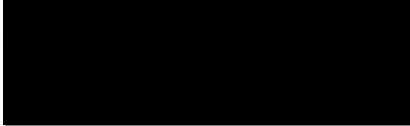


Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Dalata Hotel Group PLC,



09/09/2024

RE: Section 5 Declaration R862/24, Maldron Hotel South Mall, Nos. 94/95 South Mall and Nos. 17/18 Parnell Place, Cork, T12EE72

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 08/08/2024, I wish to advise as follows:

The Planning Authority in view of the above and having regard to –

- The planning history of the site and
- Sections 2, 3, 4 and 57 of the Planning and Development Act 2000 (as amended), and
- Articles 6,9 and 10 of the Planning and Development Regulations 2001 (as amended)

It is considered that 'the change of use of the part of the ground floor of the hotel fronting onto nos. 17/18 Parnell Place from a permitted retail use to a hotel business centre/office' **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT** at Maldron Hotel South Mall, Nos. 94/95 South Mall and Nos. 17/18 Parnell Place, Cork, T12EE72.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 09/09/2024.

Is mise le meas,

Rob Keating
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT Ref. R862/24		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether the change of use of the part of the ground floor of the Hotel fronting onto no. 17 / 18 Parnell Place from a permitted retail use to a Hotel Business Centre / Office use is or is not development and is or is not exempted development?</i>	
Location	Maldron Hotel South Mall, no. 94/95 South Mall and no. 17/18 Parnell Place, Cork, T12 EE72.	
Applicant	Dave Coakley (Agent)	
Date of receipt	01/08/2024	
Recommendation	<i>Is Development and is Not Exempted Development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

'Whether the change of use of the part of the ground floor of the Hotel fronting onto no. 17 / 18 Parnell Place from a permitted retail use to a Hotel Business Centre / Office use is or is not development and is or is not exempted development.'

3. Site Description

The property in question is Nos. 17-18 Parnell Square which forms part of the Maldron Hotel which operates at Nos. 93-95 South Mall in Cork City. Nos. 17-18 Parnell Square are Protected Structures (No. 17 ref PS822 & No. 18 ref PS823) and NIAH listed buildings (No. 17 reg 20,512,970 & No. 18 reg 20,512,971) and are located within the Oliver Plunkett Street Architectural Conservation Areas.

4. Planning History

TP 01/25435 – Permission granted for commercial development to incl offices, retail & parking with 16 no. apartments.

TP 01/25052 – Permission REFUSED for commercial development incl. offices, retail & parking facilities with 11 no. apartments.

TP 04/28159 – Permission granted for mixed development of 5 storeys over basement car park consisting of a) Basement car park with 20 car spaces to the Beasley St side of the site. b) Office Accommodation located on ground, first and second floor. c) 18 no apts. d) ESB substation and switch room and ancillary siteworks at Beasley St. e) The renovation and alterations to the existing building at 93 South Mall to include for incorporating existing structure into the new development. f) the construction on 4 storey office development over basement and ancillary siteworks with the existing elevation to be retained and refurbished at 17 Parnell Place. g) The construction of a 3-storey office development over basement and ancillary siteworks with the existing elevation to be retained and refurbished at 18 Parnell Place.

TP 04/29136 – Permission granted for a new five storey, 121-bedroom hotel of 8098 sq. m with ground floor hotel bar, dining area and function room, basement with associated spa and health club, with car parking at basement level and lower basement level at Beasley Street, Cork. The development consists of the demolition of existing site structures with the facades No. 93 South Mall and No. 17 & 18 Parnell Place being retained and all associated site development works. The facades facing No. 93 South Mall and No. 17 & 18 Parnell Place are Protected Structures.

TP 16/37224 – Permission granted for redevelopment of the existing permitted hotel building to comprise the following: 1) The conversion of lower basement car park to storage/plant area and staff facilities area to include office, toilets, canteen and meeting rooms. 2) The conversion of the upper basement car park to 8 no. bedrooms, a business centre with 10 no. meeting rooms, storage areas and retail basement (75sqm). 3) At ground floor level, the redevelopment and remodelling of internal floor area to include reception, bar, lounge, dining and kitchen areas, ESB substation, toilets, service areas, bin store and retail unit (132sqm) onto Parnell Place. 4) At 1st Floor level, the provision of 33 no. bedrooms and roof terrace 5) At 2nd floor level, the provision of 35 no. bedrooms. 6) At 3rd Floor level, the provision of 35 no. bedrooms. 7) At 4th Floor level, the construction of a new extension at Parnell Place and the provision of 31 no. bedrooms. 8) At 5th floor level, the construction of a new extension at Beasley Street and the provision of 23 no. bedrooms. 9) The demolition of No.95 South Mall and partial demolition of Nos. 93 and 94 South Mall. 10) The reinstatement of the façades of Nos. 17 and 18 Parnell Place which are Protected Structures. 11) Elevational changes to existing Beasley Street elevation to include incorporation of outdoor seating area. 12) Removal of existing car lifts to provide light wells. 13) All associated plant, development and site services and works. A total of 165 no. bedrooms are proposed.

TP 17/37660 – Permission granted for development consisting of modifications to the development permitted under Reg. Ref. 16/37224 and include (Protected Structures Ref Nos. PS822 and PS823).

TP 18/38039 – Permission granted for the erection of 4 no. signs on the exterior façade and external lighting of existing building at nos. 93-95 South Mall, nos 17-18 Parnell Place (protected structures ref nos PS822 and PS823) and Beasley Street Cork.

TP 19/38272 – Permission REFUSED for development at the Maldron South Mall Hotel, 93-95 South Mall, 17-18 Parnell Square (Protected Structures Ref Nos. PS822 and PS823) and Beasley Street. The development will consist of the erection of 1 no. sign on the South Mall façade of the hotel.

Legislative Provisions

4.1 The Act

Section 2(1),

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1),

In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or ‘the making of any material change in the use of any structures or other land’

Section 4(1)(h),

The following shall be exempted developments for the purposes of this Act-development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

4.2 The Regulations

Article 6 (1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column.

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

Section 57.—(1) *Notwithstanding section 4 (1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—*

- (a) the structure, or*

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

(2) An owner or occupier of a protected structure may make a written request to the planning authority, within whose functional area that structure is situated, to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element, referred to in subsection (1)(b), of that structure.

(3) Within 12 weeks after receiving a request under subsection (2), or within such other period as may be prescribed, a planning authority shall issue a declaration under this section to the person who made the request.

(4) Before issuing a declaration under this section, a planning authority shall have regard to—

(a) any guidelines issued under section 52, and

(b) any recommendations made to the authority under section 53.

(5) If the declaration relates to a protected structure that is regularly used as a place of public worship, the planning authority

(a) in addition to having regard to the guidelines and recommendations referred to in subsection (4), shall respect liturgical requirements, and

(b) for the purpose of ascertaining those requirements shall—

(i) comply with any guidelines concerning consultation which may be issued by the Minister for Arts, Heritage, Gaeltacht and the Islands, or

(ii) if no such guidelines are issued, consult with such person or body as the planning authority considers appropriate.

(6) When considering an application for permission for the development of land under section 34 which—

(a) relates to the interior of a protected structure, and

(b) is regularly used as a place of public worship,

the planning authority, and the Board on appeal, shall, in addition to any other requirements of the Act, respect liturgical requirements.

(7) A planning authority may at any time review a declaration issued under this section but the review shall not affect any works carried out in reliance on the declaration prior to the review.

(8) A planning authority shall cause—

(a) the details of any declaration issued by that authority under this section to be entered on the register kept by the authority under section 7, and

(b) a copy of the declaration to be made available for inspection by members of the public during office hours, at the office of the authority, following the issue of the declaration.

(9) A declaration under this section shall not prejudice the application of section 5 to any question that arises as to what, in a particular case, is or is not exempted development.

(10) (a) For the avoidance of doubt, it is hereby declared that a planning authority or the Board on appeal—

(i) in considering any application for permission in relation to a protected structure, shall have regard to the protected status of the structure, or

(ii) in considering any application for permission in relation to a proposed protected structure, shall have regard to the fact that it is proposed to add the structure to a record of protected structures.

(b) A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.

5. ASSESSMENT

6.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’.

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: ‘the carrying out of any works on, in, over or under land’, or ‘the making of any material change in the use of any structures or other land’. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

The details of this Section 5 application consist of a change of use of the ground floor of Nos. 17 and 18 Parnell Place from retail to Hotel Business Centre/Office use and facilitatory works involving the fit out of the floor area for Hotel Business Centre/Office use. The change of use and fit out works would constitute ‘Development’ as defined in the Act.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

The Planning Statement submitted with the Section 5 Application has been duly considered.

The Planning Authority is of the view that the proposed change of use would have implications beyond the current hotel operation. These include potential impacts on the vibrancy of the streetscape and the façade of the protected structures. Consideration is also given to the distinct and separate settings of Nos. 17 and 18 Parnell Place, and the Maldron Hotel commonly accessed from the South Mall. The Planning Authority considers Nos. 17 and 18 Parnell Place a standalone unit with a separate permitted retail use from the overall hotel use of the site. It is noted that parent permission TP 16/37224 (Application Planning Statement) had due regard for the Retail Strategy of the (now expired) Cork City Development Plan 2015.

The Planning and Development Regulations 2001 (as amended) define retail use “as a shop”. A “Shop” is defined in Article 5 (1) as a structure used for 9 no. specified purposes, where the sale,

display or service is principally to visiting members of the public and includes a structure used for the purposes of a hairdresser, undertaker or ticket agency or for the reception of goods to be washed, cleaned or repaired, or for any other purpose appropriate to a shopping area, but **does not include** a structure used as a funfair, garage, petrol filling station, **office, or hotel** or premises (other than a restaurant) licensed for the sale of intoxicating liquor for consumption on the premises ; The proposed Hotel Business Centre / Office use is not within the same class use as retail use and would therefore constitute a material change of use as defined in the Act.

Regarding the proposed fit out of Nos. 17 and 18 Parnell Place for office use, it is noted the buildings are Protected Structures, NIAH listed buildings and located within an Architectural Conservation Area (see development description above for associated reference numbers). Given the nature of the Section 5 Declaration comment was requested from the Conservation Department of Cork City Council, the response is as follows, *'The proposed works to the interior would require planning permission as they would 'materially affect' the character of the protected structure - see Section 57 of the Planning and Development Act 2000 (as amended). This includes (but not limited to) partition wall changes and the insertion of a lift and riser. The drawings are not detailed enough to assess the requirement for planning permission for all associated changes, but these could include works that relate to the insertion IT cabling and electrical outlets to support the office use, and changes to existing walls, ceiling and floors.'*

6. ENVIRONMENTAL ASSESSMENT

6.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.

6.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

7. Conclusion

The question has been asked:

Whether the change of use of the part of the ground floor of the Hotel fronting onto no. 17 / 18 Parnell Place from a permitted retail use to a Hotel Business Centre / Office use is or is not development and is or is not exempted development?

8. RECOMMENDATION

In view of the above and having regard to —

- The planning history of the site, and

- Sections 2, 3, 4 and 57 of the Planning and Development Act 2000 (as amended), and
- Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended),

It is considered that the internal ground floor area of Nos. 17 / 18 Parnell Place is a standalone retail unit (as per permitted under the plans of TP 16/37224). The proposed change of use to Hotel Business Centre / Office is not within the same class use as retail and would therefore constitute a material change of use as defined in Part 4 of Schedule 2 of the Act.

It is considered that the proposed works to the interior would require planning permission as they would 'materially affect' the character of the Protected Structure – as defined in Section 57 of the Planning and Development Act 2000 (as amended).

Therefore, the proposed change of use from permitted retail use to Hotel Business Centre / Office use **Is Development and Is Not Exempted Development.**



Alan Swanwick
Assistant Planner
09/09/2024

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

MALDRON HOTEL SOUTH MALL, NOS. 94/95 SOUTH MALL AND NOS. 17/18 PARNELL PLACE, CORK, T12 EE72.

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

WHETHER THE CHANGE OF USE OF THE PART OF THE GROUND FLOOR OF THE HOTEL FRONTING ONTO NOS. 17/18 PARNELL PLACE FROM A PERMITTED RETAIL USE TO A HOTEL BUSINESS CENTRE/OFFICE USE IS OR IS NOT DEVELOPMENT AND IS OR IS NOT EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

SEE ENCLOSED PLANNING STATEMENT AND DRAWINGS

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	HOTEL FLOORSPEACE - 18,591SQM AREA SUBJECT TO COU - 132SQM
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
CURRENTLY VACANT – PERMITTED USE - RETAIL	PROPOSED USE – ONSITE BUSINESS CENTRE

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		DALATA HOTEL GROUP PLC
Applicants Address	[REDACTED]	
Person/Agent acting on behalf of the Applicant (if any):	Name:	[REDACTED]
	Address:	[REDACTED]
	Telephone:	[REDACTED]
	Fax:	N/A
	E-mail address:	[REDACTED]
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name and address of the owner if available		

6.1 / We confirm that the information contained in the application is true and accurate:

Signature:



Date: 1st August 2024

7. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Contact number	
Email address	

ADVISORY NOTES

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000, as amended.



Development Management Section
Community, Culture & Placemaking Directorate
Cork City Council
City Hall
Anglesea Street
Cork

1st August 2024

**RE: SECTION 5 DECLARATION APPLICATION IN RELATION TO A CHANGE OF USE OF PERMITTED RETAIL
USE TO A HOTEL BUSINESS CENTRE/OFFICE USE AT THE MALDRON HOTEL, SOUTH MALL, CORK.**

Dear Sir/Madam,

We, Coakley O'Neill Town Planning Ltd. of NSC Campus, Mahon, Cork, have been instructed by our clients, Dalata Hotel Group, to lodge this Section 5 Declaration application in relation to a proposed change at the Maldron Hotel South Mall located at Nos. 93-95 South Mall and Nos. 17/18 Parnell Square.

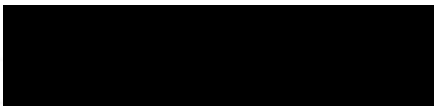
The following items are enclosed as part of this application:

- Cheque for the sum of €80 in respect of the application fee;
- 4 no. copies of the Section 5 application form;
- 4 no. copies of layout plans and drawings;
- 4 no. copies of the OSI site location map; and
- 4 no. copies of Planning Statement.

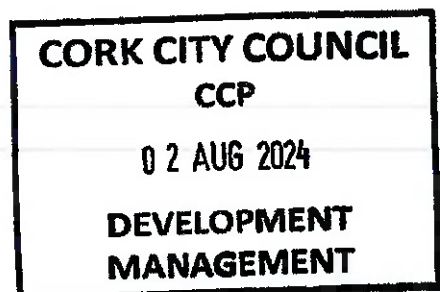
We trust everything is in order and look forward to a favourable decision in due course.

Please forward all correspondence in relation to this planning application to this office.

Yours sincerely,



Rory Hanrahan
Coakley O'Neill Town Planning Ltd.





COAKLEY O'NEILL
town planning

Section 5 Planning Statement Maldron Hotel South Mall, Cork

Prepared in August 2024 on behalf of
Dalata Hotel Group Plc.

Coakley O'Neill Town Planning Ltd.

📍 NSC Campus, Mahon, Cork

☎ 021 2307000

✉ info@coakleyoneill.ie

www.coakleyoneill.ie

Document Control Sheet

Client	Dalata Hotel Group
Project Title	Maldron Hotel South Mall
Job No.	CON24035
Document Title	Section 5 Statement
Number of Pages	38

Revision	Status	Date of Issue	Authored	Checked	Signed
1	Draft	26 TH July 2024	RH	DC	
2	Final	1 st August 2024	RH	DC	

Confidentiality Statement

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1.0 INTRODUCTION

1.1 We, Coakley O'Neill Town Planning Ltd., NSC Campus, Mahon, Cork, have been instructed by Dalata Hotel Group Plc. to prepare this report with respect to an application seeking a Section 5 declaration as to whether a change of use of the permitted ground floor retail use to hotel business centre use, requires planning permission.

1.2 This report has had regard to the relevant planning policy documents regulating the development of the site, including the Planning and Development Act 2000, as amended, the Planning and Development Regulations 2001, as amended, the Cork City Development Plan, 2022 and various Ministerial Guidelines and Circulars, the decisions of An Bord Pleanála on similar proposals, the site's planning history and other planning precedence, where relevant.

2.0 SITE LOCATION AND DESCRIPTION

2.1 The subject site forms part of the established and operating Maldron Hotel which operates at Nos. 93-95 South Mall, and Nos. 17-18 Parnell Place in Cork City. The hotel fronts onto South Mall, Parnell Square and Beasley Street.

2.2 The area of the hotel that is the subject of this Section 5 declaration is 132 sqm in area and comprises part of the ground floor of Nos. 17-18 Parnell Square. The remaining part of these ground floors are already in use as part of the main hotel.

2.3 The wider South Mall environs are an established commercial area, hosting a significant number of office developments in addition to the Imperial Hotel and a wide range of other hospitality uses. Similarly, Parnell Square hosts a number of established commercial uses such as office and retail uses in addition to hospitality uses and the Cork City Bus Station.



Figure 1: Subject Site Location



Figure 2: Ground Floor of Nos. 17/18 Parnell Place - Identified in Red.

3.0 PLANNING POLICY PROVISIONS

- 3.1 The relevant statutory planning document is the *Cork City Development Plan, 2022-2028*.
- 3.2 The core strategy of the Cork City Development Plan (hereinafter referred to as the Plan), outlines that the role of Cork City Centre is to consolidate and regenerate the city centre to underpin its role as the vibrant, living and working city. This seeks to see the provision of a wide range of use including cultural and tourism uses.
- 3.3 The site of subject application is zoned as ZO 05 City Centre as per the Plan. This land use zoning seeks *'to consolidate and facilitate the development of the central area and to promote its role as a dynamic mixed used centre for community, economic, civic, cultural and residential growth'*.
- 3.4 The primary purpose of this land use zoning is to promote the continued economic, civic, cultural and residential growth of the city. Hotel and office uses are acceptable within this zone.
- 3.5 Objective 7.25 Sustainable Tourism outlines that it is the objective of the Plan to support the sustainable growth of tourism in Cork City as a multi-faceted visitor destination and a gateway to the southern region.
- 3.6 Objective 7.26 Visitor Accommodation outlines that it is an objective of the planning authority to encourage the development of a range of new and enhanced visitor accommodation options in Cork City.
- 3.7 Nos.17 & 18 Parnell Place are listed on the Record of Protected Structures, Reference Nos. PS822 and PS823.

4.0 PLANNING HISTORIES

4.1 The following planning history applies to the site.

- **Planning Application Register Reference: 04/29136:** In August 2005 planning permission was granted for the development of a five storey, 121 bedroom hotel of 8098 sq. m with ground floor hotel bar, dining area and function room, basement with associated spa and health club, with car parking at basement level and lower basement level. This decision was appealed to An Bord Pleanála under Appeal Ref. 28.214525, the decision by the Local Authority was upheld. This permission was only partly implemented.
- **Planning Application Register Reference: 16/37224:** In April 2017 planning permission was granted the redevelopment of the existing permitted hotel building to comprise of the conversion of lower basement car park to storage/plant area and staff facilities area to include office, toilets, canteen and meeting rooms, the conversion of the upper basement car park to 8 no. bedrooms, a business centre with 10 no. meeting rooms, storage areas and retail basement (75sqm), at ground floor level, the redevelopment and remodelling of internal floor area to include reception, bar, lounge, dining and kitchen areas, ESB substation, toilets, service areas, bin store and retail unit (132sqm) onto Parnell Place, a total of 165 no. bedrooms were proposed across floors one to five.
- **Planning Application Register Reference: 17/37660:** In March 2018 planning permission was granted for the modifications to the development permitted under Reg. Ref. 16/37224. The modifications relate to the external cladding of the building, the omission of the courtyard extension and changes to internal layout.

This permission has been implemented and constitutes the permitted use and layout of the ground floors of Nos. 17 and 18 Parnell Place.

- **Planning Application Register Reference: 18/38039:** In October 2018 planning permission was granted for the erection of 4 no. signs on the exterior façade and external lighting.
- **Planning Application Register Reference: 19/38272:** In April 2019 planning permission was refused for the erection of 1 no. sign on the South Mall façade of the hotel. This was appealed to An Bord Pleanála under Appeal Ref. ABP-304463-19. The local authority decision was upheld.
- **Planning Application Register Reference: 19/38249:** In July 2019 planning permission was granted for the removal condition no.6 of the permission granted by Cork City Council under register reference 16/37224 and the realignment of an existing loading bay to allow for a set down area on South Mall.

5.0 PLANNING AND DEVELOPMENT LEGISLATIVE CONTEXT

- 5.1 The control of development is regulated by the *Planning and Development Act 2000*, as amended and the *Planning and Development Regulation 2001*, as amended, which set out whether, and in which instances, certain types of development require planning permission. They also set out the circumstances under which certain types of development are considered exempt from the requirement to obtain planning permission. The following extracts from these are considered relevant:

Planning and Development Act 2000, as amended

- 5.2 **Section 2** of the Act defines '**Structure**' which '*means any building structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and – (a) where the context so admits, includes the land on, in or under which the structure is situate,*
- 5.3 **Section 2** defines '**Works**' as including '*...any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*'
- 5.4 **Section 3 (i)** of the Act defines "**Development**" as '*except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structure or other land*'. What constitutes a material change of use is not defined, although 5 separate examples of such a change are given
- 5.5 **Section 4** of the Planning and Development Act identifies development which shall constitute exempted development, not requiring planning permission under Section 32. Section 4(1)(h) provides the following exemption.
- (h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*
- 5.6 **Section 4 (2)** of the 2000 Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001.

Planning and Development Regulations, 2001, as amended

5.7 The following definitions are also set out in the Regulations

"business premises" means—

(b) a hotel, hostel (other than a hostel where care is provided) or public house, or....

'shop' means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

(a) for the retail sale of goods,

(b) as a post office,

(c) for the sale of tickets or as a travel agency

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,

(e) for hairdressing,

(f) for the display of goods for sale,

(g) for the hiring out of domestic or personal goods or articles,

(h) as a launderette or dry cleaners,

(i) for the reception of goods to be washed, cleaned or repaired,

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

5.8 **Schedule 2, Part 1** of these Regulations sets out the various instances where development can be considered to be exempt from requiring planning permission.

5.9 The availability of exemptions is qualified by **Article 6(1)** of the Regulations which states as follows:

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

5.10 **Article 9** further qualifies whether exempted status can be applied to a development setting out restrictions where the exemptions of Schedule 2 **will not apply**.

Development to which Article 6 relates shall not be exempted development for the purposes of the Act

(a) if the carrying out of such development would:

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act”.*
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft,*
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.*

- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*
- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*
- (xi) obstruct any public right of way,*
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

5.11 Article 10, relates to change of use exemptions and states:

10(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,*
- (b) contravene a condition attached to a permission under the Act,*
- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*

6.0 PLANNING LAW

- 6.1 With regard to the nature of a planning permission, the following is of note. Judge Charleton's judgement in the case **Weston Ltd -v- An Bord Pleanála** was as follows:

A planning permission is, of its nature, relatively precise. Planning permissions should never be departed from as a matter of law; the development is required to take place as the grant of permission allows. In this, as in other areas of law, the courts will not injunct very small development deviations; the de minimis rule. That toleration is not an exception to planning controls; it is an acceptance of minor errors that do not have a real planning impact and so do not require to be corrected. Planning controls operate within the community on the basis that the developer will make an honest application for planning permission, stating precisely what is proposed; the public will, on reading that application, realise what affect the grant of permission may have on them and make observations accordingly; and the planning authority will, after independent inspection and verification, adjudicate on the application objectively to ensure that there is proper and sustainable development within an area in accordance with the environmental contract as to planning that the development plan for the area represents. In consequence, planning permissions are construed not simply on the basis of the decision, but by reference to an active consideration as to what has been sought.

- 6.2 It is well established at common law that where only one part of a planning permission is constructed (or 'implemented') before the expiration of the duration of the planning permission then that completed part will not be unauthorised development simply by reason that another part of the permitted is not completed. That position is, however, subject to compliance with any conditions attached to the planning permission at issue.
- 6.3 Discussion on what constitutes a 'planning unit' can be found in **Planning and Environmental Law** by John Gore-Grimes.

[2.21] In determining whether a material change in use may or may not occur the planning unit must be considered. In setting a previous use against a current use, it is important to consider the appropriate physical site of the relevant use or, in other words, the planning unit. Planning statutes do not offer any definition or guidance on the subject. Case law does, however, provide a clearer understanding of the meaning of 'planning unit'.

[2.22] Where part only of a structure or portion only of a site of land is subject to a change in use, it may be difficult to decide what is the appropriate planning unit in determining whether a material change in use has occurred. One must consider the whole of the premises and not merely part of it and the question to be asked is whether the character of the whole existing use will be substantially affected by a change which is proposed in part only of the building. Clearly, for example, the use of part of a dwelling house as a shop would be a material change in use because it involves a change in the kind of use.

*[2.23] The leading English case where the meaning of 'planning unit' was examined is *Burdle v Secretary of State for Environment*.²⁰ In that case, Bridge J formulated the principles which can be applied in determining the proper 'planning unit'. The principles are set out in paras (a), (b) and (c) below*

*(a) Whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered. This proposition emerges clearly from the case of *G Percy Trentham v Gloucestershire County Council*, where Diplock LJ stated:*

"What is the unit which the local authority are entitled to look at and deal with in an enforcement notice for the purpose of determining whether or not there has been a material change in the use of any building or other land? As I suggested in the course of the argument I think that for the purpose, what the local authority are entitled to look at is the whole of the area which was used for a particular purpose including any part of that area whose use was incidental to or ancillary to the achievement of that purpose

(b) It may be equally apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another. This is well settled in the case of a composite use where the component activities have fluctuated in their intensity from time to time, but the different activities are not confined within separate and physical distinct areas of land.

(c) It may frequently occur that within a single unit of occupation, two or more physically separate and distinct areas are occupied for different and related purposes. In such a case, each area used for a different main purpose together with its incidental and ancillary activities, ought to be considered as a separate planning unit.

6.4 The nature of hotel uses is given as an example of a single planning unit having multiple different uses.

[2.25] The following five points may assist, by example, in understanding the meaning of a planning unit:

(i) Predominant Use, Ancillary Use and Multiple Uses

A premises may be described as a 'hotel' but if the activities within the hotel are analysed, it will be seen that there are a variety of different activities taking place inside it. There will be retail sales in the dining room and bars, there will be storage, there will be undoubtedly car parking, pay accommodation, conference facilities, entertainment, staff accommodation and offices. The predominant use comes under the term 'hotel' and this permits a level of ancillary activity associated with what one would normally understand as being the activities of a hotel. The planning unit is the whole unit of occupation devoted to the primary use but, clearly, the hotel owner could

not argue that no material change in use took place if he/she was to close the door of his/her hotel and open a retail store even though retail activities had taken place in the hotel.

6.5 Further clarification is provided on the nature of ancillary uses.

(2.41) So, a planning unit may have a number of uses in addition to its primary use. Where one or more uses are incidental or subordinate to the main use, the ancillary use is deemed to have the same use as the primary use and a change in the ancillary use will not amount to a material change in use.

[2.42] Cessation of an ancillary use does not give rise to a material change in use.⁴² Each case will be examined as matters of fact to be determined by the relevant planning authority or by An Bord Pleanála.

6.6 David Browne in **Simons on Planning Law** sets out a similar discussion.

Primary and Ancillary Uses, and Multiple Uses

2-66 A planning unit may be used for several activities: a single primary use and any number of ancillary uses. Generally, it is necessary to compare any proposed change of use against the primary use in order to determine whether or not a material change in use is involved. An ancillary use is regarded as part of the primary use so that cesser of the ancillary use does not give rise to a material change in use. For example, the use of the facade of premises to advertise the business of the company which owns the premises is a use ancillary to the primary (commercial) use of the premises. If an ancillary use becomes a separate use, this may constitute a material change in use.

*2-67 In **Burdle v Secretary of State for the Environment**,⁸² Bridge J. said that, as a working rule, the unit of occupation could generally be viewed as the appropriate planning unit, unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally.*

*2-68 This concept is best illustrated by way of example. In **Rehabilitation Institute v Dublin Corporation**,⁸⁴ the developer had used certain premises for the assessment, training and placement of the disabled. In the main, the premises were used for administration, although some training was carried out there. It was proposed to discontinue all training and to use the premises for the sole purpose of an office. The High Court considered that where a use is ancillary to a main use, it is regarded as part of the use so that the cesser of the ancillary use does not give rise to any question of change of use. The judgment analysed the use of the lands as follows. In law, there was only one use of the premises: use as an office for any purpose. The training use was to be regarded as ancillary to the general administrative use. Thus, a change to a pure office use did not involve a material change in use.*

2-69 Alternatively, the facts could be analysed as involving multiple uses. Where there are two or more separate, as opposed to primary/ancillary, uses, then cesser of one such use may ultimately lead to a material change in use; this is a question of fact. The Rehabilitation Institute case could be analysed as a case involving substitution of an office use for the (separate) training use, in which event it would then be a question of fact as to whether or not a material change in use had occurred.

- 6.7 In discussing the matter of material change of use, David Browne in *Simons on Planning Law* sets out the following:

*2-43 Not every change or increase or intensification in the use will necessarily amount to a material change of use. For example, in *Dublin Airport Authority plc v JD. Motorline Ltd*,⁴³ *Birmingham J. (as he then was)* held that, while not every act of intensification amounts to a material change of use, a commercial public car park is a use of significantly different character to the parking or storage of cars as part of the operation of a car rental business and was bound to generate a considerable level of activity with implications for traffic, noise and so on.*

*2-44 Arguably it is the second of the two tests identified above which generally prevails. This second test was summarised as follows by Budd J. in *Westmeath County Council v Quirke & Sons*.*

*"Many alterations in the activities carried out on land constitute a change of use; however, not all alterations will be material. Whether such changes amount to a material change in use is a question of fact as is explained in *Monaghan County Council v Brogan* [1987] I.R. 339. Consideration of the materiality of a change in use means assessing not only the use itself but also its effects."*

2-45 As stated above, this test requires a wider ranging examination than the first. More specifically, it is necessary to consider the impact of the proposed change on the adjoining area...

- 6.8 In ***Galway County Council v Lackragh***, a case relating to intensification of use, there was a determination that the Planning Authority had to prove that an intensification of activity amounted to a material change of use.

7.0 REFERRALS AND DECLARATIONS

- 7.1 The following decisions have relevance and provide a context to the assessment of the question under consideration here.

An Bord Pleanála Reference 34.RL2419: Referral as to whether the bar at the Auburn House Hotel, Bunavally, Old Dublin Road, Athlone, Co. Westmeath operating independently of the hotel is or is not development or is exempted development.

Under the assessment, the Inspector outlined the bar use in operation remains in use while the permitted hotel use had ceased operation.

The assessment noted that at no time in the planning history of the site had permission been sought for the subdivision of the uses on the site and that it is entirely reasonable to suggest that a pub use is normally associated with and not unusual in the range of uses associated with a hotel.

The assessment noted that pub use is ancillary to the dominate use on the site i.e. the hotel use and that the hotel use and the pub could be considered as one planning unit for the purpose of development control.

Further to this, the inspector noted that the when considering if a material change of use has occurred, the character of the use of the land should be determined by the primary use of the land and that a material change of use would occur where a sub-division of the planning units occurs, and the ancillary use becomes an independent use in its own right.

Based on this, the Board determined:

- (a) *the bar was permitted under the Planning and Development Acts as a use ancillary to and associated with the hotel use on the site, and*
- (b) *the said operation of the bar other than as ancillary to or associated with the hotel use would constitute a material change in use:*

An Bord Pleanála Reference RL295.307417: Referral as to whether amendments to an existing hotel at basement and ground floor levels resulting in 10 no. additional hotel bedrooms with ancillary uses is or is not development or is or is not exempted development.

The assessment noted that no material change of use arose as the permitted use of the structure was a hotel and that the works related to the reconfiguration of the existing floor space as a different type of guest accommodation from meeting rooms to bedrooms.

The inspector noted *'I would be of the view that the alterations would be unlikely to have a material impact in regards to traffic and would not constitute an intensification of use with any material planning impact. I would consider that the nature of the alteration are minor and unlikely to have any discernible planning impact over and above the existing operation of the hotel'.*

Having regard to this, An Bord Pleanála found that

- (a) the amendments to the existing hotel at basement and ground floor levels resulting in 10 number additional bedrooms with ancillary uses do not constitute a material change of use,*
- (b) the amendments would not constitute an intensification of use or have any material planning impacts over and above the existing operation of the established hotel use or any material consequences in terms of the proper planning and sustainable development of the area,*
- (c) the use of the premises remains as established hotel use and is not development, as defined under section 3 of the Planning and Development Act, 2000 (as amended), and*
- (d) the alterations to the external elevations come under the provision of section 4(1)(h) of the Planning and Development Act, 2001 (as amended) and, as such, are exempted development.*



8.0 ASSESSMENT

- 8.1 For the perusal of the Planning Authority the following assessment of this matter is set out.
- 8.2 The question has arisen as to whether a change of use of the vacant part of ground floor of Nos. 17/18 Parnell Place from a permitted retail use to a hotel business centre use can be considered exempt from a requirement to secure a new planning permission.
- 8.3 The hotel business centre use is already permitted within the hotel under the governing planning permissions and forms an ancillary part of its operation, located within the basement floors of the hotel. It essentially is an office use directly related to the running of the hotel and to other hotels within the Dalata Group portfolio. Hotel HR, financing, branding and marketing functions are all undertaken.
- 8.4 The proposal would see this established hotel business centre use expand into a vacant part of the ground floor of the hotel, which had permission for a retail use, but which was never implemented.
- 8.5 The following conclusions are drawn in light of the context set out in the preceding pages of this report.
- 8.6 Proposals require planning permission if they are considered to be development and are not exempted under the legislation.
- 8.7 Development, as defined in the Act, has two strands, development by way of material change of use and by way of works. The inference in Section 32(2) of the Planning Acts is that only development which is exempt, or which is in accordance with a permission should be carried out. Other development would be considered unauthorised development.
- 8.8 The relevant legislation pertaining to the matter is set out in the Planning and Development Act, 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended). Section 3(1) of the Act defines development as being:

In this Act, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

- 8.9 The following planning issues arise:

1. Will development occur?
2. If so, does this development require planning permission?

- 8.10 Firstly, it is appropriate to consider whether development will occur.
- 8.11 Section 3 (1) of the Planning Act defines "Development" *The carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

- 8.12 "Works" are defined in Section 2 as: *Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...*
- 8.13 Under Section 3 of the Planning and Development Act 2000, the proposal would constitute development since they involve "works" as defined by Section 3. Therefore, the question in this case is whether or not such development is 'exempted' development.
- 8.14 The works only relate to the fit of the vacant area with fittings and furniture. No structural or external changes are proposed.
- 8.15 Therefore, the works involved clearly meet the terms of the exemption available under Section 4(1)(h) of the Planning Act.
- 8.16 While it can be found that the works are internal and relate only to the improvement and alteration of the structure, they relate to Protected Structure. Therefore, Section 57 of the Act applies and if the works involved materially affect the character of the structure or any element of the structure important to its conservation status, then they cannot be considered exempt.
- 8.17 It is submitted that as the works only relate to an internal fit out they cannot be found to materially affect the character of the structure or any element important to its conservation status.
- 8.18 Secondly, it must be considered whether the proposal constitutes a material change of use.
- 8.19 To conclude that a material change in use has occurred, two conditions must be satisfied – that an actual change in use has happened and that this change is material for planning purposes.
- 8.20 In assessing the materiality of a change of use, '*Simons on Planning Law*' outlines there are generally two considerations: a) whether the character of the existing land use will be substantially altered by the change, and b) whether the materiality of the change of use impacts on the proper planning and sustainable development of the adjoining area.
- 8.21 In considering whether the character of the existing land use will be substantially altered by the proposed changed regard must be had to the governing planning permissions on the site. Under planning application Ref. 16/37224 planning permission was granted the redevelopment of the existing permitted hotel to provide a total of 165 no. bedrooms across floors one to five, at basement level a hotel business centre use was permitted and a ground floor a reception, bar, lounge, dining area and a retail use (132sqm) were permitted.
- 8.22 The permitted layouts were subsequently modified under Application Reg. Ref. 17/37660, where planning permission was granted for the modifications to the development permitted under Reg. Ref. 16/37224. The modifications related to the external cladding of the building, the omission of the courtyard extension and changes to internal floor layout.

- 8.23 This permission has been implemented and constitutes the permitted use layout of the ground floors of Nos. 17 and 18 Parnell Place.
- 8.24 The permitted floor plan is shown below. It shows the retail area was not independent from the hotel with access between same provided.

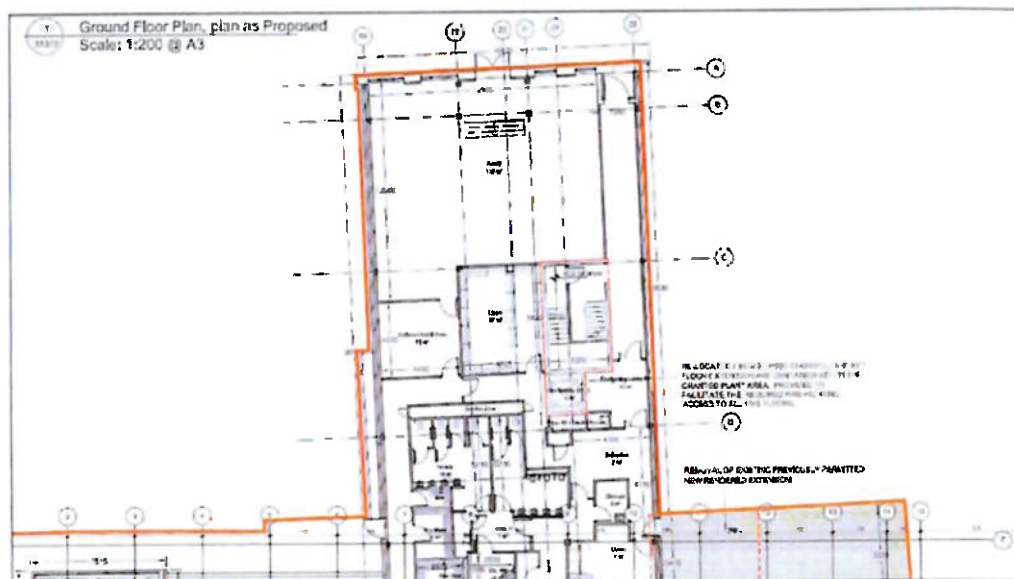


Figure 3: Permitted Ground Floor Layout of Nos. 17/18 Parnell Place.

- 8.25 All uses proposed will remain part of, and ancillary to, the existing hotel, which can be considered a single planning unit.
- 8.26 Having regard to these governing permissions therefore, it can be considered that the overall use permitted on the site is that of a hotel use, with the other uses permitted at ground floor and basement level uses ancillary to the overall operation of the hotel. The hotel business centre, for example, has operated as such since the hotel opened providing essential office support for the running of the hotel and others within the Dalata Group portfolio.
- 8.27 The question arises if the change of use to of the retail area to facilitate an small expansion of the hotel business centre use would impact on the overall permitted use on the site.
- 8.28 At 132 sqm, the area involved represents 1.2% of the overall gross floor area of the hotel. It is not significant in any substantive way. The business centre use already operates as part of the hotel use. Indeed, it is fundamental to its operation, providing office based HR, finance, marketing and other supports. It expansion into this vacant ground floor area will not give rise to any material planning impacts. It will remain ancillary to the overall hotel use and will not operate independently.
- 8.29 Having regard to the overall floor areas of the existing hotel use and the proposed change of use of 132 sqm of ground floor to facilitate an existing use ancillary to the hotel operation, it can be considered that

the proposed change of use, by nature of its scale and the existing ancillary operations at the site, would not materially change the existing permitted use of the site, a hotel use.

- 8.30 Furthermore, when considering does the development constitute a material change of use, consideration must be given to whether the change of use impacts on the proper planning and sustainable development of the adjoining area.
- 8.31 It is considered that a minor expansion of the existing business centre use would not have any material impact on the proper planning and sustainable development of the adjoining area.
- 8.32 The use is not only in keeping with the overall permitted use but is also acceptable under the site's zoning objective. It is also in keeping with uses in the immediate vicinity. There is no proposed changes in operating hours. The use would not result in any material increase in traffic or noise generation. The hotel is within a city centre location with a high intensity of public transport and pedestrian accessibility. The proposal would not have an impact upon residential, or any other, amenity in the area.
- 8.33 As such, it can be considered that the proposed use would not negatively affect the proper planning and sustainable development of the adjoining area
- 8.34 The proposal is therefore neither an intensification of use or a material change of use.
- 8.35 It is noted that exempted development status is lost if an environmental impact assessment or an appropriate assessment of the development is required. This is referred to under Section 4(4) of the Act.
- 8.36 Yet, under the governing planning permissions, the Stage 1 Screening undertaken by the Planning Authority found that the development would not require a full Appropriate Assessment. It is found that the minor changes involved here could not reasonably be considered to require same.
- 8.37 Schedule 5 of the Planning and Development Regulations, 2001 (as amended) defines the categories and thresholds of developments requiring EIA. The works are significantly below any relevant threshold and would not require the preparation of an EIA.
- 8.38 Furthermore, it is considered that 'sub-threshold' EIA is not relevant. Changes and alterations to development are addressed under item 13 of Part 2 of Schedule 5. However, this is not applicable as the works and existing site do not give rise to any EIA Threshold issues.

9.0 CONCLUSIONS

9.1 The question has arisen as to whether a change of use of the permitted ground floor retail use to a hotel business centre use, requires planning permission.

9.2 The following conclusions are drawn having regard to:

- Sections 2, 3, 4 and 57 of the Planning and Development Act, 2000, as amended;
- Articles 5, 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- Relevant planning precedence;
- The location and planning history of the subject site; and
- The nature and extent of permitted development on the subject site.

9.3 We conclude that:

- a. The internal fit out works proposed to be undertaken constitute development;
- b. These works meet the requirements for exemption under Section 4(10)(h) of the Act;
- c. These works do not impact upon the character of the Protected Structures;
- d. The proposal will involve a change of use but this change is not material in the context of it being already permitted and ancillary to the overall permitted use of the site as a hotel, not resulting in any material planning impacts and not involving any intensification of use;
- e. The proposal does not require AA or EIA.

9.4 In conclusion therefore, we submit to Cork City Council that this proposal at the Maldron Hotel South Mall is exempt from the requirement to obtain planning permission.

9.5 We trust the above information is satisfactory and look forward to a favourable decision pertaining to same in due course.

APPENDIX 1: GRANTS OF PERMISSION

COMHAIRLE CATHRACH CHORCAÍ - CORK CITY COUNCIL

PLANNING AND DEVELOPMENT ACT 2000

NOTIFICATION OF DECISION TO GRANT

Permission

SUBJECT TO CONDITIONS UNDER SECTION 34 OF THE ACT OF 2000

To: Leevlan Limited
C/O Coakley O'Neill Town Planning Ltd.
NSC Campus
Mahon
Cork

Ref No.: 16/37224
Application Received: 22/12/2016

In pursuance of the powers conferred upon them by the above mentioned Acts, Cork City Council have by order dated **25/04/2017** decided to **GRANT Permission** for the development of land, namely: The proposed development will consist of the redevelopment of the existing permitted hotel building to comprise the following: 1) The conversion of lower basement car park to storage/plant area and staff facilities area to include office, toilets, canteen and meeting rooms. 2) The conversion of the upper basement car park to 8 no. bedrooms, a business centre with 10 no. meeting rooms, storage areas and retail basement (75sqm). 3) At ground floor level, the redevelopment and remodelling of internal floor area to include reception, bar, lounge, dining and kitchen areas, ESB substation, toilets, service areas, bin store and retail unit (132sqm) onto Parnell Place. 4) At 1st Floor level, the provision of 33 no. bedrooms and roof terrace 5) At 2nd floor level, the provision of 35 no. bedrooms. 6) At 3rd Floor level, the provision of 35 no. bedrooms. 7) At 4th Floor level, the construction of a new extension at Parnell Place and the provision of 31 no. bedrooms. 8) At 5th floor level, the construction of a new extension at Beasley Street and the provision of 23 no. bedrooms. 9) The demolition of No.95 South Mall and partial demolition of Nos. 93 and 94 South Mall. 10) The reinstatement of the façades of Nos. 17 and 18 Parnell Place which are Protected Structures. 11) Elevational changes to existing Beasley Street elevation to include incorporation of outdoor seating area. 12) Removal of existing car lifts to provide light wells. 13) All associated plant, development and site services and works. A total of 165 no. bedrooms are proposed at : 93-95 South Mall, 17 Parnell Square and , Beasley Street, Cork

In accordance with plans and particulars submitted on 22/12/2016 & on 29/03/2017.

Subject to the (21 No.) conditions and reasons set out in the attached Schedule.

If there is no appeal against said decision, a grant of **Permission** in accordance with the decision, will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanála (see footnote).

It should be noted that until a grant of **Permission** has been issued, the development in question is **NOT AUTHORISED**.

Signed on behalf of Cork City Council



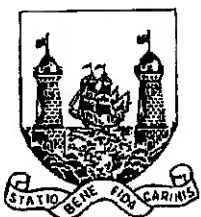
John Whelan
Senior Staff Officer
Date: 26/04/2017

NB: See Notes Overleaf

1. The Applicant is advised to carefully read through all conditions and notes attached to this decision. Please note that a number of conditions attached to this planning permission may require the submission of compliance plans and/or particulars for the agreement of the Planning Authority prior to the commencement of development. Failure to comply with a condition of a planning permission is an offence under the Planning and Development Act 2000 (as amended).
2. An appeal against a decision of a planning authority made under section 34 of the Planning and Development Act 2000 (as amended) may be made to An Bord Pleanála within 4 weeks beginning on the date of decision (note: not the date on which the decision is sent or received. This is a statutory time limit and An Bord Pleanála has no discretion to accept late appeals). See enclosed notes. Appeals must be fully complete in all respects, including the appropriate fee, when lodged. It is not permissible to submit any part of an appeal at a later date, even within the time limit. For details of the appeals procedure including details of the correct fee, contact An Bord Pleanála. An Bord Pleanála, 64 Marlborough Street, Dublin 1. www.pleanala.ie.
3. A grant of planning permission under the Planning and Development Act 2000 (as amended) is not to be taken as a waiver of the responsibility of the Applicant and/or developer to comply with the provisions of any Act, Order, Regulation or any other statutory provision (e.g. the Building Regulations, Waste Management Acts, etc).
4. A grant of planning permission under the Planning and Development Act 2000 (as amended) does not exempt the Applicant from any requirements which the Fire Authority (pursuant to the Fire Services Act, Building Control Act and Building Control Regulations) may require to be implemented. The Applicant is therefore advised to contact the Cork City Fire Department to discuss these matters prior to the submission of the Commencement Notice (as required under the Building Control Regulations) and/or the making of an application for a Fire Safety Certificate (pursuant to the Building Control Regulations, if applicable).
5. Please note that a grant of planning permission does not imply that the submitted drawings are in compliance with the Building Regulations. Compliance with the Building Regulations is a matter for the Applicant and their technical advisors.
6. Any requirements under the above two items may require physical or other changes to the development that may require a grant of permission under the Planning and Development Act 2000 (as amended). The Applicant is advised to contact the Planning Authority to clarify any issues that may arise.
7. Please note that a grant of planning permission does not entitle the Applicant / developer to undertake works which would involve excavation or damage to the public road, or to erect a hoarding, scaffolding or temporary fencing on the public footway/roadway. The specific consent by way of licence from Cork City Council (Roads Protection and Asset Management Division) will be required for any such works, subject to compliance with the licence conditions as based on the "Directions for the Management and Control of Roadworks in Cork City". In the event of accidental damage to the public footway/roadway the Applicant / developer shall be responsible for its immediate temporary reinstatement. Cork City Council at all times reserves its right to undertake the said works, at the Applicant's / developer's expense, in the event of failure or unsatisfactory execution of the works. The cost of same shall be calculated in accordance with the Roads and Transportation Directorate schedule of reinstatement charges prevailing at the date of the works by Cork City Council.
8. Please note that 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 grant of planning permission to carry out any development. Compliance with other regulations and legal requirements may also be necessary.
9. Please note that no part of the proposed development should encroach onto or oversail adjoining public or private land. In the event of encroachment or oversailing of adjoining property, the consent of the adjoining property owner is required.
10. The Planning Authority, in deciding this planning application, has had regard to any submissions or observations received in accordance with the Planning and Development Regulations 2001 (as amended).
11. In accordance with Article 20 of the Planning and Development Regulations 2001 (as amended) you are hereby required to remove forthwith any site notice erected in respect of this planning application.

Comhairle Cathrach Chorcaí

Cork City Council



Fón/Tel: 021- 4924000

Facs/Fax: 021- 4314238

Gréasán/Web: www.corkcity.ie Tag/Ref

Halla na Cathrach

Corcaigh

T12 T997

Planning Ref. No.: 16/37224

First Schedule

Having regard to the nature, location and context of the site and surrounding area, the policies and objectives of the Cork City Development Plan 2015-2021 and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not seriously injure the residential or visual amenities of the area, and is in accordance with the proper planning and sustainable development of the area.

**Schedule of Conditions attached to
Planning Permission issued by Cork
City Council – Ref.: 16/37224**

Second Schedule

No.	Condition	Reason
1	The development shall be carried out in accordance with the plans and particulars submitted to the planning authority on 22 December 2016 and 29 March 2017, except where otherwise altered or amended by conditions contained in this Schedule.	To define the scope of the permission, and to enable the planning authority to check the proposed development when completed, in the interests of proper planning and sustainable development
2	Prior to the commencement of development the applicant shall submit for the written agreement of the planning authority revised details showing the omission of rooms 105 and 106 from the proposed top floor.	To mitigate the stark visual impact of the northern gable as seen from Oliver Plunkett St. and of the impact on the amenity of the upper floors of the properties on Oliver Plunkett St. directly to the north.
3	Specifications, method statements and schedules of works for the existing retained facades on Parnell Place and South Mall shall be prepared by an experienced registered architect or conservation consultant qualified to at least RIAI conservation grade or equivalent, who shall certify upon completion that the works have been carried out in accordance with good conservation practice.	In the interests of the protection of the architectural heritage of the area.
4	A sample board of all external finishes shall be submitted in writing with the Planning Authority prior to development commencing.	In the interests of visual amenity
5	A Construction Traffic Management Plan for the proposed development including dedicated haulage routes, a protocol to be followed by HGV drivers and allowable operational times for the HGV's on the city's road network shall be agreed with Cork City Council and An Garda Síochána before works commences on site.	In the interest of traffic safety.
6	The existing loading bay on South Mall shall not to be reallocated as a set down area.	In the interest of good traffic management
7	All drainage shall be separated throughout. All paved and roofed areas shall discharge to the storm drainage system. All toilets, urinals, wash hand basins, sinks, showers, baths, dishwashers and washing machines shall discharge to the foul	In the interest of Public Health

	drainage system.	
8	Where existing drain connections are to be retained, a CCTV survey shall be carried out of all existing foul and storm drain connections from the development as far as the public sewers and results submitted to the Planning Authority, prior to commencement of development. Where necessary, remedial works shall be carried out, the scope of these works will be determined by the Planning Authority.	In the interest of Public Health
9	Where existing connections to the public sewerage are to become redundant the public sewerage shall be made good. Any Redundant drains shall be sealed and blocked off at site boundary. Proposals in this respect shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.	In the interest of Public Health
10	Works, in accordance with the submitted flood risk assessment report for flood defence and including flood mitigation measures for the site shall be carried out. Works to include actual measures selected to address the risk of flooding within the property, i.e. flood defence to minimum of level proposed, Flood resilience of the building and egress from the building in the event of a flood.	In the interest of Public Health
11	No public storm sewer shall be damaged as a result of the proposed development. Public storm sewerage in the vicinity to the proposed development shall be protected during the proposed ground works. Pre-construction CCTV surveys of the public storm sewerage in the vicinity of the proposed development shall be submitted to the Planning Authority prior to commencement. Post-construction CCTV surveys of the public storm sewerage in the vicinity of the proposed development shall be submitted to the Planning Authority on completion. The scope of the surveys shall be agreed in advance with the Planning Authority.	In the interest of Public Health
12	Prior to commencement, a method statement shall be submitted to and agreed in writing with the Planning Authority setting out the proposed means of disposing of groundwater from excavation dewatering works associated with the basement levels.	In the interest of Public Health

13	<p>(a) Gates/doors shall be recessed and / or be incapable of opening outwards, steps and access ramps shall be recessed or contained within the curtilage of the proposed development, in order not to impede or obstruct the public road or footpath.</p> <p>(b) Surface Water from the site shall not run across public footpath (or road).</p>	In the interest of traffic safety.
14	<p>a) Construction waste such as wood, metal, and cardboard, shall be segregated and submitted for recycling. Waste Gypsum shall be segregated and delivered to an appropriate facility. Hazardous construction waste such as paint, lubricants, oil, lighting, wood preservative shall be segregated and disposed of at an authorised facility.</p> <p>b) All asbestos arising from the demolition section of this development shall be disposed of in accordance with the procedures of Cork City Council.</p> <p>c) The developer shall ensure that any waste moved off site during site clearance operations or construction works is removed by authorised waste contractors only. The material shall be taken only to sites authorised by a local authority or the Environmental Protection Agency.</p> <p>(d) The developer shall consult with Cork City Council in regard to an proposed off site disposal of excavated soil or other construction waste and shall submit details of proposed disposal sites prior to commencement of construction activities. Prior to the commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority. This plan shall, inter alia, include the information recommended in sections 3.2, 3.3 and 3.4 of the document titled "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Development Projects" published by the Department of the Environment, Heritage and Local Government in September 2004.</p>	In the interest of orderly management and disposal of waste

15	<p>a) The developer shall constitute a waste management company or structure for dealing with waste arising in the development. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement, full details of a waste management structure proposed for the development. Details shall include proposals for waste reduction, reuse, recycling, storage, as well as who will manage the waste, present it for collection, and dispose of it.</p> <p>b) The developer shall provide and maintain within the confines of the site, facilities for the storage of recyclable materials e.g. paper, cardboard, glass, metal. The developer shall make arrangements for the proper collection and submission for recycling of these materials.</p> <p>(c) All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on site arrangements shall be made to the satisfaction of the Planning Authority for the storage of recyclable materials prior to collection. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition. The applicant shall maintain a register of waste material disposed from the site and records shall be made available for inspection by the Local Authority at all reasonable times .</p> <p>d) The developer shall provide within the curtilage of the site designated vented waste storage space of sufficient capacity to accommodate the segregated storage of municipal waste, food waste and mixed dry recyclables.</p>	in the interest of orderly management and disposal of waste
16	(a) Noise during site clearance and construction shall not exceed 65 dB (A), Leq 30minutes and the peak noise shall not exceed 75 dB (A),	In the interests of residential amenity.

	<p>when measured at any point off site.</p> <p>(b) Working hours during site clearance and construction shall be restricted to 0800-1800 hours on Mondays to Fridays and to 0800-1600 hours on Saturdays. Activities outside these hours shall require the prior approval of the Planning Authority.</p> <p>(C) Bored piling as opposed to percussive piling shall be used during site clearance and construction.</p>	
17	<p>(a) The Developer shall ensure that no appreciable negative environmental impacts occur because of the construction works associated with this development. The developer shall give particular attention to dust, noise, odour, litter, dirt on public roads, surface water runoff, spillage of fuel oils. Operations liable to produce dust shall be screened and dust suppression devices used where appropriate. Fuel oils and other chemicals shall be adequately bunded, with bunds having volumes of at least 110% of the volumes of fuel stored. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement, details outlining how these issues are to be addressed.</p>	In the interests of orderly management and disposal of waste.
18	<p>(a) Upon commissioning of the structure, noise from activities associated with this development shall not give rise to noise levels off site exceeding 55dB(A) Leq, 15 minutes during the hours of 0800-2200 and 45dB(A) Leq, 15 minutes during the hours of 2200-0800. There shall be no audible tonal or impulsive noise. The developer shall engage the services of a noise specialist to assess compliance with this condition as required.</p> <p>b) Prior to commencement of development the developer shall submit to the Planning Authority for agreement, full details of service plant such as lifts, pump, generators, boilers, coolers, and fridges. Details shall include location and anticipated noise levels.</p>	In the interest of residential amenity.
19	<p>Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority details of a</p>	In the interests of the orderly management and disposal of waste.

	<p>bin storage area of appropriate capacity for the development, clearly identifying on the drawings designated location for same with dimensions clearly visible.</p> <p>The developer should refer to the British standards BS 5906:2005 in relation to waste management in buildings to ascertain capacity required for development.</p>	
20	<p>Prior to the commencement of the proposed development, the Developer shall pay or enter into an agreement with the Planning Authority to pay a contribution to Cork City Council in respect of the following classes of public Infrastructure and facilities benefiting development in the City of Cork and that is provided or that is intended to be provided by or on behalf of Cork City Council, in accordance with the General Development Contributions Scheme ("the GDCS scheme"):</p> <p>Class 1 - Roads, Transportation Infrastructure and Facilities Class 2 - Water and Drainage Infrastructure and Facilities excluding Water and Wastewater Class 3 - Parks, Recreation, Amenity and Community Facilities</p> <p>The present value of the contribution as determined under the GDCS made by Cork City Council on the 28th November, 2016 is €66,702.90, which sum is subject to indexation in accordance with the Consumer Price Index prevailing at the date of payment and subject further to such exemptions or reductions as apply to the proposed development having regard to the provisions of Table 5 of the GDC Scheme.</p>	<p>To comply with the General Development Contribution Scheme 2017 - 2021, which was adopted by Cork City Council on 28th November, 2016, and in the interests of the proper planning and sustainable development of the area.</p>
21	<p>Prior to the commencement of the proposed development, the Developer shall pay or enter into an agreement with the Planning Authority to pay a contribution to Cork City Council in respect of the Cork Suburban Rail the Project specified in the Supplementary Development Contribution Scheme made by Cork City Council on the 28th November, 2016 ('the SDC Scheme') which project shall be carried out by the Rail Procurement Agency, or any other Organisation designated by the Government, pursuant to an agreement with Cork City Council and / or Cork County</p>	<p>To comply with the Supplementary Development Scheme 2017 - 2021 which was adopted by Cork City Council on 28th November, 2016 and in the interests of proper planning and sustainable development of the area.</p>

	<p>Council and which will, when carried out, benefit the proposed development.</p> <p>The present value of the contribution as determined under the SDC Scheme is €25,244.00, which shall be subject to indexation in accordance with the Consumer Price Index prevailing at the date of payment and subject further to such exemptions or reductions as apply to the proposed development having regard to the provisions of Table 4 of the SDC Scheme and subject further as follows:</p> <p>Where no substantial works have been carried out or have not commenced within 10 years of the date of payment of the contribution, the Planning Authority shall refund the contribution in proportion to those works which have not been carried out together with any interest that may have accrued thereon for the duration it was held unexpended by the Planning Authority.</p>	
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Gréasán/Web: www.corkcity.ie

Tag/Ref

Halla na Cathrach
Corcaigh
T12 T997

TO: Leevlan Limited
C/o Coakley O'Neill Town Planning Ltd.
NSC Campus
Mahon
Cork

RE: **PLANNING AND DEVELOPMENT ACT 2000 (as amended)**
NOTIFICATION OF FINAL GRANT

Planning Register Number: 16/37224

Valid Application Receipt Date: 22/12/2016

In pursuance of the powers conferred upon them by the above mentioned Acts, Cork City Council have by Order dated 26/04/2017 GRANTED PERMISSION to the above named, for the development of land, namely:- The proposed development will consist of the redevelopment of the existing permitted hotel building to comprise the following: 1) The conversion of lower basement car park to storage/plant area and staff facilities area to include office, toilets, canteen and meeting rooms. 2) The conversion of the upper basement car park to 8 no. bedrooms, a business centre with 10 no. meeting rooms, storage areas and retail basement (75sqm). 3) At ground floor level, the redevelopment and remodelling of internal floor area to include reception, bar, lounge, dining and kitchen areas, ESB substation, toilets, service areas, bin store and retail unit (132sqm) onto Parnell Place. 4) At 1st Floor level, the provision of 33 no. bedrooms and roof terrace 5) At 2nd floor level, the provision of 35 no. bedrooms. 6) At 3rd Floor level, the provision of 35 no. bedrooms. 7) At 4th Floor level, the construction of a new extension at Parnell Place and the provision of 31 no. bedrooms. 8) At 5th floor level, the construction of a new extension at Beasley Street and the provision of 23 no. bedrooms. 9) The demolition of No.95 South Mall and partial demolition of Nos. 93 and 94 South Mall. 10) The reinstatement of the façades of Nos. 17 and 18 Parnell Place which are Protected Structures. 11) Elevational changes to existing Beasley Street elevation to include incorporation of outdoor seating area. 12) Removal of existing car lifts to provide light wells. 13) All associated plant, development and site services and works. A total of 165 no. bedrooms are proposed at: 93-95 South Mall, 17 Parnell Square and Beasley Street, Cork subject to the 21 conditions set out in the schedule attached to said order.

Signed on behalf of Cork City Council

p.p.

Brenda Cremin

Administrative Officer

Strategic Planning & Economic Development Directorate

COMHAIRLE CATHRACH CHORCAÍ - CORK CITY COUNCIL

PLANNING AND DEVELOPMENT ACT 2000

NOTIFICATION OF DECISION TO GRANT

Permission

SUBJECT TO CONDITIONS UNDER SECTION 34 OF THE ACT OF 2000

To: Leevlan Limited
C/O Coakley O'Neill Town Planning Ltd.
NSC Campus
Mahon
Cork

Ref No.: 17/37660
Application Received: 01/12/2017

In pursuance of the powers conferred upon them by the above mentioned Acts, Cork City Council have by order dated **08/03/2018** decided to **GRANT Permission** for the development of land, namely: Permission is sought for a development. The proposed development will consist of modifications to the development permitted under Reg. Ref. 16/37224 and include (Protected Structures Ref Nos. PS822 and PS823). at : 93-95 South Mall, 17-18 Parnell Square and Beasley Street, Cork

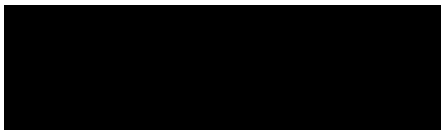
In accordance with plans and particulars submitted on 01/12/2017 & on 26/02/2018.

Subject to the (5 No.) conditions and reasons set out in the attached Schedule.

If there is no appeal against said decision, a grant of **Permission** in accordance with the decision, will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanála (see footnote).

It should be noted that until a grant of **Permission** has been issued, the development in question is **NOT AUTHORISED**.

Signed on behalf of Cork City Council



John Whelan
Senior Staff Officer
Date: 12/03/2018

NB: See Notes Overleaf

1. The Applicant is advised to carefully read through all conditions and notes attached to this decision. Please note that a number of conditions attached to this planning permission may require the submission of compliance plans and/or particulars for the agreement of the Planning Authority prior to the commencement of development. Failure to comply with a condition of a planning permission is an offence under the Planning and Development Act 2000 (as amended).
2. An appeal against a decision of a planning authority made under section 34 of the Planning and Development Act 2000 (as amended) may be made to An Bord Pleanála within 4 weeks beginning on the date of decision (note: not the date on which the decision is sent or received. This is a statutory time limit and An Bord Pleanála has no discretion to accept late appeals). See enclosed notes. Appeals must be fully complete in all respects, including the appropriate fee, when lodged. It is not permissible to submit any part of an appeal at a later date, even within the time limit. For details of the appeals procedure including details of the correct fee, contact An Bord Pleanála. An Bord Pleanála, 64 Marlborough Street, Dublin 1. www.pleanala.ie.
3. A grant of planning permission under the Planning and Development Act 2000 (as amended) is not to be taken as a waiver of the responsibility of the Applicant and/or developer to comply with the provisions of any Act, Order, Regulation or any other statutory provision (e.g. the Building Regulations, Waste Management Acts, etc).
4. A grant of planning permission under the Planning and Development Act 2000 (as amended) does not exempt the Applicant from any requirements which the Fire Authority (pursuant to the Fire Services Act, Building Control Act and Building Control Regulations) may require to be implemented. The Applicant is therefore advised to contact the Cork City Fire Department to discuss these matters prior to the submission of the Commencement Notice (as required under the Building Control Regulations) and/or the making of an application for a Fire Safety Certificate (pursuant to the Building Control Regulations, if applicable).
5. Please note that a grant of planning permission does not imply that the submitted drawings are in compliance with the Building Regulations. Compliance with the Building Regulations is a matter for the Applicant and their technical advisors.
6. Any requirements under the above two items may require physical or other changes to the development that may require a grant of permission under the Planning and Development Act 2000 (as amended). The Applicant is advised to contact the Planning Authority to clarify any issues that may arise.
7. Please note that a grant of planning permission does not entitle the Applicant / developer to undertake works which would involve excavation or damage to the public road, or to erect a hoarding, scaffolding or temporary fencing on the public footway/roadway. The specific consent by way of licence from Cork City Council (Roads Protection and Asset Management Division) will be required for any such works, subject to compliance with the licence conditions as based on the "Directions for the Management and Control of Roadworks in Cork City". In the event of accidental damage to the public footway/roadway the Applicant / developer shall be responsible for its immediate temporary reinstatement. Cork City Council at all times reserves its right to undertake the said works, at the Applicant's / developer's expense, in the event of failure or unsatisfactory execution of the works. The cost of same shall be calculated in accordance with the Roads and Transportation Directorate schedule of reinstatement charges prevailing at the date of the works by Cork City Council.
8. Please note that 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 grant of planning permission to carry out any development. Compliance with other regulations and legal requirements may also be necessary.
9. Please note that no part of the proposed development should encroach onto or oversail adjoining public or private land. In the event of encroachment or oversailing of adjoining property, the consent of the adjoining property owner is required.
10. The Planning Authority, in deciding this planning application, has had regard to any submissions or observations received in accordance with the Planning and Development Regulations 2001 (as amended).
11. In accordance with Article 20 of the Planning and Development Regulations 2001 (as amended) you are hereby required to remove forthwith any site notice erected in respect of this planning application.

Comhairle Cathrach Chorcaí Cork City Council



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Planning Ref. No.: 17/37660

First Schedule

Having regard to the nature, location and context of the site and surrounding area, the policies and objectives of the Cork City Development Plan 2015-2021 and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not seriously injure the residential or visual amenities of the area, and is in accordance with the proper planning and sustainable development of the area.

**Schedule of Conditions attached to
Planning Permission issued by Cork
City Council – Ref.: 17/37660**

Second Schedule

No.	Condition	Reason
1	The development shall be carried out in accordance with the plans and particulars submitted to the planning authority on 01/12/2017 and 26/02/2018, except where otherwise altered or amended by conditions contained in this Schedule.	To define the scope of the permission, and to enable the planning authority to check the proposed development when completed, in the interests of proper planning and sustainable development.
2	All drainage in the modified proposal shall be separated throughout. All paved and roofed areas shall discharge to the storm drainage system. All toilets, urinals, wash hand basins, sinks, showers and baths shall discharge to the foul drainage system.	In the interest of public health.
3	Drainage and flooding related conditions 7-12 as contained in the Schedule of Conditions attached to the Planning Permission issued by Cork City Council - Ref: 16/37224 shall be applicable to the proposed modified development.	In the interest of public health.
4	<p>Prior to the commencement of the proposed development, the Developer shall pay or enter into an agreement with the Planning Authority to pay a contribution to Cork City Council in respect of the following classes of public infrastructure and facilities benefiting development in the City of Cork and that is provided or that is intended to be provided by or on behalf of Cork City Council, in accordance with the General Development Contributions Scheme ("the GDCS scheme"):</p> <p>Class 1 - Roads, Transportation Infrastructure and Facilities Class 2 - Water and Drainage Infrastructure and Facilities excluding Water and Wastewater Class 3 - Parks, Recreation, Amenity and Community Facilities</p> <p>The present value of the contribution as determined under the GDCS made by Cork City Council on the</p>	To comply with the General Development Contribution Scheme 2017 - 2021, which was adopted by Cork City Council on 13th November, 2017, and in the interests of the proper planning and sustainable development of the area.

	<p>13th November, 2017 is €2,256.96, which sum is subject to indexation in accordance with the Consumer Price Index prevailing at the date of payment and subject further to such exemptions or reductions as apply to the proposed development having regard to the provisions of Table 5 of the GDC Scheme.</p>	
5	<p>Prior to the commencement of the proposed development, the Developer shall pay or enter into an agreement with the Planning Authority to pay a contribution to Cork City Council in respect of the Cork Suburban Rail the Project specified in the Supplementary Development Contribution Scheme made by Cork City Council on the 13th November, 2017 ('the SDC Scheme') which project shall be carried out by the Rail Procurement Agency, or any other Organisation designated by the Government, pursuant to an agreement with Cork City Council and / or Cork County Council and which will, when carried out, benefit the proposed development.</p> <p>The present value of the contribution as determined under the SDC Scheme is €854.16, which shall be subject to indexation in accordance with the Consumer Price Index prevailing at the date of payment and subject further to such exemptions or reductions as apply to the proposed development having regard to the provisions of Table 4 of the SDC Scheme and subject further as follows:</p> <p>Where no substantial works have been carried out or have not commenced within 10 years of the date of payment of the contribution, the Planning Authority shall refund the contribution in proportion to those works which have not been carried out together with any interest that may have accrued thereon for the duration it was held unexpended by the Planning Authority.</p>	<p>To comply with the Supplementary Development Scheme 2017 - 2021 which was adopted by Cork City Council on 13th November, 2017 and in the interests of proper planning and sustainable development of the area.</p>

Comhairle Cathrach Chorcaí **Cork City Council**
City Hall Cork T12 T997



Fón/Tel: 021 – 4924268
Facs/Fax: 021 – 4924666
Gréasán/Web: www.corkcity.ie

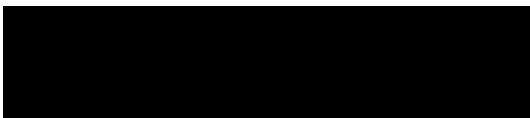
TO: Leevlan Limited
C/O Coakley O'Neill Town Planning Ltd.
NSC Campus
Mahon
Cork

RE/ **PLANNING AND DEVELOPMENT ACT 2000 (as amended)**
NOTIFICATION OF FINAL GRANT

Planning Register Number: 17/37660
Valid Application Receipt Date: 01/12/2017

In pursuance of the powers conferred upon them by the above mentioned Acts, Cork City Council have by Order dated 12/03/2018 **GRANTED PERMISSION** to the above named, for the development of land, namely:-
Permission is sought for a development. The proposed development will consist of modifications to the development permitted under Reg. Ref. 16/37224 and include (Protected Structures Ref Nos. PS822 and PS823) at: 93-95 South Mall, 17-18 Parnell Square, and Beasley Street, Cork **subject to the 5 conditions set out in the schedule attached to said order.**

Signed on behalf of Cork City Council



p.p.

Administrative Officer
Strategic Planning & Economic Development Directorate

DATE: 19/04/2018



Ordnance Survey Ireland (OS)

Date Source / Reference:
 OSN
 Revision Date =
 Survey Date = 31-Dec-1938
 Licensed Date = 31-Dec-1938

City Extent / Area of Interest (AOI):
 ULLIY= 564304.6777,509285.3276
 ULLIY= 571314.6777,509285.3276
 ULLIY= 564304.6777,574459.3276
 ULLIY= 571314.6777,574459.3276

Projection / Spatial Reference:
 WGS84-UK-TM2000-Mercator

Centre Point Coordinates:
 XY = 567809.6777,571882.3276

Date Extraction Date:
 25-Jul-2024

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Ordnance Survey Ireland, 2024

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CLIENT NAME: DALATA PLC PROJECT NAME: MALDRON CORK DRAWING TITLE: SITE LOCATION MAP STATUS: FOR INFORMATION DRAWN BY: AL, CHECKED BY: AL, DATE DRAWN: 25/07/24 SCALE(S): 1:1000 @ A3			PROJECT NO: 5634 DRAWING NO: P-001 REV:		
REVISION	DATE	DESCRIPTION	REVISION	DATE	DESCRIPTION

DOUGLAS WALLACE

0.333471 St. G. 225 0.28 0.437 P-001-4

1:1000 @ A3

1:1000 @ A3

1
31012

Ground Floor Plan, plan as Proposed
Scale: 1:200 @ A3



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