 'A'; Justification For Demolition of Building Labelled 'B' and Demolition related to Building Labelled 'C'.

7.3.1. The proposed development includes the retention of the period four storey corner building that is labelled 'A' in the accompanying documentation (Note: No.s 41 and 42 Ormond Quay Lower) and its eastern elevation canopy that projects over an outdoor semi-enclosed dining space for patrons of the restaurant uses on site. The interior and external built fabric of this building would largely be retained in its current configuration. The main changes proposed to this building is the blocking up of openings in its rear northern elevation that provide connection at ground and first floor level to the adjoining link building (Note: Building labelled in the accompanying documentation as building 'B') and in turn via the link building connection to the interior spaces of the 1920s three storey building that is labelled in the accompanying documentation as building 'C'. It also includes the closing up of two modest in size window openings on the third-floor rear elevation that provide light and ventilation to a bathroom and the stairwell. The documentation indicates that these openings would be blocked using brick or block bedded in lime mortar. This approach together with the recessing from main their surrounding interior walls by 50mm approach and maintaining this building's use as a restaurant space seeks to ensure legibility of these openings as appreciated internally with the new building layers still being in harmony and not detrimental to this building's period built fabric. The more modern decorative canopy attached to its eastern elevation and extending northwards to the front of the adjoining link building, which is a key built feature, is also to be maintained.

7.3.2. Overall, the retention of Building 'A' (No.s 41-42 Ormond Quay Lower), a early to mid-nineteenth century three-bay, four storey over basement former house with hipped slate roof over and with brick chimneys behind its parapet, a building that was partially rebuilt c1917 with its eastern elevation addressing Liffey Street Lower, on foot of the demolition of No.s 43-44 Ormond Quay Lower, is appropriate given it is designation as a Protected Structure and an NIAH 'Regional' rated building. It accords with the

local and national planning policy provisions as well as guidance, including those set out in the previous section of this assessment. In particular it accords with Policy BHA2 which seeks to conserve and enhance protected structures as well as seeks to ensure that the form and structural integrity of the protected structure is retained in any redevelopment through to it also accords with Policy BHA 5 which sets out a presumption against the demolition or substantial loss of any building or other structure assigned a 'Regional' rating by the National Inventory of Architectural Heritage (NIAH). Moreover, the minimum intervention through to the reversibility of the works proposed accords with Section 7.7 and 7.12 of the Architectural Heritage Protection Guidelines for Planning Authorities.

- 7.3.3. On this point I again note that under the Record of Protected Structures the address of the Protected Structure is given as No.s 41 to 42 Ormond Quay Lower and the description is given as 'Dublin Woollen Mills'. The NIAH address is given as 'Dublin Woollen Mills, 41 Ormond Quay Lower, Liffey Street Lower' with this building described as: *"a corner-sited end-of-terrace three-bay four-storey building, built c.1840, with three-bay elevation fronting onto Liffey Street Lower with projecting canopy and shopfront spanning both elevations. Roof hidden behind parapet wall with granite coping. Freestanding profiled red brick chimneystack with clay pots with steel support to rooftop billboard. Painted brick walls laid in Flemish bond curved to corners. Rough cast rendered walls to north rear elevation. Gauged brick flat-arched window openings with painted masonry sills and replacement timber sliding sash windows and ogee horns. Diminutive square-headed window openings to rear elevation at eaves level with four-pane casement windows. Timber-framed shop display windows and glazed doors to both elevations surmounted by timber fascia with modern steel canopy to east elevation supported on steel posts"*. Further the NIAH appraisal considers that this corner building that terminated the eastern end of its terrace modest scale adds to the variety of its quay front and provides *"an appropriate backdrop to the Ha'penny Bridge while successfully turning the corner from Ormond Quay Lower onto Liffey Street Lower"*. As such the RPS and the NIAH both provide locational references that relate to the corner building that occupies the southern portion of the appeal site. With this building earliest surviving building layer dating to the 1840s and maintaining a Georgian character at first floor level and above with later interventions in the early part of the 20th Century harmonising with the Georgian character of the Ormond Quay

Lower façade in its interventions to the eastern elevation through to the later structures to the north of it and terminating alongside the northern boundary of this appeal site which adjoins No. 35 Liffey Street Lower. I therefore raise no substantive concerns in relation to retention and modest reversible alterations to the four-storey corner building on this site so that its built heritage and visual interest is safeguarded, and it can continue to positively contribute to the modest scale of period buildings that front onto the historic quayside of Ormond Quay Lower; the western side of Liffey Street Lower where it provides containment as a focal building for its civic plaza and forming part of the visual backdrop from which the Ha'penny Bridge can be appreciated.

- 7.3.4. Notwithstanding, I consider that consideration should be had in this assessment to the impact arising to this building (Note: Building 'B') from the loss of the single storey link building, i.e. Building 'B', with covered dining space at roof level which gives rise to this building having a modest two storey appearance as viewed from the public domain, particularly the public domain to the east and south which forms part of the Red-Hatched Conservation Area.
- 7.3.5. Building 'B' is legible as a visually and physically break within its streetscape scene allowing for Building 'A' to achieve a focal building presence on the corner of Ormond Quay Lower and Liffey Street Lower in its own right. When viewed alongside 'Building B' its modest and light weight height, built form and scale relative to the four-storey height of 'Building A' it allows this period four storey building to provide a vertical landmark built presence at its corner position. Further alongside all other buildings that address the western side of Liffey Street Lower its overall height graduates and adds interest in a sympathetic manner with the various single, two and three storey heights of the other buildings that address the western side of Liffey Street Lower from its intersection with Ormond Quay Lower to the south and Strand Street Great to the north.
- 7.3.6. In my view this would be lost by the demolition of this link building as part of the works required to facilitate the construction of the eight-storey building as lodged and similarly the seven-storey building as amended as part of the revisions proposed by the Appellant in their appeal submission to the Board.
- 7.3.7. I am cognisant that the documentation accompanying this application indicate that this new building in either scenario would be built as a structurally and thermally

independent element. Notwithstanding, I note that the modest parapet of 'The Woollen Mills' building is given as 15.75m O.D. with the corresponding concrete banding associated with the fifth-floor level of the proposed building as lodged and as amended being more solid as well as having a finished floor level of 16.99m O.D. Thus, creating at this point a more dominant juxtaposition between the two built forms with this banding replicated for each of the floor levels above the ground floor levels eastern elevation to where it meets a more substantial precast concrete banding parapet height of 30.38m O.D as lodged and 28.18m O.D. as revised. With the roof structure including substantive structures that further projecting above the top banding resulting in a further maximum height of 34.33 as lodged and 31.03m O.D. as revised.

- 7.3.8. In this context the symmetrical and more modest four storey built form of No.s 41 & 42 Ormond Quay Lower, a Protected Structure, with its modest symmetrical in shape and profile hipped roof over, which has a given height of 17.34m O.D. would be significantly towered over by the proposed building as lodged and as revised. Effectively it would project 16.99m above this historic building as lodged and 13.69m as amended. With the built height, the solid to void treatment, through to more accentuated horizontal detailing of the proposed floor levels arising from the concrete banding and the more substantive asymmetrically placed additional projections at roof level would in my view be visually dominant, overbearing and at odds with 'Building A' as appreciated and legible from the Red-Hatched Conservation Area public domain.
- 7.3.9. Of further concern, the design proposes no meaningful setback or graduation of the proposed eight storey as lodged and seven storeys as amended building relative to the adjoining period structure of No. 40 Ormond Quay Lower ('The Winding Stair'). This adjoining period building is a designated Protected Structure as well as is listed in the NIAH with a 'Regional' rating and its categories of special interest are given as 'Architectural', 'Artistic' and 'Social'.
- 7.3.10. Of interest this terraced three-bay four-storey commercial building which dates to c.1875 was remodelled c.1920 like is the case of No.s 41 & 42 Ormond Quay Lower. Additionally, its western Flemish brick elevation and chimneystacks with clay pots over form part of the eastern boundary wall that adjoins No.s 41 & 42 Ormond Quay Lower. With this portion of the building alongside its upper floor level rear elevation being legible from the public domain Red-Hatched Conservation Area of Liffey Street Lower as a result of the modest height and scale of 'Building B'. This legibility would be lost

and the interesting varied but sympathetic graduation of building heights of historic buildings forming part of the streetscape scene of Liffey Street Lower, particularly as appreciated from its civic plaza' would also be lost by the replacement of 'Building B' with the eight storeys as lodged and seven storeys as amended building proposed. I also note that the period building at No. 40 Ormond Quay Lower, which has a higher given parapet height of 19.07m O.D. in comparison to No.s 41 & 42 Ormond Quay Lower would be 15.62m lower than the height of the proposed building as lodged and 12.23m as revised.

7.3.11. The positioning of such a tall building relative to No.s 41 & 42 Ormond Quay Lower would effectively erode this building from being a landmark and focal period building that reflects its corner location as part of an important in built heritage merit historic quayside location. It would also as a result of its limited setback from the quayside frontage and Liffey Street Lower's public realm diminish the harmony of building heights that are part of this Conservation Area settings predominant character particularly towards the eastern end of Ormond Quay Lower and its return into the Liffey Street Lower as well as the harmony that also exists in building heights with the mainly four and five storey buildings fronting Bachelors Walk and its return onto the eastern side of Liffey Street Lower. These modest building heights are reflective of these quays surviving period character and the predominant Georgian period architecture that defines either side of the River Liffey. With variations to this height limited along the quayside frontage and where it does occur generally relating to buildings of significant public and civic importance, e.g. the Four Courts.

7.3.12. In relation to the demolition sought for building labelled 'B' and most of building labelled 'C'. I firstly note that the Heritage Impact Assessment appears to suggest that this building is an early mid-twentieth century infill structure but elsewhere refers to it as being an early twentieth century single storey flat roofed structure. Its use is primarily seating, kitchen, and food preparation area for 'The Woollen Mills' restaurant. There is no evidence to support that both buildings are likely to contain any significant built fabric above ground that date pre c1917. 'Building B' as previously noted also contains an attractive decorative metal canopy that extends from the frontage of No.s 41 & 42 Ormond Quay's Lower's Liffey Street Lower elevation. Thus, providing visual and built unity to both elevations despite their significantly different building height. In terms of built heritage significance, the main single storey element of 'Building B' most probably

dates to the interventions made to No.s 41 & 42 Ormond Quay Lower in the early 20th Century, with the canopy structure possibly built at some later time in the 20th Century. The proposal includes the retention of canopy structure which is appropriate given that it is key feature of No.s 41 & 42 Ormond Quay Lower building layers of built and visual merit alongside it accords with local through to national planning provisions and guidance including Policy BHA2 of the Development Plan.

- 7.3.13. In relation to the demolition of the 'Building B' I raise no substantive planning concerns to this element of the proposed development subject to appropriately robust safeguards being conditioned as part of any grant of permission. In particular safeguards that ensures that during the demolition and subsequent construction phases that no adverse impact arises on 'Building A'; the canopy structure and the section of 1920s front elevation of 'Building C' for which retention is proposed. Additionally, subject to any replacement building not giving rise to any adverse built and/or visual amenity impacts on its highly sensitive to change setting including its Red-Hatched Conservation Area, the visual setting of Protected Structures in its vicinity, the vibrancy of its Category 2 Retail Street through to the Liffey Street Lower civic plaza setting.
- 7.3.14. In relation to the demolition of 'Building C' which includes part of the southern ground floor frontage and the remainder of the 1920s building behind I raise concern that the description and appraisal given by the NIAH does not untangle this building from what it sets out as being of built heritage interest and value on this site. If the applicants' contentions were to be accepted that the significant building layer is largely confined to No.s 41 & 42 Ormond Quay. With the remainder of the buildings on site of limited or no built or other significance outside of the 'Building C's' contribution to its streetscape scene. The site also forms part of a larger built heritage and visually sensitive setting that contains other Protected Structures as well as forms part of a Red-Hatched Conservation Area. It is therefore a requirement in either scenario that the development works proposed to 'Building C' which together with that proposed to the link building of 'Building B' require demonstration of exceptional circumstances to justify their demolition.
- 7.3.15. In its current form 'Building C' is a period c1920s three-storey building with a painted brick exterior, symmetrically placed windows, flat banded parapet through to ground floor timber shop front that positively contributes not only to the collection of buildings

on this site. But also, its adjoining civic plaza and Red-Hatched Conservation Area. In particular in its streetscape context its architectural aesthetics, built form and presentation to these spaces harmonises with the adjoining building at No. 35 Liffey Street Lower. Together these buildings share a high level of built and visual harmony, which contains in a coherent manner, the north western corner of the main space associated with the adjoining Liffey Street Lower civic plaza. They also demarcate the edge of the Red Hatched Conservation Area at this location. With both buildings ground floor levels providing animation and vitality to the adjoining public domain.

7.3.16. I therefore raise concern that the documentation submitted by the First Party with their planning application and appeal submission does not in my view put forward any exceptional circumstance for the quantum of demolition proposed for this highly sensitive to change site and setting despite the requirements set out in the Development Plan for this to be provided. The justification provided by them appears to correlate with what is set out in the Architects Design Statement and other accompanying documentation which suggest that this commercial led development is based upon maximising the potential of this city centre site and to provide high quality accommodation at this location as part of a mixed-use development.

7.3.17. Further, documentation including the 'Sustainability Report/Energy Statement' provide no examination of the existing structures on site in a manner that could be considered to demonstrate a sustainable and climate action approach was had at the outset of the design process for this mixed-use scheme and in a manner consistent with Section; 15.4.3; Section 15.7.1; Policies CA6 and CA7 of the Development Plan. In a coherent manner these local planning provisions encourage the reuse and repurposing of existing buildings where possible and where demolition is proposed. With Section 15.7.1 of the Development Plan stating: *"where demolition is proposed, the applicant must submit a demolition justification report to set out the rational for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures"*. This has not been provided in the suite of documentation provided by the applicant with this application and on appeal and as such the proposed development is contrary to this section of the Development Plan.

- 7.3.18. Of further concern the documentation provided in my view it fails to acknowledge the built and visual contribution of 'Buildings B' and 'Building C' in terms of the legibility and appreciation of No.s 41 & 42 Ormond Quay Lower, a Protected Structure, that was subject to additions and alterations on foot of the demolition of No.s 43 & 44 Ormond Quay Lower. No.s 43 & 44 Ormond Quay Lower originally occupied the easternmost end of this historic quayside block and its demolition resulted in the eastern elevation of No.s 41 & 42 Ormond Quay and its associated spaces to the rear to address the increased in width public domain of Liffey Street Lower. The removal of No.s 43 & 44 Ormond Quay Lower increased the legibility of the Ha' penny Bridge from Liffey Street Lower with the increased width of the public realm effectively centralising its position as viewed from this busy north south pedestrian thoroughfare over the River Liffey. It also resulted in increased visibility of the eastern and rear elevation of No. 40 Ormond Quay Lower from the public domain of Liffey Street Lower and the remodelling of this building's principal elevation addressing Ormond Quay Lower in the 1920s created greater unity with the additions and alterations that occurred to this site around the same time.
- 7.3.19. In this context I note that Section 11.5.1 of the Development Plan indicates that permission shall not be granted for the demolition or substantial demolition of a Protected Structure except in exceptional circumstances. It states: *"it is accepted that in some circumstances, the loss of a protected structure may be the only option and this may be permitted where it will secure substantial public benefit or where there is no other viable option. Any proposal regarding the demolition of a protected structure will require the strongest justification."* I also refer to Policy BHA2 and BHA 3 of the Development Plan as previously discussed under Section 7.2 of this assessment and Section 5.1 of this report in order to avoid repetition. Moreover, Policy BHA5 of the Development Plan as said has a presumption against the demolition of Regional Rated Building on NIAH unless it is clearly justified in a written conservation assessment that the building has no special interest. As said this building is rated Regional in the NIAH and the Protected Structure is not confined in Map E but relates to the parcel that contains buildings labelled 'A', 'B' and 'C' as one. With the NIAH referring in its description to both the single storey rear extension with further shop displays with modern steel canopy with further shop display windows and the three-bay three-storey

brick structure abutting single-storey extension with shop display window setting out that it was built c.1920 and opening onto Liffey Street Lower.

7.3.20. To this I also note that Policy BHA10 of the Development Plan sets out that there is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such a loss would contribute to a significant public benefit.

7.3.21. Additionally, Section 11.4 of the Development Plan indicates that as part of ensuring the protection and enhancement of the city's built heritage that its strategy will include preservation of the built heritage and archaeology of the city that makes a positive contribution to the character, appearance and quality of local streetscapes as well as the sustainable development of the city through to it will ensure that buildings of architectural and historical interest are protected.

7.3.22. In relation to Conservation Areas, it is further added that applications for developments in such areas shall protect the amenities of surrounding properties and spaces through to ensure that the development is respectful of the existing setting and the surrounding character.

7.3.23. Conclusion

On the basis of the information provided with this application and on appeal, I am not satisfied that the applicant has demonstrated any exceptional circumstances or justifications for the quantum of demolition sought under this application in a manner that accords with the proper planning and sustainable development of the area. I therefore consider that the proposed development, if permitted, in the absence of this required information would be contrary to Policy BHA2, BHA3, BHA5, BHA10, CA6, CA7, Sections 11.5.1, 15.4.3 and 15.7 of the Dublin City Development Plan, 2022-2028 and in turn contrary to the proper planning as well as sustainable development of the area. This I consider is sufficient reason to sustain a refusal of permission in this case.

7.4. Built Heritage Impact

7.4.1. In this section in order to avoid repetition I propose to examine the Planning Authority's grounds of refusal. In particular the concerns raised by them in relation to the height, scale, and massing of the proposed development in terms of their built heritage impact on a site and setting which is extremely sensitive to change in this regard.

- 7.4.2. In relation to the Planning Authority's first reason for refusal, it was considered that the proposed development by virtue of its scale, height, and massing, would constitute an overbearing, excessive and inappropriate form of development in the context of its historic Liffey Quays setting. A setting that is described as iconic and unique to the built heritage of the Inner City. It was also considered that it would result in significant overdevelopment of this site, a site that contains a Protected Structure and forms part of a Red-Hatched Conservation Area that relates to the Liffey Quays. In this context the Planning Authority considered the proposed eight storey building would cause serious injury to their amenity, legibility, special architectural character and would cause serious injury to their visual amenities. On this basis the Planning Authority considered that the proposed development would contravene Policies BHA2, BHA9, BHA10 and BHA11 of the Development Plan. They also considered that it would set an undesirable precedent for development within and adjacent to historic buildings and protected structures within a Conservation Area.
- 7.4.3. In my view the Planning Authority's second reason for refusal overlaps with the concerns raised in their first reason for refusal. In the second reason for refusal, they consider that the proposed development by virtue of its height, scale and massing would constitute a visually jarring building that would be contrary to Appendix 3 - Section 6.0 Guidelines for Higher Buildings in Areas of Historic Sensitivity as provided for under the Development Plan. It further considered that the proposed development would adversely impact upon key views and vistas along the river corridor, as well as the visual amenities of the Protected Structure and those within the Liffey Quays Conservation Area.
- 7.4.4. The Planning Authority concluded both reasons of refusal that the proposed development would for these reasons be contrary to the proper planning and sustainable development of the conservation area.
- 7.4.5. I therefore propose to examine firstly whether or not the proposed eight storey building is one that accords with the local planning provisions. Of particular relevance in this regard is Appendix 3 of the Development Plan which sets out the Building Height Strategy and how the Planning Authority seeks to achieve sustainable compact growth for density and building height in the city. The guidance it contains is consistent with the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018). I note that these Ministerial guidelines recognise the role that height

plays in the achievement of compact cities and densification. They also recognise that buildings of height can also assist in placemaking and improve the overall quality of urban environments. Particularly where they are provided in tandem with public transport, employment, services, and retail opportunities. As such they have the potential when provided at appropriate serviced and accessible locations to achieve a requisite level of people intensity usage which is a key part of sustainable and climate resilient development.

- 7.4.6. Moreover, I consider that Appendix 3 of the Development Plan is also consistent with other higher level planning provisions including but not limited to the National Planning Framework which under NPO 35 seeks increased density through measures that includes but is not limited to increased building heights.
- 7.4.7. Under Section 3.0 of Appendix 3 of the Development Plan it provides three general categories of height in the Dublin context. Applying these categories to the site I consider that 'Prevailing Height' is the applicable category, i.e. as *"the most commonly occurring height in any given area. It relates the scale, character and existing pattern of development in an area"* for its context. This is on the basis that the historic quayside urban block that the appeal site has for the most part maintained its Georgian period grain which consists of rectangular plots that front onto the northern side of the River Liffey Quays. With No. 41 & 42 Ormond Quay Lower occupying the eastern most end of a largely Georgian in character terrace quayside frontage group. Whose graduated mainly three to four storey height with strong uppermost parapets behind which are modest roof structures punctuated by more prominent chimney stacks. The majority of this quayside terrace is afforded protection as Protected Structures as well as are listed by the NIAH.
- 7.4.8. Within the adjoining block to the east, i.e. Bachelors Walk, its quayside frontage also has a strong period built character with its buildings having graduated building heights of four and five storeys with strong parapets and modest roof structures behind punctuated by chimney stacks. This low-rise character predominates along either side of the Liffey Quays including the southern quayside opposite the subject site which the Ha'penny Bridge provides visual and functional connectivity to.
- 7.4.9. In relation to Liffey Street Lower there is as said a more varied building height on its western side but against this varied mainly three, two and single storey height the

corner building of No.s 41 & 42 Ormond Quay Lower as well as the more imposing height of No. 40 Ormond Quay Lower sits comfortably against. This more varied building height particularly in the context of the site adds visual interest and space for the older four storey buildings of No.s 41 & 42 Ormond Quay Lower and No. 40 Ormond Quay Lower to be appreciated. Additionally, the four-storey building height of these two buildings with their graduated height also provides a more balanced containment of the southern end of Liffey Street Lower given that the buildings on the eastern side of it from North Lotts to where it terminates at Bachelors Walk are characterised by their four and five storey building heights.

- 7.4.10. Appendix 3 of the Development Plan also recognises that within such areas that there may be examples of amplified height and indicates where this occurs such buildings *albeit* deviating from the prevailing height context, do not do so to a significant extent. It also recognises that amplified height can provide visual interest, allow for architectural innovation, and contribute to a scheme's legibility.
- 7.4.11. Having regard to the proposed eight storey building as lodged and seven storeys as amended, together with the three categories of building height provided for under Appendix 3 of the Development Plan I consider that it would be appropriate to consider it as a 'Locally Higher Building'. This is on the basis that such buildings are considered to be significantly higher than their surroundings. Whilst there are permitted and existing examples of amplified height in the urban block and setting these are not positioned in such close proximity to the historic quayside frontage and relative to the depth of other historic buildings in the immediate context including No. 40, 39 and 38 Ormond Quay Lower, this new building would be forward of their main rear elevation. In the context of No. 40 Ormond Quay Lower the southern elevation of the proposed new building would be c4.2m forward of its rear elevation.
- 7.4.12. Further as said the proposed maximum height of this new insertion would be +34.33m O.D as lodged and 31.03m O.D. as revised. Effectively it would be almost 17m higher than the ridge height of 'The Woollen Mills' building, a Protected Structure. It would be almost 20.64m as lodged and 17.34m as amended above the retained and part modified parapet height of the existing 1920s building on site and of note the adjoining building to the north of the site, No. 35 Liffey Street Lower, which also has a three storey with similar parapet height, it would be 20.58m as lodged and 17.28m as revised higher.

- 7.4.13. In relation to period building 'The Winding Stair', adjoining Protected Structure, which I note is a higher four storey building occupying the adjoining site to the west, i.e. No. 40 Ormond Quay Lower, the height difference would be 15.26m as lodged and 11.96m as revised. In relation to the neighbouring period buildings occupying No.s 39 and 38 Ormond Quay Lower, both also designated Protected Structures, the average difference in height would be 17.9m.
- 7.4.14. It is also of note that the proposed eight storey building in relation to the nearest buildings on the opposite side of Liffey Street Lower the difference between the existing ridge height and the height of the proposed eight storey building would be c11.12m as lodged and c8.09m as revised. At further distance from the site but occupying a site on the northern side of the subject block the subject site forms part of and setback from the quayside frontage there is a building of amplified building height. This part six storey and part seven storey apart-hotel building fronting Strand Street Great the difference in height would be c9.3m as lodged and c6.3m. as revised.
- 7.4.15. In relation to Liffey Street Lower the eight storey building as lodged and seven storey building as revised which would incorporate the main part of the eastern elevation of No. 37 Liffey Street Lower, the 1920s building on site, its eastern elevation would extend for 19.545m back from the northern edge of No.s 41 & 42 Ormond Quay Lower effectively blocking views of its northern elevation and the north as well as eastern elevation of No. 40 Ormond Quay Lower. In so doing, the eight storeys as lodged and seven storeys as revised, would in either context dwarf and visually overtly dominate the four storeys 'Building A'/No.s 41 & 42 Ormond Quay Lower. In so doing this buildings landmark visual and built qualities relative to its setting would be eroded and the careful harmonious and sympathetic graduated building heights that characterise and are one of the key characteristic of the historic quayside frontages on either side of the River Liffey would be compromised in a manner that if permitted could give rise to an undesirable precedent for cumulative diminishment of the visual and built attributes of this sensitive to change setting in a manner that could adversely impact on the setting of its numerous Protected Structures through to the erosion of the special interest of the Red-Hatched Conservation Area it would form part of.
- 7.4.16. It is also of note that permitted and existing higher buildings within the subject urban block are not located within the Red-Hatched Conservation Area and as said are located where they are set back from it as well as the northern quayside of Ormond

Quay Lower. As such the setback results in these buildings not being as visually apparent where they are visible as part of the Ormond Quay Lower frontage and they are visually setback from the graduated in height historic roofline which is still legibly punctuated by its modest roof structures and more so by its chimney stacks. It is also the case to the south west views towards the site from for example the southern quayside R148, Millennium Bridge and Grattan Bridge that other key features within the skyline are visible against the roof line of Ormond Quay Lower, in particular the Spire on O'Connell Street. Visibility of such built features would from many view points along the historic quays be visually blocked by the insertion of the proposed building were it to be permitted in its eight-storey built form as lodged or reduced seven storey building height as revised.

- 7.4.17. Against this context alongside having regard to the significant variation of height that would arise to other existing single storey buildings in the context of the site including No.s 32, 33 and 34 Liffey Street Lower, the difference height would be quite stark at 26.39m as lodged and 23.36m as revised.
- 7.4.18. In relation to the two-storey brick building of No. 37 Strand Street Great the difference in height would be c20.88m and c17.85m. Alongside the additional height of either building, a building that would have a significant west and east elevation of 19.545m length, it would at its forward position of the rear elevation of neighbouring historic building stock erode the appreciation of their roofline and would diminish key viewpoints most notably being the low profile historic northern and southern quays frontage.
- 7.4.19. Therefore, both the eight-storey and seven storey building would be consistent with the Development Plans meaning of a 'Locally Higher Building' and one that could be considered to have capacity to be a highly visible local landmark in its context.
- 7.4.20. Section 3.1 of Appendix 3 of the Development Plan on the matter of taller or landmark feature buildings sets out that in general the scope for such buildings is limited to marking key areas of note. It states: "*at a strategic level, Dublin City has an intrinsic quality as a predominantly low-rise city*"; and, that: "*there is a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic, civic or historic importance.*"

- 7.4.21. In this regard it sets out that of particular relevance development proposals must be sensitive to the historic city centre including the River Liffey and its quays. It also states that it: *“is important to protect the skyline of the inner city and to ensure that any proposals for high buildings make a positive contribution to the urban character of the city and create opportunities for place making and identity”* and that opportunities for height will be promoted on sites identified in section 4 and in accordance with the performance criteria set out in Tables 3 and 4 of Appendix 3 of the Development Plan.
- 7.4.22. In relation to Section 4, it sets out that a default position of 6 storeys will be promoted in the city centre subject to site specific characteristics, including but not limited to heritage. It states: *“where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities”* and in relation to proposals for increased height within key sensitive areas of the city including the River Liffey and quays, developments must demonstrate that they do not have an adverse impact on these sensitive environments through to they make a positive contribution to the historic context. The performance criteria used for assessing urban schemes of enhanced density and scale is provided for under Table 3 of Appendix 3 of the Development Plan.
- 7.4.23. Prior to assessing the proposed development against the performance criteria set out under this table I consider that at this juncture it is important as part of the assessment to note that the site coverage and plot ratio for the proposed development is given as 100% and 4.3, respectively. Whereas Table 2 of Appendix 3 sets out an indicative site coverage and plot ratio for central area as 60-90% and 2.5-3.0 respectively as well as for Conservation Areas 45-50% to 1.5-2.0.
- 7.4.24. As such whilst the site coverage is not at variance with the site’s existing context, the proposed plot ratio is one that significantly exceeds the indicative plot ratio for central areas and also for conservation area. With the built and visual sensitivity of the site, in terms of capacity to absorb a development of additional height, density and scale complicated by the Protected Structure designation afforded to the site, the Protected Structure designation given to several of the buildings and structures adjoining as well as neighbouring the site together with the site and its setting forming part of a Red-Hatched Conservation Area that is associated with the historic quayside of the River Liffey, being limited.

Table 1: Examination of the Proposed Development against the Performance Criteria for Assessing Proposals for Enhanced Height, Density and Scale as provided for under Table 3, Section 4, Appendix 3 of the Development Plan

	Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale
1.	<i>To promote development with a sense of place and character</i>	I accept that the proposed eight storey built insertion as lodged and as revised would in terms of its southern and eastern elevation have a distinctive contemporary architectural design. Notwithstanding, I am not satisfied that it as part of the overall proposed scheme gives rise to a positive sense of place and is respectful to the character of its built heritage sensitivities of its site and its visual setting. This is on the basis that its height is at odds with its site context. It includes no meaningful graduation between it and the remaining 'The Woollen Mills', a Protected Structure, its adjoining and neighbouring Protected Structures, particularly those to the immediate west of the site. Alongside its eastern elevation would extend across 19.545m of an important civic plaza on a busy pedestrian thoroughfare whose recent pedestrianisation provides an attractive backdrop to appreciate Ha'penny Bridge with the height of this built insertion as lodged and as revised at odds with the sympathetic graduation of more modest and coherent with one another graduation of building heights that provide harmony in their built containment of this adjoining public realm that forms part of a Red-Hatched Conservation Area. At its nearest point to the public realm of Ormond Quay Lower the eight storeys as lodged and seven storeys as revised would be within 7.918m of it. With this placement being forward of the rear building lines of Protected Structures to the west of it that form part of the historic quayside block that the site forms part of. There is no meaningful separation between the proposed new building and the northern elevation of No.s 41 & 42 Ormond Quay Lower or other period and similar protected buildings to its west. There is also no precedent for a building of the height proposed or as revised at such a setback from the historic quayside frontage. With buildings of additional height like the Four Courts on the northern side being of civic importance in their function and design. In its context this building would visually dominate in an adverse manner the adjoining and neighbouring buildings that front the eastern end of Ormond Quay Lower, as well as the southern end of Liffey Street Lower and Bachelors Walk. In so doing it would erode in an adverse and material manner the surviving built legibility of No.s 41 & 42 Ormond Quay Lower and its visual coherence and unity with other buildings at this location, particularly those that form part of the Red-Hatched Conservation Area. Thus, eroding the harmony that is present in this locations collection of buildings and spaces that together inform this historic quayside location special interest and sense of place.

		Moreover, the eight-storey building as lodged and seven storeys as amended, western and northern elevations would despite the improvements in treatment to the amended design option would nonetheless be monolithic when viewed at a distance. When taken together with this building's overall mass, scale and volume that would project above its surrounding buildings it would not be a successful new insertion in the round. Conclusion: For the reasons set out above I am not satisfied that the proposed development as lodged and as amended is consistent with Objective 1 of Table 3.
2.	<i>To provide appropriate legibility</i>	I am not satisfied that the proposed eight storey insertion, as lodged and seven storeys as amended, if permitted, would positively contribute to the legibility of the area on the basis that its height and built form would be visually incongruous as well as overbearing in a manner that would also diminish the existing contribution of the buildings on this contribution to the built and visual cohesion as well as harmony of this historic quayside frontage, its corner location onto Liffey Street Lower where it addresses a civic plaza and the four and five storey buildings opposite that together form part of a Red-Hatched Conservation Area. Further, the token part retention of the 1920s façade would not safeguard the legibility or contribution of it in terms of its setting as it would be visually confused with the other alterations and additions to the eastern elevation addressing the civic plaza and would be disjointed when considered against the new eight storey as lodged and part seven storey as amended building. Additionally, the height, massing, and scale of the new building element would result in a loss of daylight and additional overshadowing of the Liffey Street Lower civic plaza. The design would also give rise to less active street frontage addressing this civic plaza and the provision of bin access/storage alongside this important public realm that is heavily used key pedestrian route between north and south inner-city Dublin would not reinforce the function of Liffey Street Lower as a Category 2 Retail Street. Particularly in terms of pedestrian movements associated with Henry Street and southwards towards other retail offers located on the opposite side of the River Liffey. Further, in terms of the incorporation of the 1920s façade subject to changes to its ground floor treatment. This component of the design does not align with guidance set out in the Architectural Heritage Protection Guidelines and the outcome in my view would not be one where that it would harmoniously sit as a distinctive surviving layer as part of the overall scheme for this site or allow it to sit comfortably alongside No. 35 Liffey Street Lower that in its present form its visual and built attributes successfully harmonise with. Conclusion: For these reasons I am not satisfied that the proposed development as lodged and as amended is consistent with Objective 2 of Table 3.

3.	<i>To provide appropriate continuity and enclosure of streets and spaces</i>	I am not satisfied that the proposed development as lodged or as amended, if permitted, would provide successful continuity and enclosure of its surrounding streets and spaces. In this regard I refer again to the considerations for Objective 1 and 2 above which are of relevance to the consideration of Objective 3. The site in its current form contains three building layers that not only provide appropriate continuity and enclosure of its historic quayside frontage, in particular Ormond Quay Lower and Bachelors Walk. They also together with the decorative metal canopy which encloses an outdoor space use for customer dining of the existing restaurant uses, provide in their varied eastern elevation footprint, its varied four, three and single with covered dining space over the single storey structure provide continuity and enclosure of the adjoining civic plaza they address in a manner that is consistent with the varied graduation of building heights that characterise this location. With the four-storey corner building when viewed as part of the civic plaza merging its restaurant function with the vibrancy and vitality of this heavily traffic pedestrian space that also provides dwell spaces to sit and appreciate the backdrop of the Ha'penny Bridge and amenity of this civic plaza which contains sculpture, tree and soft landscaping and other active ground floor uses. In this context the eight-storey as lodged seven storey as amended building would both be visually incongruous in their height which would dominate Protected Structures in its vicinity, the collection of buildings and spaces that make up the Red-Hatched Conservation Area it would form part of and it would be visually incongruous and jarring relative to other building in its context including in terms of the containment of the civic plaza at the southern end of Liffey Street Lower. Conclusion: For these reasons I am not satisfied that the proposed development is consistent with Objective 3 of Table 3.
4.	<i>To provide well connected, high quality and active public and communal spaces</i>	In terms of providing a well-connected, high quality and active public and communal space, the appeal site has a modest and constrained site of 0.023ha. In addition, this regular in shape plot has a limited width of just over 8m and depth of c27.4m. Private amenities are proposed for future occupants of the proposed apartment units in the form of private balconies and a communal space at roof level is also proposed. It is a requirement under Section 15.9.8 of the Development Plan that all apartment schemes provide qualitative communal open space, and it clarifies that the provision of communal open space is in addition to any private or public open space requirements. While I note that this scheme meets the required local and national private amenity space standards for each apartment unit proposed and that the roof communal space has a given area of 79m² as well as it would not be a space that would be overlooked; notwithstanding, accompanying documentation does not clarify how this space would function as qualitative and functional

		passive/recreational space for future occupants of this proposed mixed-use scheme. Nor do the documentation provided clearly quantify by way of an evidence-based assessment that this space would not be functionally impaired in its use by future occupants as communal open space by any microclimate impacts. Particularly having regard to the site's location along the River Liffey corridor and in the context of this corridor being characterised by much lower in height buildings with the wide quayside corridor having an east - west axis. Access to the residential units proposed would be via the pedestrian public realm of the civic plaza from the northern end of the eastern boundary of the site. Like the existing context no setback from the public realm is proposed and as such no public open space or semi-private open space would be contributed to the adjoining public realm of Liffey Street Lowers civic plaza. Relevant local planning provisions in a manner consistent with national planning guidance on such matters provides flexibility to pay a financial contribution towards public and communal spaces on sites below 0.25ha. As such should the Board be minded to grant permission and considering the public realm improvements adjoining this site in the form of the aforementioned civic plaza it would be appropriate in my view that the lack of public open space amenity is dealt with by way of contribution which I note is provided for under the Development Plan and under the applicable Development Contribution Scheme. Further, qualitative improvements to the communal open space could be achieved by way of condition with the use of a bespoke worded condition measures could be had to deal with any localised micro-climate impacts that would arise for future occupants using this space. Conclusion: On the basis of the above and having regards to the constraints of the site there is limited capacity, if any, for any future redevelopment to provide meaningful enhancement to the adjoining public realm. In my view the flexibility provided for under the Development Plan for such a restricted in area site should be applied and in turn any grant of permission deal with the shortfall of public open space by way of an appropriately worded contribution condition.
5.	To provide high quality, attractive and useable private spaces	Having regard to the quantitative and qualitative standards the Development Plan requires compliance with the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities, 2022, as amended, I am satisfied that all apartment units exceed the minimum private open space amenity standards in their mixture of balcony and/or terrace provisions. I also satisfied that whilst there would be some overshadowing of these spaces this is not to be unexpected within a city centre context, particularly in relation to the apartment units located below the fifth-floor level. Notwithstanding, I consider that the design of the

		private amenity spaces seeks to achieve enhanced solar gain and a level of containment by way of the design including angled fins. The single aspect apartments would also have a separation distance over 21m from the nearest building block to the east of them. During the late Autumn, Winter, and early Spring months when the sun is lowest in the sky the mature linear row of street trees located within the adjoining public realm/civic plaza will have lost their leaves. As such aiding greater light penetration to their interior spaces. With the glazing consisting of tall and of decent width regularly placed windows/openings onto adjoining private amenity space. Moreover, the daylight, sunlight and overshadowing assessments further demonstrate that the future occupants of the proposed dwellings would achieve the required standard of daylight/sunlight internally and in terms of their external private amenity space provisions. Alongside it demonstrates that the existing daylight, sunlight through to overshadowing in the context of the proposed situation for future occupants of the proposed apartment that does arise would not be exceptional or in conflict with required planning standards at a local through to national level. Given the limited size of the block and the relationship of the proposed eight storey building as lodged, and seven storeys as amended, with this appeal to existing buildings and spaces no exceptional adverse microclimatic effects would be likely for the proposed private amenity spaces. Additionally, the separation distance between the apartment units and any neighbouring residential units is such that it would not give rise to any unreasonable or unexpected levels of overlooking and/or diminished privacy for what is an inner-city context. Conclusion: I am satisfied that the proposed development is consistent with Objective 5 of Table 3.
6.	<i>To promote mix of use and diversity of activities</i>	I am satisfied that the mixed-use development consisting of restaurant and apartment units is consistent with Objective 6, alongside the additional apartment units would positively add to a type of housing stock, particularly the 2 and 3-bedroom units, that the City Council seek to encourage within North Inner city Sub City Area with this supported by the HNDA carried out for this area. Though there is flexibility provided for under the Development Plan, including Section 15.9.1 and the Housing Strategy for modest in apartment unit schemes like this, notwithstanding as said the type of apartment unit mix are consistent with the identified demand in this city centre location. Further, as said the mixed-use scheme includes the retention of 'The Woollen Mills' restaurant use. This land use is consistent with the permitted land uses for Zone '5' lands as provided for under the Development Plan and the mix use including appropriate activation of its ground floor level as part of Category 2 Retail Street accords with the Development Plan

		provisions. As such this mixed use proposed development would add to the diversity of people intensive uses at this city centre location.
7.	<i>To ensure high quality and environmentally sustainable buildings</i>	The accompanying 'Sustainability & Energy Statement' indicates that the proposed eight storey building would be designed to be consistent with Part L – 2022 Nearly Zero Energy Building (NZEB), upon preliminary DEAP analysis would achieve a BER A3 rating or better and to achieve this it includes a number of sustainable technologies, energy efficient through to climate resilient approaches to its overall building and construction methodology. Such an approach and outcome are consistent with the Development Plan provisions including those set out under Chapter 3 and Section 15.4.3 in relation to energy considerations for proposed developments. The accompanying 'Daylight, Sunlight and Shadow Assessment' concludes that the proposed development would not result in any significant loss of daylight or sunlight achieved by properties in its vicinity. However, on review of this document it indicates that in terms of the adjoining public realm and in relation to the buildings on the opposite side of Liffey Street Lower, which I note contain dwelling units, that there would be additional overshadowing at 1pm and 3pm above the existing situation on the 21st of March. It further indicates that the modest rear yard area behind the adjoining Protected Structure to the west 'The Winding Stairs' and neighbouring buildings to the north west which includes windows and outdoor spaces would be additionally overshadowed in the early morning also on the 21st of March. Also, on the 21st of June the adjoining property of 'The Winding Stair' and properties to the immediate north west of the site would be overshadowed from 7am with the extent reducing towards 11am. Moreover, it indicates that the adjoining public realm/civic plaza would from 1pm onwards be significantly more overshadowed than its existing situation and by 3pm on the 21st of June the shadows cast would extend across the entire width of Liffey Street Lower's civic plaza as well as the western elevation of the buildings on the opposite side of this street. Additionally, the overshadowing is such that it effectively encroaches in a more robust manner onto all of this public realm as well as most of the frontages of the buildings on the opposite side of Liffey Street Lower. With the shadows further casting over and above the existing situation onto the southern elevation of the existing Bachelors Walk frontage corner building opposite the site as well as its adjoining pedestrian realm. On the 21st of December, the eight storey building casts significant shadowing to the rear of properties adjoining and neighbouring it. Within its urban block to the north and north west at 11am and by 1pm the shadow casts more significantly extend in a north east direction towards junction of Liffey Street Lower, Strand Street

		Great and North Lotts as well as onto the corner building of North Lotts and Liffey Street Lower. I note that since this application was made not only has the civic plaza been created at the southern end of Liffey Street Lower the public realm from this roads junction with Strand Street Great has been pedestrianised with this adding to function and area associated with this civic plaza and heavily trafficked north south pedestrian through route over the River Liffey. I also note that No. 9 Liffey Street Lower is a designated Protected Structure and at the time this report was being prepared the public realm of North Lotts was closed at its junction with Liffey Street Lower and its cobble surfaces being renewed. Additionally, by 3pm on the 21st of December the shadows cast would extend more significantly to the north east and onto the opposite side of Liffey Street Lower's frontage. As such I consider that the eight-storey building as lodged and to a lesser extent the seven-storey building would significantly impact on its surrounding context by way of diminished daylighting and increased overshadowing of both the public and private realm. In relation to the historic building fabric to be retained as previously raised as a concern, whilst minimal intervention is proposed to the main four-story building on site, notwithstanding I note the comments previously made on this matter. Alongside it is not clear whether or not the historic building layers to be retained would in terms of works accord with Policy BHA21 of the Development Plan. This requires regard to be had to the Government's publication on Energy Efficiency in Traditional Buildings (2010) and the Irish Standard IS EN 16883:2017 Conservation of Cultural Heritage-Guidelines for Improving the Energy Performance of Historic Buildings (2017) and any future updates or advisory documents in assessing proposed works on heritage buildings. It is not clear in terms of the detail that is provided with this application including within its 'Sustainability & Energy Statement' whether the overall works, particularly in terms of the interface with the northern elevation of No. 41 & 42 Ormond Quay Lower with the new building layer, with this requiring appropriate levels of breathability, through to the retained section of the 1920s elevation what scope of energy performance measures works, if any would be carried at these important junctures and if so that the works accord with the above stated publication alongside the guidance set out under the Architectural Heritage Guidelines.. Of further concern and as previously discussed in my assessment above the applicant has failed to demonstrate compliance with the Development Plan requirements for the proposed quantum in term of floor area of demolition sought. Additionally, from site inspection it appears that the buildings on the site are interconnected with the buildings and spaces to the west and north of it. In this context and given the age of the buildings on this site and in its setting, it is also unclear whether or not there is any interdependence of services and the like.
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		These concerns add to the previous concerns raised in relation to the proposed development being contrary to Section 15.7 of the Development Plan based on the lack of any justification for the level of demolition proposed. With the sensitivity of demolition further complicated by the interconnectivity of the buildings on this site with adjoining properties to the north and west. Alongside the property to the west being a designated Protected Structure and with the property to the north appearing to date and be of similar construction to the 1920s brick building on site which for the most part would be demolished to facilitate the construction of the proposed eight storey as lodged and seven storeys as amended new building. The Development Plan sets out that a demolition justification report clearly sets out the rationale for the demolition having regard to the 'embodied carbon' of existing structures. As well as demonstrating that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. This is not provided with this application or as part of the appeal submission. Moreover, I raise a concern that the design of the asymmetrically placed roof level above the eight storey buildings main parapet height, if permitted, would be visually obtrusive. In this regard I am not satisfied that it has been designed to be discrete or in harmony with the symmetry that characterises roof structures, through to the discreteness of roof elements where they are visible above parapets of surround historic quayside buildings within this setting. The asymmetrically placed roof element would in my view add to the visual incongruity of the proposed eight storey building as lodged and seven storeys building as revised. Conclusion: I am not satisfied that the proposed development is one that can be considered as consistent with Objective 7 of Table 3.
8.	<i>To secure sustainable density, intensity at locations of high accessibility</i>	I acknowledge that this inner-city appeal site is highly accessible to a variety of public transport options as well as benefits from a location that is proximate to a variety of land uses, amenities and employment opportunities that would be synergistic the residential component of this mixed-use scheme. Retention of a restaurant use also maintains a land use that would draw people to this location and support the retail as well as other business offers in proximity to the site's location on a Category 2 Retail Street. The mixed-use scheme proposes 100% site coverage and at 4.3 exceeds the indicative plot ratio in the Development Plan for a site at this type of location. Notwithstanding, the built heritage and visual setting of the site and its setting is generally not a type of location despite its city centre location and high levels of accessibility is one that is deemed suitable for the provision of taller buildings. The site's ability to accommodate a more dense and compact mixed-use development is particularly more difficult given the designation of the site as a Protected Structure and the adjoining as well as

		neighbouring Protected Structures within its visual setting. With this further added to by being part of a Red-Hatched Conservation Area that is bound by Liffey Street Lower's civic plaza. Together these buildings and spaces act as a backdrop to the iconic Ha'penny Bridge. Conclusion: The attributes of this site and setting is such that any development of density and intensity needs to demonstrate that it would not give rise to any adverse impact on the built heritage and visual amenities of this area. I am not satisfied that the proposed development as lodged or as amended has demonstrated that it would achieve a sustainable density and intensity of use that can be accommodated at this location without giving rise to adverse impact on the amenities of its site and setting.
9.	<i>To protect historic environments from insensitive development</i>	There are several concerns raised in the examination of the proposed development in the assessment above on the matter of whether it achieves appropriate protection of its historic and sensitive to change site and setting. It is firstly a concern that the proposed eight storey as lodged, and seven storeys as amended, would in terms of its height, mass, scale and volume be excessive in its visual overbearance when appreciated against the retained four storey period building of the 'The Woollen Mills' alongside other similar in period and built attribute surrounding buildings. It would also in terms of the eastern elevation of the site give rise to a disjointed four storey period building, decorative canopy and part retained 1920s building against this new addition. There is a lack of any meaningful setback and graduation of building height as well as built form with the remaining 'The Woollen Mills' building and 'The Winding Stairs' Protected Structures. Additionally, the height, scale, and mass as part of contributing to the backdrop in which the Ha'penny Bridge is appreciated from the pedestrianised street and civic plaza of Liffey Street Lower is visually overt in its dominance. With this added to where the views towards the Ha'penny Bridge include the northern elevation of the new building which lacks any voids to break up its undue solidity. Further, the facadism design approach which would result in the retention of most of the 1920s building façade is an approach that does not accord with best conservation guidance, including that provided under the Architectural Heritage Protection Guidelines for which Policy BHA 4 and BHA 5 of the Development Plan indicates regard will be had. It also results in the loss of key activation achieved at ground floor level on the southern side of this façade which would be bricked up adding undue solidity to a frontage that currently more actively animates and adds vitality to the streetscape scene of Liffey Street Lower as well as the civic plaza it bounds. As discussed in Section 7.3 of this report above the applicant has not provided any exceptional circumstance nor demonstrated how the proposed commercially led development would give rise to any significant public benefit, particularly against the context where the

		building layers on this site as labelled 'A', 'B' and 'C' in a consistent manner harmonise positively with their Conservation Area and the Protected Structures that comprise the site and its setting. Also, under Section 11.5.5 of the Development Plan, there is a requirement given the site being one that falls within a zone of archaeological constraint for a Recorded Place and Monument that consultation is had with the City Archaeologist prior to the lodgement of a planning application. It also requires that development at such a location to be accompanied by an archaeological impact assessment. This is against the context that Policy BHA26 of the Development Plan seeks to protect Recorded Place and Monuments in a manner that accords with Section 12 of the National Monuments (Amendment) Act 1994. Conclusion: On the basis of the above considerations alongside the assessment of built heritage impact already carried out in the assessment above that the proposed development is one that would protect or sit respectfully with its historic environment.
10.	<i>To ensure appropriate management and maintenance</i>	I consider that the palette of materials for the external envelope of the proposed building would require minimal future maintenance with the use of brick, textured concrete, and brass balustrading particularly on the southern and eastern elevation likely to develop a further sympathetic patina as it ages. Similarly, the northern and westerly elevation would not require any significant upkeep and maintenance. With rain water goods appearing to be concealed/integrated within the exterior façade treatments. The proposed mixed-use scheme is one that is indicated would be maintained in private ownership with the apartment units indicated to be in individual ownership and in a manner that accords with the Development Plan provisions any grant of permission should include a condition requiring an Operational/Service Management Plan to be submitted for agreement with the Planning Authority. This application is accompanied by an 'Outline Resource & Waste Management Plan' and in a manner that accords with standard practice it would be appropriate that this plan be subject to finalisation and agreement by way of an appropriately worded condition as part of a grant of permission. Notwithstanding I raise it as a concern that the proposed visual aids accompanying this application, including its photomontages suggest an exuberantly planted southern, eastern and roof of the proposed eight storey as lodged and seven storeys as amended new building. With this including substantive natural features including trees and large specimen plants. Yet the documentation provided with this application does not in my view support how this could be realistically achieved and maintained going forward. It would therefore be appropriate that any grant of permission would include a condition that sought clarity and agreement on the overall landscaping of the proposed scheme. I am also of the view that the zero-car parking approach is appropriate and necessary given the new civic plaza and

		pedestrianisation of Liffey Street Lower and given the changes to this area and the lack of examination of car sharing schemes within this inner-city location that a grant of permission could seek for a more robust Mobility Management Plan for this mixed-use scheme when operational, in particular for future occupants. Conclusion: I am satisfied that any grant of permission could include conditions that would ensure that this mixed-use scheme is appropriately managed and maintained once operational.
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- 7.4.25. Having regard to the substantive concerns raised above I am not satisfied that the proposed development fully accords all of the performance criteria of Table 3, Section 4 of Appendix 3 of the Development Plan. As said the performance criteria set out under this table is applicable to the assessment of urban schemes of enhanced density and scale.
- 7.4.26. Of further relevance to the proposed development, Section 5 of Appendix 3 of the Development Plan deals with the matter of ‘Landmark’ and ‘Tall Buildings’. It recognises the role such buildings play in the future development of Dublin as a compact city. It states that: *“such buildings can have advantages in terms of increasing density, promoting regeneration and helping people navigate through and around the city”* and that: *“appropriately located landmark/tall buildings can contribute to the development of sustainable communities and neighbourhoods particularly to optimise the capacity of sites which are well-connected by public transport and have good access to services and amenities. If well designed, they can make a positive contribution to the cityscape.”*
- 7.4.27. On the other hand, Section 5 also recognises that ‘Landmark’ and ‘Tall Buildings’ can also: *“have a significant detrimental impact on local character and the wider city, if the location or design is unsuitable”*. It also states that: *“they can also have other adverse impacts including putting undue pressures on social and physical infrastructure, impacting negatively on existing residential amenities and significant adverse environmental impacts”* through to they: *“can also be deemed more unsustainable and involve more embodied energy with greater energy consumption and carbon emissions. It is, therefore, essential that such landmark/tall buildings are directed to locations that can absorb their built form without significant adverse impacts, protect areas of sensitive urban character particularly the city’s heritage assets and achieve*

excellent quality both in terms of architectural design and environmental sustainability.”

- 7.4.28. Section 5 of the Development Plan defines ‘Landmark’ and ‘Tall Buildings’ as those that are considered to be substantially taller building that departs from other buildings within its surrounding context and are described as buildings typically with a height greater than 50 meters. As previously set out the height of the proposed eight-storey building as lodged, and the seven-storey building as amended, does not exceed this given height and is significantly lower than it. I also note that the Development Plan provides a default height presumption of 6-storeys within the city centre.
- 7.4.29. While I accept that the proposed eight-storey building as lodged, and the seven-storey building as amended, would be a significant contemporary in architectural resolution built departure from the established 3 to 5 storey graduated height of buildings that front either side of the city centres historic quayside frontage. In particular the buildings that form part of the Red-Hatched Conservation Area that encompasses this area, notwithstanding, there are examples of amplified height in the vicinity of the site. With this including the graduated in height apart hotel building to the north west of the site and forming part of the same urban block that the site forms part of. This recent building rises in its height from 5 storeys where it is nearest to the quayside frontage to 7-storeys where it fronts onto Strand Street Great (Note: No. 31). It is of note that this building does not form part of the Red-Hatched Conservation Area and its height graduates from five storeys in its central position within the urban block at a physically and visually setback from the Protected Structures to the south of it. I also acknowledge that the proposed eight storey as proposed and seven storey as lodged together with its depth at this location where it is forward of the rear building line of historic buildings that front the northern quays would interrupt the view of the low scale northern quayside built frontage through to at various points from the opposite side of the quays would visually interrupt key views of key architectural insertions that project above this historic roofline, including but not limited to The Spire and the Four Courts.
- 7.4.30. Irrespective of this the proposed eight storey as lodged and seven storey as amended proposed building despite it being a significant departure from the building heights that characterise the Red-Hatched Conservation Area it forms part of, particularly the quayside frontage of Ormond Quay Lower and the streetscape scene that fronts onto the western side of the civic plaza at the southern end of Liffey Street Lower it is not a

building that in my view could be considered as a 'Landmark' and 'Tall Building' given the meaning afforded to such buildings under the Development Plan alongside the as said default six storey height for buildings within the context of the city centre. As such I consider the performance criteria set out under Table 4 of Section 5 of Appendix 3 is not applicable to the assessment of this proposed development whereas the provisions set out under Section 6.0 are on the basis it sets out the guidelines for higher buildings in areas of historic sensitivity.

- 7.4.31. In this regard, I note that Section 6 of Appendix 3 indicates that developments of significant height and scale are generally not considered appropriate in historic settings including the historic city centre, the River Liffey, and quay's locations on the basis that they can give rise to serious harm to them. It notes that the performance criteria set out under Table 3 (and 4 which as said is not applicable to the proposed development for the reasons set out above) include impact on Protected Structures and National Monuments & Places. It sets out that an appropriate balance must be struck between protection and enhancement of Protected Structures and National Monuments & Places whilst ensuring appropriate and sustainable development. It also indicates that new development must respond to local character and protect as well as enhance the built heritage through to it should not have an adverse impact on Protected Structure(s), their curtilage or on a national monument in terms of their scale, height, massing, alignment, and materials.
- 7.4.32. As set out in my examination of the performance criteria of Table 3 alongside my assessment above I am not satisfied that the proposed development is one that as lodged or as amended would not give rise to undue built heritage sensitivities of the site and its setting. Including Protected Structures and a National Monument & Place.
- 7.4.33. Of particular concern in this regard is the placement of the new building with its southern elevation at its closest point being 7.9m to the Ormond Quay Lower frontage and projecting forward of the rear building line of the Protected Structures adjoining and neighbouring it to the west. In relation to the adjoining Protected Structure of No.s 41 & 42 Ormond Quay Lower at fourth floor level its main structure would be within 1.325m from its parapet and it would immediately abut 'The Winding Stair', Protected Structure, for c4m along its southernmost side of its western elevation. At this location it would erode the roofline and skyline of the northern quayside frontage and would be visually overbearing when viewed as part of the visual setting of the several Protected

Structures including the Ha'penny Bridge that is within 22m of the south eastern corner of this new built insertion.

7.4.34. It would also be visually overbearing as part of the streetscape fronting onto the new civic plaza at the southernmost end of Liffey Street Lower and in terms of fronting onto this important public realm its eight storey as lodged and seven storey as amended building height that would extend over 19.54m of this plaza's widest section would be visually overbearing relative to the more modest heights of the adjoining 'The Woollen Mills' building and the three storey building of No. 35 Liffey Street Lower. With this visual overbearance added to by the additional overshadowing it would give rise to for this important public realm that adjoins the historic northern quayside setting of Ormond Quay Lower and Bachelors Walk that provides an important backdrop for the appreciation of the Ha'penny Bridge as north south pedestrian route within the city centre over the River Liffey.

7.4.35. Moreover, the documentation accompanying this application and appeal consider that this sensitive to change site that forms part of the archaeological zone of constraint of a Recorded Monument is a matter that should be dealt with by way of condition and that archaeological impact assessment is not a key consideration in the design resolution of any proposed redevelopment that would involve excavations at this location.

7.4.36. Conclusion

On the basis of the considerations above, I generally concur with the Planning Authority's given two given reasons for refusal.

In this regard, I share their concerns that the proposed development which includes an eight-storey built insertion in terms of its scale, height and massing of the proposed development would constitute an overbearing, excessive, inappropriate form of development that would visually diminish and materially erode the harmony, rhythm and pattern of building through to their relationship with spaces in this historic Liffey Quayside location as legible and appreciated from key views as well as vistas.

I also consider that, if permitted in the form proposed or as lodged that, the excessive plot ratio, the inappropriate juxtaposition of this building element with the remaining 'The Woollen Mills' building alongside with its lack of separation from adjoining and neighbouring Protected Structures particularly in terms of Ormond Quay Lower

quayside block through to lack of adequate setback and graduation from these historic buildings rear building line would be visually jarring and disruptive as appreciated from the public domain, including the Red-Hatched Conservation Area they form part of.

In this context the placement of the eight-storey building forward of the rear building line of historic quayside buildings within this block would not only give rise to undesirable precedent for other similar developments within this block and within the wider visual setting. A setting which is characterised by a highly harmonious and respectful collection of low-rise building heights, rooflines, and setbacks from their historic River Liffey quayside setting. With this harmony in built form and the respectful graduation of building heights also continuing on streetscapes setback from the quays, including the adjoining Liffey Street Lower, which in the context of the eastern boundary of the site adjoins it with a public realm/civic plaza for which qualitative and quantitative improvements are on-going in terms of its pedestrianised area.

The eight-storey height towering height of the western and northern façade adds to the concern that as a new tall building element it would not positively contribute in the round to the visual amenities of its setting as its jarring eight storey height would be further added to by these elevations lack of any solid to void treatment. With any detailing to them not being of sufficient robustness and interest to break the visual incongruity of their monolithic appearance when viewed as part of the public domain.

Additionally the lack of built and visual separation distance through to any meaningful graduation of built form between the eight storey element and the to be retained 'The Woollen Mills' four storey building results in the loss of its ability to be a corner focal building at a key public realm location whereby Ormond Quay Lower, Liffey Street Lower, Bachelors Walk and the pedestrian realm/civic plaza where the Ha'penny Bridge is a key historic structure that bridges this section of historic quayside frontage on the northern side of the River Liffey to its southern side. At this key public domain intersection, the built containment that exists is highly harmonious in terms of its building heights, roofline through to discrete projections above the roofline. This proposed eight storey new building together with its not discrete asymmetrical roof projection would be visually incongruous and overbearing in a manner that would materially and adversely diminish the special character and intrinsic attributes of its sensitive to change setting.

These concerns are coupled with the previous section of this assessment and add to the reasons why this proposed development, if permitted, would contravene Policy BHA2, BHA9, BHA10 and BHA11 of the Development Plan. Further it would also be contrary to the Development Plans Building Height Strategy, in particular the provisions set out under Table 3 and Section 6 of Appendix 3. Alongside the quantum of demolition sought has not been demonstrated to arise from any exceptional circumstances through to would give rise to any material public benefit.

For these reasons, I concur with the Planning Authority that the proposed development would be contrary to the proper planning and sustainable development of the conservation area. These concerns are in my view of substantive merit in their own right to warrant a refusal of permission and are not overcome by the reduction of the proposed eight storey building to seven storeys together with the amendments to the external treatments, including to the north and west facades.

7.5. Potential Impact on Properties in the Vicinity

- 7.5.1. In addition to the concerns raised in terms of additional overshadowing and diminishment of daylighting/sun lighting that would arise from the eight storey element but less so from the amended reduced in height seven storey addition the adjoining property owner of No. 35 Liffey Street Lower raises concerns that the proposed development could adversely impact on the use of their property which operates as an established late night venue from the buildings that include those adjoining the north and part of the western elevation.
- 7.5.2. They also raise concerns that there appears to be limited design measures to ensure that the residential amenity of the proposed apartments would not be unduly impacted by the operations of their late-night venue.
- 7.5.3. I note that northern and western elevations of the eight-storey new addition with the exception of the juncture between No. 35 and the 1920s shopfront façade to be retained would consist of a separate structurally and thermally independent designed structure.
- 7.5.4. The northern and western elevations do not include any window openings as well as the lift and stairwell are located against the north and north western portion of the building.

- 7.5.5. Additionally, the internal spaces of the apartment units comprise of a corridor alongside the adjoining western elevation with living and bedroom spaces located to the south and east of each unit.
- 7.5.6. Further, the private amenity spaces in proximity to No. 35 Liffey Street are angled with a southerly inflection with solid fins that adjoin them having a north/south inflection.
- 7.5.7. These design measures in my view take cognisance of the adjoining late night music operation that together with other building design measures that would be expected for a new building envelope that includes apartments in what is a busy throughout the day and night location within Dublin's city centre.
- 7.5.8. Having inspected the site and its setting I consider that it is likely that there are structural and service interdependence between the existing buildings on site and the adjoining buildings to the west as well as north of the site. As such there is potential for the demolition and construction to give rise to civil issues in addition to those that would inevitably arise in relation to the adjoining public domain of the civic plaza. Therefore, as a precaution if the Board were minded to grant permission, I recommend that it include an advisory note setting out the provisions of Section 34(13) of the Planning and Development Act 2000 (as amended) which states that 'a person shall not be entitled solely by reason of a permission under section 37(g) to carry out any development'.
- 7.5.9. I also consider that as a precaution it would not be unreasonable for any grant of permission given the juxtaposition of the apartment element to the late-night venue of the Grand Social to provide appropriate noise measures to ensure qualitative internal amenities for future occupants of the proposed apartments. I am not convinced on the basis of the information provided that providing residential at this vibrant city centre location, a location where there are already residential units within the vicinity of the late-night venue operating from No. 35 Liffey Street Lower, would jeopardise the commercial viability of this business.

7.6. Piecemeal Development - New Issue

- 7.6.1. I note to the Board that the applicants interest extends to the adjoining property of No. 40 Ormond Quay Lower (Note: 'The Winding Stairs') and their interest extends along the entire western boundary of the site. With the existing restaurant use having connection to this property's internal space and its undercroft alley that opens onto

Ormond Quay Lower alongside the bookshop operating from part of the ground floor level of No. 40 Ormond Quay Lower. As raised as a concern the proposed development as discussed as lodged and as amended contains solid western and northern elevations that project above its surrounding buildings including the adjoining sensitive to change quayside buildings of No.s 41 & 42 Ormond Quay Lower and to the west of it. Similarly, it would form part of the Red-Hatched Conservation Area that encompasses the historic quayside fronting the northern side of the River Liffey where there is not a precedent for buildings of amplified height with such buildings set back from this sensitive to change setting that includes several Protected Structures.

- 7.6.2. I accept that the lack of voids on the northern and western elevation of the proposed new building provides future opportunity for the adjoining lands to be development, notwithstanding, in my opinion it results in a poor visual outcome for this proposed taller building that in both its eight storey built form as lodged and reduced seven storey as amended with this appeal projects above the roofline and skyline at what is a highly visible as well as sensitive to change location. Where the lack of voids would result in this building not being one that positively contributes in a coherent manner as appreciated as part of its visual setting as a building in the round.
- 7.6.3. While I also accept that the amended design proposes welcomed improvements to the detailing of the northern and western elevations. However, these revisions when taken together with the high visibility of the proposed new built insertion do not overcome the concerns that in terms of achieving healthy and qualitative placemaking that it can be positively absorbed in a successfully manner with the special character and intrinsic attributes of its setting. Alongside within this area of such strong period character and built coherence be appreciable in the round as a respectful qualitative building of its time.
- 7.6.4. Given these concerns together with the modest area of the site, i.e. 0.023ha and what appears to be latent potential of adjoining and neighbouring land, in particular that on the western side of the site in the First Party's ownership it is a concern that there is no examination within this proposal outside of the proposed blank north and west elevational treatment for a consolidated qualitative urban design and place making approach for underutilised and of limited if any architectural merit land to the north west and north of the site. Such an approach would in my view ensure that land within this urban block particularly land that can be linked to the site and has latent potential

for redevelopment is consolidated to achieve a more appropriately considered cohesive placemaking outcome. Further, given that it is more difficult for a taller building of increased density and scale to sit comfortably within built heritage and visually sensitive to change locations like this consolidation with other parcels of land can provide allow for more meaningful setbacks and graduation of height to lessen their potential for adverse impact.

- 7.6.5. I acknowledge that there is no requirement for a Master Plan vision under the provisions of the current Development Plan on the basis that its overall size is below 0.5ha. It would also appear from the accompanying documentation that the applicant has not set out a cohesive vision for their landownership at this location. Nor is there any evidence that they have consulted with adjoining landowners with the view of achieving a cohesive and coordinated plan for the eastern end of this historic quayside block.
- 7.6.6. In my view, the lack of such approach at this sensitive location setting where there is potential for coordinated more cohesive redevelopment potential does not accord with local through to higher level planning provisions and guidance on how such situations should be spatially managed under the planning system. For example, RSES and the NPF in a consistent manner advocate, high quality urban design that contributes positively towards healthy placemaking. Also, the Sustainable and Compact Settlement Guidelines for Planning Authorities set out key priorities for city and metropolitan growth. These include:
- Realising opportunities for adaptation, reuse, and intensification of existing buildings and for incremental brownfield and infill development.
 - Delivering brownfield and infill development at scale at suitable strategic and sustainable development locations within the existing built-up footprint of the city.
 - Delivery of sustainable and compact urban extension at scale at suitable strategic and sustainable development locations that are close to the existing built-up footprint of the city.
- 7.6.7. I am not satisfied that the proposed building which is eight storeys as lodged and seven storeys as amended can be accommodated on such a modest in area site where no meaningful setback and graduation from adjoining and neighbouring historic buildings can be provided. Moreover, the proposed development is one that would give rise to

ad hoc uncoordinated and fragmented development in a built heritage and visual sensitive to change setting. I consider this concern to be a NEW ISSUE in the context of this appeal case. However, I consider it is of relevance in terms of achieving site and setting appropriate consolidated development outcomes for the eastern end of this important historic quayside block that contributes positively to the surrounding public realm as well as reinforces the low-profile height of buildings that characterise either side of the historic River Liffey corridor in this central location of Dublin city. Alongside at a point where any tall building at this location has the potential to be highly visible from key views and vistas along the River Liffey as well as block views towards key features of interest.

7.6.8. Alongside the public realm at this location, including the adjoining civic plaza on the eastern boundary of the site, is not only an important pedestrian through route for citizens. It is also an important visitor route, particularly for tourist that traverse from these historic quays from the northern side of the inner city's quayside frontage towards the popular area of Temple Bar and beyond over the iconic Ha'penny Bridge. The site and its setting forms part of setting that is a tourist draw for many visitors to Dublin city.

7.6.9. On this point I note that Policy CEE26 of the Development Plan seeks to promote and facilitate tourism as one of the key economic pillars of the city's economy. It also seeks to enhance Dublin as a world class tourist destination and improve the accessibility of tourism infrastructure to recognise the access needs of all visitors to the city. Moreover, Section 4.5.6 of the Development Plan recognises that high-quality public realm is part of making places more attract to visit, for placemaking and can have a positive impact on tourism.

7.6.10. Conclusion

For the reasons set out above, it is my view that there is scope for a more considered, coherent, and consolidated approach for redevelopment of this site alongside adjoining and neighbouring land that has untapped latent potential as part of achieving a qualitative and placemaking response to this extremely sensitive to change setting. Given the built heritage through to visual amenity sensitivities of the site and its setting such an approach is in my view warranted so that taller and more dense buildings can be sited with more appropriate to their setting setbacks and graduation of built form

away from the historic quayside frontages including the Protected Structures that they contain. With this historic frontage characterised by the low and harmonious graduation of building height that contributes to their special and intrinsic character that informs this areas sense of place.

7.7. Servicing of Proposed Development – New Issue

- 7.7.1. I raise a concern that the proposed development connection to the public foul drainage and potable water infrastructure as shown in the accompanying Engineering drawings will give rise to direct impact on the location where the existing period canopy which is to be retained. It also shows that new connections will be achieved via three separate linear interventions to the civic plaza with the route also bisecting through the root balls of the linear row of three mature trees that are positioned within this recently upgraded public realm which includes soft landscaping around them.
- 7.7.2. Of additional concern what appeared to be the yet to be finalised alignment of the 150mm diameter concrete surface water and 225mm concrete sewer pipes are similar located where they would impact on the root balls of the existing mature trees that are present on the adjoining civic plaza. There are other interventions that would occur to this civic plaza and extending onto the adjoining stretch of Lower Liffey Street. Such works would have the potential to significantly impact on the function of the civic plaza and the recent enhancement works that have occurred which have effectively pedestrianised Liffey Street Lower from where it meets Strand Street Great and the public road intersection of Ormond Quay Lower and Bachelors Walk.
- 7.7.3. I raise a concern that there is a potential for the proposed development to give rise to material and adverse impact on the mature street trees that are important natural features that form part of the adjoining civic plaza as well as contribute positively to their surrounding streetscape scenes. Though not afforded specific protection they are planned natural features that form part of qualitative urban greening that has occurred within the immediate setting of the site and add to the limited biodiversity of this inner city densely developed urbanscape.
- 7.7.4. The documentation provided does not in my view adequately consider as part of the engineered servicing of the proposed development the sensitivity of its setting and the potential for harm that could arise from the inappropriate placement of services.

- 7.7.5. On this point I note that Section 15.4.2 of the Development Plan that deals with the matter of Architectural Design Quality under the key principles it sets out requires all development to respect local distinctiveness of their immediate setting and respect natural assets that contribute positively to the cityscape as well as urban realm. Additionally, it includes the need to protect and enhance natural features of the site, including trees.
- 7.7.6. Further Section 15.6.9 of the Development Plan states that the: *“City Council will seek to protect existing trees and hedgerows when granting planning permission for developments and will seek to ensure maximum retention, preservation and management of important trees”* and it sets out a requirement for a tree survey in this type of circumstance. There is no tree survey or assessment to demonstrate that the route chosen to locate these underground services would not have any undue impact on the three mature street trees.
- 7.7.7. I also note that Section 7.5.8 of the Development Plan on the matter of Public Realm recognises that the quality of the public realm is vital to the liveability and health of the city as well as to its economic success. With green infrastructure adding to the visual amenity as well as important in climate resilience.
- 7.7.8. I am not satisfied that the servicing of the proposed development is one that would not give rise to detrimental impact to the mature street trees. I consider that to be a new issue in the context of the assessment of this appeal case and should the Board be minded to grant permission that a bespoke condition be imposed requiring the rerouting of services so that adverse impact on the root balls of the three mature trees on the adjoining civic plaza is avoided.

7.8. Other Matters Arising

- 7.8.1. **Adequacy of Documentation:** Concerns are raised in relation to the adequacy of the documentation to make an informed determination on the proposed development sought under this application.

The application before the Board for adjudication is that which was lodged with the Planning Authority. In this regard the Planning Authority deemed the application valid though and in their determination of it a number of matters were identified that they considered additional information should be requested. Notwithstanding, given that the proposed development gave rise to other substantive grounds that could not be

overcome by additional information they made no request for additional information. This approach is consistent with the Development Management Guidelines in such situations. For example, Section 5.7 of the said Guidelines indicate that applicants should not have to suffer unnecessary delay or expense if a refusal is likely.

There is also no legal impediment to the submission of additional detail and/or revised plans with the appeal and it is at the Board's discretion whether to defer to the revised proposals. Upon review of these details on file and as previously set out in my introduction to my assessment I have based my assessment on the proposed development as lodged. I have also referred to the amended design which is mainly comprised of a reduction by one floor and loss of one apartment as part of my assessment. The amended design option did not overcome the substantive issues of concern that arise from the proposed development. In particular those that relate to built and visual amenity adverse impacts through to the proposed development being contrary to the proper planning and sustainable development of the area as provided for under the Development Plan.

Further, I also noted the lack of actual floor area relating to buildings to be demolished on site. With the documentation appearing to suggest that the floor to be demolished greatly exceeds that to be retained and with this information also omitted from the planning application form despite this being a significant component of the proposed development sought, at a site which is afforded protection by way of its Protected Structure designation, it is adjoined on its western side by a Protected Structure through to it forms part of a Red-Hatched Conservation Area.

I do not consider this an insignificant omission alongside it would be expected that any planning application for demolition in such a context would quantify this loss.

The request of additional information on matters where there is a lack of adequate detail and/or requiring modest amendment would in my view if requested by the Board give rise to an unnecessary delay and expense, particularly for the Appellant. It would not be justified on the basis of the substantive issues that in their own right warrant a refusal of permission and cannot be overcome by any such request.

- 7.8.2. **Plot Ratio – Other:** According to Appendix 3 of the Development Plan which contains the Building Height Strategy for the City, plot ratios can help control the bulk and mass of buildings and as previously noted in the assessment above Table 2 sets out

indicative plot ratio and site coverage standards for different areas of the city. In relation this table I referred above to Central Areas having an indicative plot ratio of 2.5-3.0 and for a Conservation Area a lesser indicative plot ratio of 1.5-2.0.

7.8.3. It also sets out that a higher plot ratio may be permitted in the following circumstances:

- Adjoining major public transport corridors, where an appropriate mix of residential and commercial uses is proposed.
- To facilitate comprehensive re-development in areas in need of urban renewal.
- To maintain streetscape profiles.
- Where a site already has a benefit of a higher plot ratio.
- To facilitate the strategic role of significant institutions/employers such as hospitals.

The plot ratio proposed is 4.3.

I accept that the site is one that is highly accessible to different public transport modes, e.g. bus, train and Luas; notwithstanding it does not adjoin a major public transport corridor.

Further, the site is not one that needs comprehensive re-development given the designation of it as a Protected Structure with all of the three building layers in active use as well as in good repair. The provision of an eight-storey building as lodged and seven storeys as amended is at odds with its Red-Hatched Conservation Area streetscape scene and it does not maintain or harmonise with buildings adjoining or neighbouring it on Ormond Quay Lower or Liffey Street Lower. The existing site coverage whilst 100% is unlikely to have a plot ratio that is inconsistent with the indicative plot ratios for central areas and the more restrictive conservation area. Moreover, the plot ratio does not form part of a development where it could be reasonably be considered as facilitating the strategic role of significant institutions/employers such as hospitals. Additionally, it could be argued that the smaller in floor area restaurant would potentially give rise to less permanent and part time employment alongside the management of the private in separate ownership apartment units proposed would not give rise to any significant new employment opportunities that would overcome this loss. Whereas management and servicing of this apartment could be reasonably carried out in an *ad hoc* manner by different contractors as coordinated by a management company.

Additionally, it indicates that any development with a plot ratio over 3.0 that a compelling case must accompany such applications. No such compelling case has been provided with the documents lodged or as submitted by the Appellant as part of their appeal submission.

In conclusion, I raise a concern that the plot ratio of 4.3 when also taken alongside the 100% site coverage in this case where no compelling case has been provided by the applicant would conflict with the Building Height Strategy set out under Appendix 3 of the Development Plan. In turn it could be considered to also reflect the overdevelopment of the proposed development sought under this application.

- 7.8.4. **Transportation:** The Planning Authority's Transportation Division raised a number of matters for which it sought additional information on. I have discussed below the matter of oversailing/encroachment concerns as well as in the main assessment above the provision of shower/changing facilities through to the provision of locker space per bike space. The latter I note was at a rate of 1 no. locker per bike space. I consider that the amendments required to achieve this could be dealt with by way of an appropriately worded condition requiring an amended internal design layout at ground floor level with the details of the same to be agreed prior to the commencement of development on the site.

In relation to their other concerns, I also concur that there is a lack of information provided on servicing and logistics to the site. With this also being the case in my view for demolition, construction, and operational phases. Therefore, should the Board be minded to grant permission I recommend that it impose a condition that seeks these matters to be agreed with the Planning Authority prior to the commencement of any development on site.

On the matter of zero-car parking approach the existing situation, *albeit* relating to a situation that the existing mono-use of the buildings on site as two restaurant spaces, is significantly more modest in its nature and scale. The existing uses on the site are not served by any specific on-site car parking provision. Up to recent times double yellow lines ran alongside the adjoining kerbside of Liffey Street Lower with the carriageway opposite building 'C' containing a loading/taxi bay that extended northwards to the junction of Liffey Street Lower and North Lotts. This is now lost with limited access appearing to be available by removal of bollards on what was once the

public road that has now been pedestrianised and surfaced with high quality stone paving.

I note that Ormond Quay Lower and the northern quayside contains a dedicated bus lane, several bus stops including a stop in proximity to the corner of Liffey Street Lower that provides a dedicated connection to Dublin Airport and cycle lanes.

There are also several bus routes that traverse the city via O'Connell Street and O'Connell Street, c270m by foot to the east of the site. The apartment element would be c260m by foot from the nearest Luas Stop at Jervis Street (Note: Red Line) and would be c420m by foot to the Green Line Luas Stop at Westmoreland Street. The site is also c690m by foot from Tara Street Train Station and c865m from Busáras. There are also publicly and provided car parking spaces within the surrounding area of the site.

Overall, this inner-city site is one that its highly accessible by a variety of modes of public transport and while it is likely that during demolition / construction phases that the proposed development would generate a significant quantum of vehicle movements including larger vehicles it is standard practice for this matter to be dealt with as part of an agreed Demolition and Construction Plan by way of condition. With such a plan requiring particular consideration of the now pedestrianised nature of Liffey Street Lower to the south of its junction with Strand Street Great. There is I note parking and loading facilities available on Strand Street Great with at the time of my inspection despite the significant construction works on-going along part of the northern side of this street and the works on-going to North Lotts there was availability for parking and loading/unloading to occur.

In terms of the operational phase the restaurant and proposed apartment units would not generate a significant additional car parking demand and pressure. Within inner city locations like this it is standard practice for a Mobility Management Plan to be agreed alongside it is a location where zero-car parking is encouraged at local through to national level.

The Mobility Management Plan provided with this application propose a number of measures to assist future residents in the uptake of sustainable means of travel through to they propose to appoint a Mobility Manager/Travel Co-ordinator for the construction and operational phases to promote car sharing through to establishing a

car-sharing database. It sets out that the parking management strategy will primarily focus on a communication strategy with prospect tenants and workers who will be advised of the lack of parking available on-site as well as the strict parking controls in place in the surrounding road network.

Having regard to the measures set out in the Mobility Management Plan they accord with the Development Plan provisions, notwithstanding, I consider that there could be a more robust assessment on the shared mobility given that there are car clubs and other car schemes operating within the inner city. Further consideration of this would ensure that the development accorded in a more consistent manner with Policy SMT24 of the Development Plan. I note to the Board that this policy seeks to promote the use and expansion of shared mobility to all areas of the city and to facilitate adaptive infrastructure for the changing modal transport environment, including micro-mobility and shared mobility, as part of an integrated transport network in the city.

I also note that the Planning Authority's Transportation Division considered zero-car parking to be acceptable in the context of the proposed development sought under this application at this location.

Conclusion: Should the Board be minded to grant permission for the proposed development I raise no substantive issue in terms of the zero-car parking provision subject to a condition requiring a revised for agreement with the Planning Authority Mobility Management Plan that accords with Policy SMT24 of the Development Plan.

- 7.8.5. **Section 15.9.16 of the Development Plan:** Concern is raised by Third Parties that the documentation provided is not satisfactory as it fails to include an assessment of the microclimate impacts of the proposed development. While I am cognisant that the proposed eight storey building as lodged and seven storey as revised would if permitted give rise to increased overshadowing of the public domain as well as the private domain of properties in its vicinity, notwithstanding, given the modest plot, the orientation of the building in either context relative to buildings and spaces in its settings I am not convinced that it would give rise to any material and adverse micro-climate impacts that could be considered as exceptional in such an inner city urban landscape.

Also as already discussed in the assessment above this application is accompanied by a daylight, sunlight and overshadowing assessment which suggests that despite

casting shadows onto adjoining and neighbouring property that it is not at such a level that it would be contrary to best required standards.

Nor would I consider it to be significantly material in terms of impact given the inner-city location of the site where a level of overshadowing and diminishment of daylighting/sunlight to the interiors and exteriors of properties through to open space amenities in the vicinity is to be expected from the more compact and dense approach encouraged for highly accessible inner-city locations, subject to safeguards.

Conclusion: I am not satisfied that it has been evidentially proven that the proposed development would be contrary to Section 15.9.16 of the Development Plan.

- 7.8.6. **Section 15.9.16.3 of the Development Plan:** In relation to the Third-Party concerns in relation to the adequacy of the noise measures and the applicant's compliance with this section of the Development Plan I consider that the overall noise nuisance concerns arising during demolition and construction are a matter that is generally dealt with by way of standard conditions, including but not limited to forming part of a finalised Demolition and Construction Management Plan.

Other concerns in relation to the more specific noise concerns such as demonstrating through an agreed noise impact assessment of acoustic privacy measures to be provided as part of ensuring effective abatement of noise transmission between units and from external environment in a manner that accords with Section 15.9.16.3 of the Development Plan could be dealt with by way of an appropriately worded condition if the Board is minded to grant permission for the proposed development as lodged or as amended.

Further, the site forms part of a busy inner-city location where a level of noise is to be anticipated by occupants of the proposed apartment units including when using their private amenity space provisions. It is also a site with an established restaurant use that includes outdoor dining and there are a number of uses that also adjoin the Liffey Street Lower civic plaza that opens onto what is also a busy north south pedestrian thorough fare.

Conclusion: I am satisfied that the noise related concerns raised by Third Parties could be addressed by appropriately worded conditions.

- 7.8.7. **Basement and Foundations:** The proposed development does not include additional new basement floor area. This accords with the Development Plan including Policy

BHA26 and Section 15.15.1.4 which similarly seeks to avoid new basements where there is potential for undue damage to arise to *in situ* archaeological deposits.

Of concern in this case is the nature of foundations that are likely to be required for the proposed eight storey building as lodged (with the amended seven storey option also giving rise to similar concerns) that there is no indication that they have been informed by potential impacts on soil hydrology and archaeologically. It is therefore unclear whether the foundations as part of the overall design have included avoidance and potential flexibility for avoidance and redesign if required for example to allow for appropriate archaeological mitigation. With the site being located within the zone of archaeological constraint of a Recorded Monument & Place.

On this point there is legal obligation not only to protect such sensitive to change archaeological sites but also where development works are to be undertaken to do so in a manner that accords with local to national required standards.

The provision of clarity on such matters would have accorded with Section 15.15.1.6 of the Development Plan. As it deals with the matters of foundations.

Conclusion: Should the Board be minded to grant permission I recommend that it includes appropriate conditions to deal with the above concerns.

7.8.8. **Shopfront/Façade Treatments:** Should the Board be minded to grant permission for the proposed development as lodged or as revised in order to ensure that it complies with Development Plan provisions for shopfronts and façade treatments, including but not limited to Section 15.7.5, alongside to ensure a qualitative outcome for the same in such a visually sensitive location, I recommend that it include an appropriately worded condition that requires all final shopfront, façade and elevation treatments to be agreed in writing with the Planning.

7.8.9. **Section 15.14.7.4 of the Development Plan:** This section of the Development Plan deals with the matter of noise, odour and ventilation for restaurant uses and requires them to have appropriate regard to noise and ventilation guidelines. It also requires such developments to include an engineering statement to address, noise, ventilation, and odour as part of any planning applications. This has not been provided with this application, albeit the site contains an existing and long-established restaurant related use. The proposed development includes reducing the floor area on site which would be in restaurant use and includes that the ground floor level of the new building would

accommodate the main cooking activities associated with it. Should the Board be minded to grant permission a condition requiring an engineering statement should be imposed to provide clarity on such matters alongside to ensure that no undue nuisances arise from the amended restaurant use sought. Further, it would be appropriate given the sensitivity to change of No.s 41 & 42 Ormond Quay Lower that all interior and exterior interventions to this building also referred to as Building 'A' in the accompanying plans be subject to prior agreement with the Planning Authority and, if necessary, subject to a separate application if deemed necessary for works should it be considered that they have the potential to materially and adversely impact on this Protected Structure or indeed the adjoining Protected Structure of No. 40 Ormond Quay Lower ('The Winding Stair').

- 7.8.10. **Oversailing/Encroachment onto the Public Realm:** As discussed in the assessment above the eastern boundary of the appeal site adjoins a recently refurbished civic plaza. The existing situation is that there is a zero setback from the buildings on site and the outdoor dining space accommodated underneath the decorative metal canopy. I note to the Board that this canopy projects c3.4m out from these buildings for a length of c17.6m. With the area below providing an outdoor dining area for the customers of 'The Woollen Mills' and potentially also 'The Yarn'.

During demolition and construction works it is unclear how this structure would at its northern end where it adjoins building 'B' which is to be demolished would be safeguarded without oversailing / encroachment of the adjoining civic plaza.

This structure in itself is an important period key feature that adds not only a sense of uniqueness and intrinsic character to the collection of buildings on the appeal site but also it unifies building 'A' with the more modest and light weight building 'B' in its present form. It similarly has the potential to link the restaurant use that would be maintained at No.s 41 & 42 Ormond Quay Lower with the restaurant use included in the ground floor level of the new building that would include an active shop front.

In my view it is further unclear from the documentation provided how the proposed demolition and construction works in totality with these as said including the retention of the upper floor levels of building 'C' and the northern part of its ground floor level without oversailing and/or encroachment onto the adjoining civic plaza. This public realm is a heavily trafficked pedestrian route between north and south of the inner city

via the Ha'penny Bridge, a meeting point and a passive space that includes public seating.

I note that the Planning Authority's Transportation Division raised concern that the proposed development could give rise to oversailing / encroachment of the adjoining public domain.

Given these concerns and the civic importance of the adjoining public realm I recommend that the Board should it be minded to grant permission that this matter is appropriately dealt with by way of an appropriately worded condition(s). As a precaution also any potential nuisances as far as practical and as far as possible should also be examined as part of a demolition and construction management plan, including an examination of measures to ensure the capturing of dust, limiting noise, vibration, management of deliveries/storage of materials/waste and the like.

Moreover, any damage arising to the public realm should be righted by the developer to the satisfaction of the Planning Authority. These matters could in my view be dealt with by way of appropriately worded conditions and it would be standard in nature to include such conditions at this type of location.

I also refer to my previous recommendation for an advisory note setting out the provisions of Section 34(13) of Planning and Development Act, 2000, (as amended).

7.8.11. **Flood Risk:** This application is accompanied by a Flood Risk Assessment which provides a detailed examination of this matter and shows that the site is not at risk for fluvial flooding.

In relation to pluvial flood risk, it indicates that the surface water drainage network of this development has been designed to ensure that no flooding is experienced during the design rainfall events up to and including the 1% AEP including an additional 20% intensity for climate change projections ensuring that there is no significant risk.

In terms of coastal flooding, it indicates that there is a 0.1% AEP risk from Tidal flooding, however, the site is located within a defended area and the Justification Test carried out as part of the SSFRA for the Development Plan indicating that it is appropriate for use.

I note that the site lies outside of Flood Zone 'A' and 'B' lands as identified in Volume 7 of the Development Plan and is therefore outside of the area of quayside that is identified as may be prone to tidal flood events.

As a precaution I also note that the residential component of the proposed mixed-use scheme relates to first floor level and above of the proposed new building. The upper floor levels that contain the apartment units are also accessible by stairs from the public domain as well as there is a large roof terrace.

I am satisfied that the available information on this location, including the OPW Flood Maps correlate with the information provided by the applicant in their Flood Risk Assessment.

Further, the site is one that currently has a 100% site coverage and subject to standard SuDS measures if the proposed development were permitted, as lodged or as amended, in both situations maintaining the 100% site coverage it would give rise to less surface water drainage demands on the public infrastructure based on the incorporation of these measures which I also note accord with standard and required practices. There is no requirement for a Justification Test to be carried out in this case.

Conclusion: I am satisfied that the proposed development gives rise to no flood risk issues.

- 7.8.12. **Uisce Éireann:** This application is accompanied by a 'Confirmation of Feasibility' for the connection for the proposed development, subject to safeguards.

8.0 AA Screening

8.1. Introduction

- 8.1.1. This section of the report considers the likely significant effects of the proposal on Natura 2000 European sites.
- 8.1.2. I note that the documentation accompanying this application does not include an 'Appropriate Assessment' and with Section 9.0 of its accompanying Planning Report stating: *"it is considered that no significant effects are likely on Natura 2000 sites, their features of interest or conservation objectives. The proposed project will not adversely affect the integrity of European site and, as a result a Stage 2 Appropriate Assessment would not be required"*.

- 8.1.3. I also note that the Planning Authority's Planning Officer concludes that from their examination that: *"it is not clear that a screening assessment for appropriate assessment has been undertaken. The Planning Authority note the proximity of the site to the River Liffey (c.12.6 metres south). The River Liffey is a conduit to Dublin Bay and therefore it cannot be excluded without a screening assessment that significant effects would not arise."* On this basis they concluded that the applicant should be requested to submit an Appropriate Assessment Screening of the proposed development.
- 8.1.4. Having regards to the 'Appropriate Assessment' carried out below I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Therefore, likely significant effects are excluded and Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act, 2000, as amended) is not required and should the Board be minded to grant permission I do not consider that it first would need to seek an Appropriate Assessment Screening of the proposed development from the First Party.

8.2. **Assessment**

- 8.2.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act, 2000, as amended.
- 8.2.2. The subject site is not located within or adjacent to any Natura Site. The closest Natura Site, part of the Natura 2000 Network, are South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) which is located c2.7km to the northeast of the site and South Dublin Bay SAC (Site Code: 000210) which is located c3.6km to the southeast of the site, at their nearest points. At a further distance from the site is North Bull Island SPA (Site Code: 004006) which is located c5.68km and Baldoyle Bay SAC (Site Code: 000199) which is located c10.6km to the northeast at their nearest points.
- 8.2.3. The 0.023ha site is located within 'Z5' zoned land which permits mixed use developments including uses such as restaurant and residential which are both listed as being permissible land uses. It contains a collection of three adjoining buildings with the earliest building layers dating to c1840 that together occupy 100% of the site. As set out under Section 2.1 of this report the proposed development consists of demolition of what are described as a non-original single storey extension with covered

dining space on the roof level over (Building B) on the northern side of 'The Woollen Mills' a four-storey period building (Building A); the partial external and internal demolition of a three-storey c1920s building (Building C) located on the northern end of the site on this modest inner city serviced site. This demolition would facilitate the construction of an eight-storey mixed use (restaurant and residential) as lodged building abutting the northern side of 'The Woollen Mills' building with it extending in a northerly direction to where it abuts No. 35 Liffey Street Lower and to its western boundary where it would adjoin 'The Winding Stair', a Protected Structure, and a large single storey warehouse type building that appears to form part of 'The Grand Social' venue. The proposed development would have a site coverage of 100%, a retained floor area of 215m² and a new floor area of 776.65m².

- 8.2.4. The subject site is located within an established serviced inner city urban area and is entirely composed of artificial built over ground with the buildings thereon in good condition and in use. The buildings on site include a modest basement level. The site is of no ecological and/or biodiversity significance. The River Liffey is located just over 12m to the south of the site.
- 8.2.5. As the site does not overlap with any Natura 2000 Site there is no risk of direct habitat loss or fragmentation to occur because of the proposed development. Additionally, as the site is 100% covered with built forms it does not support populations of any fauna species linked to the qualifying interest (QI) populations of any Natura Sites including those listed above.
- 8.2.6. I consider any pathways between the site and the Natura 2000 sites noted above, all of which are in Dublin Bay, would be via surface water drainage and wastewater drainage.
- 8.2.7. There is also a hydrological pathway via the River Liffey given its proximity to the south of the site.
- 8.2.8. In this regard I consider that there is potential for the proposed development to give rise to a hydrological pathway via the River Liffey from the subject site and potential surface water discharge during the demolition, construction and operational phases to the Natura 2000 sites listed above. Notwithstanding should and adverse event occur that gave rise to such a circumstance, given the distance to between the site and these Natura sites, including the closest Natura Site which is South Dublin Bay & River Tolka

Estuary SPA ,which is located c2.7km to the northeast any silt or pollutants will settle, be dispersed, or be diluted within the marine environment. I also note that the qualifying interest (QI) for this SPA are bird species which are mobile species that would avoid water impacted by surface water contamination over the distance involved would if arising from this site or in combination with other projects would be negligible and imperceptible.

8.2.9. In relation to South Dublin Bay SAC, it is located at a further lateral separation distance of c3.6km to the southeast its QI are coastal terrestrial habitats which over the distance involved any contaminants or pollutants would be imperceptible having been diluted by the intervening waters of the River Liffey and Dublin Bay.

8.2.10. The proposed development would place an additional demand over the existing situation on the public foul drainage as well as water supply. While there is capacity in potable water to cater for the demands generated by the proposed development, however, the Ringsend Wastewater Treatment Plant is not currently compliant with its emission limit standards. Notwithstanding, there are major upgrade works currently underway which will enable it to treat the increasing volumes of wastewater arriving at the plant to the required standard, enabling future housing and commercial development, within the City of Dublin. These works are likely to be completed by the time the proposed development, if permitted and if implemented, would become operational.

8.2.11. There are no effects arising which could act in combination with the subject proposal to result in significant effects to Natura 2000 sites.

8.2.12. Having regards to the above, the nature, scale, and location of the proposed development, I am satisfied that it can be eliminated from further assessment because the proposed development would not have any appreciable effect on any Natura 2000 Site or Sites. The reason for this conclusion is as follows:

- The nature, scale and extent of the proposed development would not have a likely significant effect on any Natura 2000 Site or Sites either alone or in combination with other plans or projects.
- Standard pollution controls that would be employed regardless of proximity to a Natura 2000 Site or Sites and effectiveness of same. Additionally, the surface water measures proposed are not needed to avoid, prevent, or reduce significant effects on

Natura 2000 Sites within Dublin Bay and that no mitigation has been put forward in this regard.

- Separation distance from the site and the nearest Natura 2000 Sites.
- The hydrological pathway between the site and Natura 2000 Sites in Dublin Bay is such that any contaminants or pollutants will settle, be dispersed, or diluted within the marine environment to a negligible and imperceptible level before reaching any such sites.
- The predicted from the limited zone of influence of potential impacts would be restricted to the immediate vicinity of the proposed development and would not affect the conservation objectives of any Natura 2000 Site or Sites.
- The location of the development is in a serviced urban area and the intervening landscape between the site and the nearest Natura 2000 Site is urban inner city in nature.
- The limited zone of influence of potential impacts of the proposed development and the potential impacts being restricted to the immediate vicinity.

8.2.13. **Conclusion:**

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a Natura Site and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act, 2000, as amended) is not required in this case. No measures intended to avoid or reduce harmful effects on Natura sites were considered in reaching this conclusion.

9.0 **Recommendation**

- 9.1. I recommend that planning permission is **refused** for the following stated reasons and considerations below. In relation to the given reasons and considerations set out below the concerns raised in relation to the justification for the demolition of the existing structures on the site by way of demonstrating exceptional circumstance or public benefit arising from the proposed development alongside the need for an

Archaeological Impact Assessment in a manner that accords with the requirements of the applicable Development Plan, i.e. Dublin City Development Plan, 2022-2028, may be considered 'New Issues' in the context of the assessment of this appeal case.

10.0 Reasons and Considerations

1. It is considered that, by reason of its uncharacteristic design, the proposed development would materially and adversely affect the character and setting of No. 40 and 41 to 42, Protected Structures, in a manner that would be contrary to Policy BHA2 of the Dublin City Development Plan, 2022-2028, which in essence seeks to conserve and enhance Protected Structures and their curtilage from inappropriate development. The proposed development would by virtue of their design, position of the eight-storey built insertion, the treatment of No. 37 Liffey Street Lower and the overall extent and nature of the intervention, would have a detrimental impact on the essential qualities of these structures as well as the remaining façade of No. 37 Liffey Street Lower, thereby materially affecting their character and legibility from their visual setting. The proposed development would seriously injure the visual amenities of their Liffey Quays Conservation Area setting and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the prominent location of the site, to the established built form and character of Ormond Quay Lower which forms an integral part of the historic Liffey Quays Street as well as Liffey Street Lower, with the site fronting onto its civic plaza, to the existing buildings on the site which are considered to be of importance to their public realm as part of a Conservation Area streetscape settings, it is considered that the proposed development, consisting of an eight storey building with asymmetrically placed projecting roof element above together with its solid western as well as northern elevations, would be seriously visually incongruous and overbearing in terms of its design, the facadism approach in terms of the retention of part of No. 37 Liffey Street Lower's principal frontage through to its juxtaposition with the adjoining Protected Structures of No. 40 & 41-42 Ormond Quay Lower where it would be forward of the rear building line that characterises

the historic buildings that front this quayside block which includes several Protected Structures and forms an important highly harmonious component of the northern Liffey Quays as well as backdrop for the iconic Ha'penny Bridge, which is also a designated Protected Structure.

In this context the proposed eight storey structure would be out of character with its setting and would set an undesirable precedent for future development in this extremely sensitive in terms of built heritage and visual amenity area to change.

Additionally, the proposed development is not considered to justify the demolition of the existing structures on the site by way of any exceptional circumstance or public benefit in a manner that would accord with Policy BHA10 of Dublin City Development Plan, 2022-2028.

The proposed development would seriously injure the built and visual amenities of the area, would also be contrary to the Policy BHA2, BHA3, BHA5, BHA10, CA6, CA7, Sections 11.5.1, 15.4.3 and 15.7 of the said Development Plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development, by reason of its excessive height relative to surrounding buildings where it is positioned to break the harmonious roofline and skyline of the historic Liffey Quays Conservation Area together with its bulk and massing, its building line and its design including the asymmetrical placed additional projecting above roof parapet level structure, would be out of character with the pattern of development in the vicinity and would constitute a visually discordant feature that would be detrimental to the distinctive architectural and historic character of this area, which in part is informed by the low scale building height of its historic buildings, which is appropriate to preserve.

Additionally, the proposed eight storey building's height, mass and scale would also adversely impact as well as detract from key views and vistas along the historic River Liffey corridor and be a visually jarring as well as overtly dominant building relative to the Liffey Street Lower's civic plaza which it would address.

The proposed would be contrary to the 'Building Height Strategy' for Dublin City in particular Appendix 3 Table 3 Section 4 and Section 6 of the Dublin City

Development Plan, 2022-2028, and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Given that the site forms part of the zone of archaeological constraint of the Recorded Monument DU018-020 (Historic City), it is considered that the archaeological significance of the site is such that any development of the site in advance of a comprehensive archaeological assessment, carried out to the requirements of the appropriate authorities, would be premature and would be contrary to Policy BHA26 of the Dublin City Development Plan, 2022-2028, which seeks to protect Recorded Place and Monuments in a manner that accords with Section 12 of the National Monuments (Amendment) Act 1994. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

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

Patricia M. Young
Planning Inspector

31st day of October, 2024.

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-316233-23			
Proposed Development Summary	PROTECTED STRUCTURE: Construction of an 8-storey mixed-use development comprising of: (a) restaurant use at ground floor level, (b) residential use at upper floor levels comprising 7 apartments and (c) all associated and ancillary works.			
Development Address	The Woollen Mills, No. 41/42 Ormond Quay Lower, Dublin 1 (a corner site with frontage along Liffey Street Lower and The Yarn Pizza, 37 Liffey Street Lower, Dublin 1, D01 X6T1).			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	✓	Is of a class but does not exceed the relevant quantity, area, or limit of that class. (Note: Class 10(b) or Class 14 of Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended).	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	Is of a class but does not exceed the relevant quantity, area, or limit of that class. (Note: Class 10(b) or Class 14 of	Following factors are noted: Site area: 0.023ha / 7 dwelling	Proceed to Q.4

		Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended). 5	units in mixed use 8-story building that includes restaurant use/ limited floor area of 215.3m ² to be demolished	
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4. Has Schedule 7A information been submitted?		
No	☒	Preliminary Examination required
Yes	☐	Screening Determination required

31st day of October, 2024.

Inspector: _____

Date: _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-316233-23	
Proposed Development Summary	PROTECTED STRUCTURE: Construction of an 8-storey mixed-use development comprising of: (a) restaurant use at ground floor level, (b) residential use at upper floor levels comprising 7 apartments and (c) all associated and ancillary works.	
Development Address	The Woollen Mills, No. 41/42 Ormond Quay Lower, Dublin 1 (a corner site with frontage along Liffey Street Lower and The Yarn Pizza, 37 Liffey Street Lower, Dublin 1, D01 X6T1).	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment?	It is consistent with the nature of development that is deemed to be permissible on land zoned 'Z5' in Dublin's city centre under the Dublin City Development Plan, 2022-2028, with this land use zoning reflecting the dynamic mixture of uses of its inner-city location. The nature, scale and extent of the mixed use proposed development is not exceptional within its inner-city context.	No.
Will the development result in the production of any significant waste, emissions, or pollutants?	The proposed development would produce standard expected waste, emissions/pollutants that correlate with its nature and extent during demolition, construction, and operational stages. The waste, emissions and/or pollutants would not be exceptional in an inner-city redevelopment brownfield site despite the sites inherent built and archaeological sensitivity to change. They can also be appropriately managed by standard best practice measures and controls. Such an approach is consistent with planning practices in relation to similar proposed developments in tight grain inner city urban settings. Further, should permission be granted and implemented, the current major upgrades that are on-going to the Ringsend Wastewater Treatment plant which will enable increasing volumes of wastewater arriving at the plant to be treated to the required standard, enabling future housing and commercial development, will be completed. As such the additional modest foul drainage demands of the proposed development would be catered for by the Ringsend Wastewater Treatment Plant which once complete will increase capacity at the plant	No.

	for a population equivalent of 2.4 million, enabling future housing and commercial development in the Greater Dublin Area.	
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and/or permitted projects?	The proposed development is consistent with the nature of developments to be expected within an urban inner city serviced and accessible location. At such locations local through to national planning provisions as well as guidance encourage where appropriate more compact, dense, built as well as people intensive development of brownfield lands. The proposed development is not considered exceptional in terms of development within an inner-city context. There would be no significant cumulative considerations with regards to existing and permitted projects/developments arising from the proposed development if permitted. The surrounding context is a central city urban landscape where most developments have been completed and where more compact and dense change has been permitted and implemented. It is also one containing a significant number of protected structures which are afforded protection and are unlikely to be subject of any intensive redevelopment. As such though the site is within an inner-city context the historic urban block it forms part of has limited capacity to accommodate significant built change.	No. No.
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	The proposed development relates to a historic but serviced brownfield site and inner-city urban area location. It does not form part of a Natura 2000 site/sites nor is it proximate to any. Though within 12.6m of the River Liffey which could be considered a conduit to the nearest Natura 2000 site(s) located within Dublin Bay, if any adverse event did arise, the impacts that could arise from any pollutants, contaminants and the like that could have potential for adverse impact would be diluted to the extent that they would give rise to a negligible and an imperceptible impact. As above.	No. No.
Conclusion		
There is no real likelihood of significant effects on the environment.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	There is a real likelihood of significant effects on the environment.

EIA not required. This conclusion is based on best scientific data, locational factors, the nature of development sought, the history of the site and its setting, the lateral separation distance between the site and nearest Natura 2000 site/sites through to the lack of any connectivity between them through to the site containing existing connections to services and the capacity of existing foul and water supply to absorb the quantum of development sought.	N/A.	N/A.
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31st day of October, 2024.

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(Only where Schedule 7A information or EIAR required).

Appendix 3 – Extract from Architectural Heritage Impact Assessment setting out PS and NIAH Buildings/Structures within 100m radius of the Site. (Note: Pages 5 & 6).

NIAH No.	RPS Ref. No.	Name	Classification	Distance from subject site
50010332	320	Reservations Network Ltd.	House	c. 101m NE
50010333	319	Yellow Brick Road	House	c. 62m NE
50010334	318	7 Bachelor's Walk	House	c. 63m E
50010335	6074	Dublin Woollen Mills	Shop/retail outlet	Subject site
50010336	6073	The Winding Stair	Shop/retail outlet	c. 8m W
50010337	6072	Yamamori	House	c. 24m W
50010339	6070	36-37 Ormond Quay Lower	Building misc.	c. 31m W
50010340	6069	Bondi Beach Club	House	c. 42m SW
50010341	6068	Unicef	House	c. 52m SW
50010342	6067	Zulu Tattoo	House	c. 57m SW
50010343	6066	29 Ormond Quay Lower	House	c. 80m SW
50010371	—	Zulu Tattoo/Accident & General Travel Insurance/Language Communications Company Ltd	Distillery	c. 71m NW
50010373	—	The Lotts	Public house	c. 55m NE
50020093	4823	Dillons Hair Salon	House	c. 94m SW
50020095	—	Clone Computer Repairs	House	c. 87m SW
50020096	—	Temple Bar Opticians / Grants/ Mai Thai Massage	House	c. 87m SW
50020154	8373	The Ha'penny Bridge Inn	House	c. 87m S

NIAH No.	RPS Ref. No.	Name	Classification	Distance from subject site
50020155	8374	China Blue	House	c. 85m SE
50020156	8375	The Merchants' Arch	Guild hall	c. 87m SE
50020254	—	Wellington Quay	Quay/wharf	c. 78m SW
50060537	—	25 Liffey Street Lower	House	c. 61m N
50060538	—	15 Liffey Street Lower	House	c. 92m NE
50060549	—	Ormond Quay	Quay/wharf	c. 48m SW
50060550	899	Ha'penny Bridge/Liffey Bridge	Foot Bridge	c. 41m SE
50081104	292917	The Chameleon	House	c. 95m S