



An
Bord
Pleanála

Inspector's Report PL29S.247548

Development	Demolish building and erect mixed use building constructing retail/offices and 6 apartments with balconies.
Location	27, Carman's Hall, Dublin 8
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3362/16
Applicant(s)	Salamisso Developments Ltd.,
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	James Leahy
Observer(s)	None
Date of Site Inspection	7 th of February 2017
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject site is located in The Liberties in Dublin 8. It is situated on the north side of Carman's Hall, c.20m from the junction with Meath Street to the west, and c.10m from the junction with Ash Street to the east. The proposed development lies in the grounds of No.27 Carman's Hall. A two storey dwelling occupies the eastern portion of the site, and this appears to be no longer occupied. This is located within the site boundary with a blank gable presented to the street. The site is enclosed by a palisade fence, and the remainder of the site is hard surfaced with the exception of a wooden shed in the corner.
- 1.2. Carman's Hall is characterised by two and three storey residential properties. To the east the site abuts two storey houses, to the north there is an open yard which was the subject of a recent planning application. To the west the site is bounded by two storey period structures fronting Meath Street, which are currently boarded up; this site has also been the subject of a recent planning application. Therefore, the site appears as an infill development site with site frontage to Carman's Hall. Architecturally there is a mixture of older and more modern properties in the area. While Carman's Hall is predominantly residential, Meath Street is a relatively busy mixed use commercial area and the area is part of the Liberties.

2.0 Proposed Development

- 2.1. This is to consist of the following:
- a) The demolition of existing two-storey multi-dwelling building of 147sq.m.
 - b) The construction of a four-storey mixed-use building to contain three retail/café/medical consulting/local office units at ground floor level (total 205sq.m), with six apartments (three x 1-bed and three x 2 bed units) and 526sq.m of office accommodation on the upper floors. Private balconies are provided to each apartment on the south/street facing façade, along with a communal roof terrace; cycle parking and refuse stores are located to the rear at ground level; along with all associated site works.

The application form provides that the total site area is 476sq.m and the total area of proposed new build is 1,331sq.m. The non-residential floor area is to be 766sq.m. The proposed plot ratio is 2.79 and the proposed site coverage is 85%.

A Site Layout Plan, Floor Plans and Elevations have been submitted showing the existing and proposed development. These plans also show the outline of Reg.Ref.3103/16 relative to the proposed elevations on the adjacent site to the north.

Horan Rainsford Architects have submitted a 'Development and Planning Assessment' with the subject application. This includes that this planning application is for a mixed use development, including the provision of three apartments and a café/restaurant unit.

Drainage Information has been submitted by Roger Cagney Chartered Engineers.

Table 1.1 provides a breakdown of the proposed floor areas:

Floor	Use	Area (m2)	Total Floor Area
Ground Floor	Mixed Commercial	205	205
First Floor	Office	178	322
	Residential	144	
Second Floor	Office	178	318
	Residential	140	
Third Floor	Office	170	310
	Residential	140	
Fourth Floor	Communal Terrace	134	134
Total	Total Floor Area	1289	1289

A Schedule of Floor Areas has also been provided by Horan Rainsford Architects which includes a breakdown of room sizes and private amenity space in the apartments.

3.0 Planning Authority Decision

3.1. Decision

On the 14th of October 2016 Dublin City Council granted permission for the proposed development subject to 19no. conditions. Many of these relate to construction, waste management and infrastructural issues. The following are of note relative to design issues:

- Condition no.5 relates to external finishes.
- Condition no.6 relates to obscure glazing of west facing office bathroom windows.
- Condition no.7 provides that any signage proposed for the retail units and café at ground level shall be the subject of a separate planning application.
- Condition no.8 refers to the security shutters.
- Condition no.9 provides for the control of fumes and odours.
- Condition no.15 relates to archaeological monitoring.

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner has regard to the proposed development, the locational context of the site, planning history and policy and to the submissions made. They noted that the proposed development would be acceptable in principle under the zoning for the area. Also that the site is located within the area governed by the Liberties LAP and by the ACA. They considered that the scale and form of the proposed development with varying materials and undulation in the front façade would be acceptable. However, they were concerned that there are anomalies in the drawings submitted which would require clarification before a final assessment could be made. They recommended that Further Information be sought to include the following:

- Revised plans to be submitted indicating the proposed third floor plan and building elevation and to clarify the extent of the office footprint proposed.

- Clarification regarding whether the proposed café use is to include food preparation and to submit details of any extractor and ventilation system required.

3.2.2. Further Information response

Moran Rainsford Architects response includes the following:

- They have amended the discrepancies in the drawings to reflect the outline of the third floor plan. The total floor area remains as stated in the original submission documentation. They include model images, view from Carman's Hall and Material Elevation and South Elevation.
- While at present a tenant for the café has not been secured, the suggested location of the kitchen and café extract ventilation has been annotated on all relevant drawings and they provide details of the latter.

3.2.3. Planner's response

They had regard to the F.I including the revised drawings submitted. They note that the discrepancy in the drawings has been amended. Also that details for the ventilation duct and extraction for the café have been submitted. They considered that proposed development to be acceptable, would not give rise to excessive overlooking and that signage could be dealt with by way of a separate application. They recommended that permission be granted subject to conditions.

3.3. **Other Technical Reports**

3.3.1. Roads Streets & Traffic Department Road Planning Division

They note that there is no parking available or proposed. However, having regard to the city centre location and the availability of on-street parking in the immediate vicinity of the development there is no objection in this instance. They also note that it is envisaged that all servicing and deliveries will occur from the public road. They recommend a number of conditions.

3.3.2. Engineering Department Drainage Division

They do not object subject to recommended conditions.

3.3.3. City Archaeologist Report

This notes that the proposed development is within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City), and recommends a detailed condition on archaeology including monitoring.

3.4. **Third Party Observations**

Submissions from Third Parties include the following:

- Concerns regarding overshadowing.
- Overlooking from windows on the south west elevation and from the communal roof garden,
- The proposal will increase parking congestion in the area.
- Reference is made to the adjoining site at 58 Meath Street (Reg.Ref.2920/16 refers). There is concern that any works on or changes to the party wall will need to be agreed in advance.
- While the setting down in scale at the third floor is welcome, they have concerns about the potential use of an open roof terrace directly adjoining and looking over the property at 58 and 59 Meath Street.
- It is noted that a right of way and way-leave has been marked down the alley between nos.58 and 59 Meath Street from the proposed development.

4.0 **Planning History**

4.1.1. Subject site

- Reg.Ref.0276/16 – Social Housing Exemption Certificate (under Section 97 of the Planning and Development Act 2000 (as amended), granted to the current applicants Salamisso Developments Ltd relative to SHEC: Six apartment, offices & 3no. retail/café/medical consulting units at ground level.
- Reg.Ref.2913/06 – Permission was refused by the Council for a three storey building with retail at ground floor, office at first floor and two duplex apartments at first and second floor. The reason for refusal was:

The proposed development by virtue of its density on a restricted site, the congested nature of the development and the unacceptably low level of housing quality would be contrary to the provisions of the Liberties Coombe Integrated Area Plan and the 2005 Dublin City Development Plan. The proposal would therefore, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

4.1.2. Adjacent Sites

Reg.Ref.3103/16 – This was for the construction of 7 no.2 bed apartment units in a 3 to 4 storey detached building to the rear of existing commercial and residential building at 60-63 Meath Street with proposed access to the apartment development from Crosstick Alley, off Ash Street. This included cycle parking spaces at ground level and a roof terrace.

This development concerns the site immediately adjacent to the north and is currently a vacant site, which has been granted permission by the Council subject to conditions and an appeal was subsequently withdrawn (Ref.PL29S.247168 refers).

Reg.Ref.2920/16 – This concerns the pair of late Georgian properties at 58/59 Meath Street to the west, which have been subject to alterations in the past. This application is for a change of use of the first floor from disused storage area to residential as a one bed apartment to be accessed via the existing passageway (Flag Alley) between nos.58 and 59 Meath Street and for other works to this development including new shopfronts facing both Meath Street and Carman's Hall. The applicant is James Leahy (the Third Party is this case). Permission was granted by the Council subject to conditions.

Reg.Ref.2759/16 – Permission granted by the Council for a Change of use of ground floor retail to amusement arcade and alterations to shop front at The Bull Ring no.67-70 Meath Street. This appeal (PL29S.246925 refers) was recently refused by the Board. The reason for refusal included would result in an excessive concentration of similar uses on the street which would detract from the viability and vitality of the street for active retail uses. This site is located further to the north of and does not impact on the subject site.

Copies of these decisions are included in the History Appendix to this Report.

5.0 Policy Context

5.1. Development Plan

Under the Dublin City Development Plan 2016 – 2022, the site is shown as located both within an area that is zoned Z1(residential) wherein the objective is “To protect, provide and improve residential amenities and Z4 (district centres), wherein the objective is “To provide for and improve mixed services facilities”, Under Z4, residential and mixed use commercial are permissible uses. The site is also shown within the Liberties ACA and as lying within The Liberties Strategic Development Regeneration Area (SRDA 16) – Section 15.1.1.19 refers.

The site is in an ACA, Section 11.1.5.4 has regard to preservation and enhancement of Architectural Conservation Areas & Conservation Areas. Section 11.1.5.6 provides: *New development should have a positive impact on local character. In seeking exemplary design standards, the planning authority will require development in Conservation Areas to take opportunities to enhance the area where they arise.*

Heritage Objective CHCO19 seeks: *To promote the Liberties as an area of historical, archaeological, industrial and cultural heritage in Dublin City through authentic exhibits, improving access to cultural heritage sites and fostering engagement through community archaeology and heritage projects.*

As per Section 2.2.8.1 the life of the Liberties LAP has been extended to 2020.

5.2. The Liberties Local Area Plan

The Objectives of this Plan includes to recognise the unique role the Liberties play in Dublin’s character and to ensure its regeneration safeguards a strong sense of community identity and heritage. It also seeks to promote the principles of good urban design including improving connectivity and enhancing legibility and permeability of the Liberties in relation to the wider cityscape. The application site is within the Meath Street Area of the Liberties/Coombe character area. The LAP seeks to ensure that the individual character of different areas of the Liberties are protected and enhanced by contemporary and high quality design of new buildings.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A Third Party Appeal has been received from James Leahy (who is the applicant on the adjoining site to the west facing Meath Street, Reg.Ref.2920/16 refers).

It is provided that this appeal is made on two grounds:

- Concerns regarding the Boundary wall issue – revised drawings should be submitted showing an amended position of the proposed building edge where it adjoins the boundary with his property. He encloses an expert report on his title deeds from Declan P. Walsh and Co Chartered Building Surveyor, which establishes that this wall is either entirely in his ownership or is the party wall.
- Concern about the positioning of windows facing west towards Meath Street at the South West corner of the proposed building – these windows should be omitted. Otherwise a planning condition should stipulate that the development not extend beyond the adjacent building line and be recessed from the line of the party wall a reasonable distance so as not to impede the redevelopment potential of his adjoining property at 58 Meath Street.

6.2. Applicant Response

6.2.1. There is no response from the First Party

6.3. Planning Authority Response

6.3.1. There is no response from the Planning Authority.

7.0 Assessment

7.1. Principle of Development and Planning Policy

7.1.1. As shown on Map E of the DCDP 2016-2022 the site is within two different land-use zonings. The eastern part of the site which contains the existing house is within the Z1 residential zoning where the objective is: *To protect, provide and improve residential amenities.* The majority of the site is within the Z4 District Centre zoning

where the objective is: *To provide for and improve mixed-services facilities*. It is noted that the proposed residential is shown primarily within the eastern part of the site i.e. within the Z1 zoning. Therefore, the proposed uses which include residential and mixed use are acceptable in principle in these land use zonings.

- 7.1.2. The application site is also within an ACA. Architectural Conservation Areas and Conservation Areas have been designated in recognition of their special interest or unique historic and architectural character and important contribution to the heritage of the city. Therefore, it is important that the proposed development does not detract from the visual appearance of the ACA or the Liberties Character Area.
- 7.1.3. There is an existing redbrick more modern 2-storey structure on the site containing 3no. residential units. It is provided that the 2 units at ground floor level are well below minimum standards for dwelling units. There is no defined amenity space and the building now appears unoccupied and is within the development site surrounded by the palisade fence. There is no objection to the proposal for the demolition of this structure, which does little to contribute to the overall visual impact of the site in the context of the surrounding area. In this respect regard is had to section 11.1.5.8 of the DCDP 2016-2022 i.e. *Not all structures within an Architectural Conservation Area contribute to the special interest and the re-development of structures agreed to make a negative contribution to the character of the area will often offer an opportunity for beneficial change which will improve the local area, as set out in the Architectural Conservation Area policy*. It is considered that currently this site presents a more derelict vista surrounded by palisade fencing and high walls. It is seen that the site has development potential and it is important that any new redevelopment presents a more positive vista and enhancement of the streetscape in the ACA.
- 7.1.4. Regard is had to the design and layout of the proposed development, the proposed mixed usage and the impact on neighbouring properties and the character of the streetscape in the ACA. These issues and those raised in the Third Party appeal including relative to the boundary wall and encroachment issue and overlooking are discussed further in the context of this Assessment below.

7.2. Regard to the Proposed Development

- 7.2.1. This proposal is for a mixed scheme, containing an almost equal mix of office and apartments with three retail/café/local office units at ground floor level. The plans submitted provide for the construction of a four storey mixed-use building to contain 3no. retail units at ground floor (205sq.m) and 6no. apartments (3no. 1 bed and 3no. 2 bed units) and 526sq.m of office accommodation on the upper floors. It is provided on the application form that the total gross building area proposed is 1,331sq.m. With a Site area of 476sq.m, this equates to a plot ratio of 2.79. The total proposed area is made up of 565sq.m of residential (42% of the total), 205sq.m for the café/retail units (over 15%), with offices making up the balance (c.40%).
- 7.2.2. The floor plans indicate almost total site coverage i.e. 85%. Section 16.6 of the DCDP 2016-2022 provides indicative site coverage of 45 -60% in the Z1 zoning and up to 80% in the Z4 zoning. Section 16.5 of the DCDP provides the recommended standards for plot ratios, this includes that the indicative plot ratio in the Zone 1 and 4 areas should not exceed 2.0. Therefore, it is noted that the current proposal at 2.79 would exceed this ratio, although it is noted that this section provides that a higher plot ratio maybe permitted in certain circumstances, which includes comprehensive redevelopment in areas in need of urban renewal.
- 7.2.3. The floor plans show that 6no. apartments are to be provided: i.e. 1no. 1bed apartment and 1no.2 bed apartment on each of the first, second and third floors. Section 16.10.1 of the DCDP 2016-2022 provides: *The standards for apartment developments are set out in the Department of Environment, Community and Local Government guidelines entitled Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2015), (www.environ.ie), hereafter referred to as the 2015 Department Guidelines.* These provide that the minimum floor area for a 1 bed apartment is 45sq.m and for a 2 bed apartment is 73sqm. All apartments are designed to meet or exceed the minimum space requirements as stipulated. A schedule of floor areas has been submitted, which includes 57sq.m for the one bed apartments and 83- 87sq.m for the two bed apartments. Private balconies are to be provided to each apartment on the south/Carman Street facing façade, along with a communal roof terrace. The latter is to be landscaped and accessed by the lift and stair core. No public open space is to

be provided. The apartments are to be provided within the eastern part of the building much of which is within the residential Z1 land use zoning and adjacent to existing residential.

- 7.2.4. The First Party provide that while the area is dominated by residential use there is also a demand for offices accommodation. They note that the applicants have recently undertaken the successful conversion of upper-floor store rooms on Meath Street into offices (Reg.Ref.2301/15 refers). It is provided that the current proposal would allow the flexibility for multiple lets on a floor by floor basis or to a single tenant. This also notes that the floor plates are relatively shallow, offering good quality, bright office accommodation, whilst preventing overlooking to the rear.
- 7.2.5. The Development and Planning Assessment submitted with the application provides that in order to promote a lively street frontage, which is desirable in this area, it is proposed to provide flexible retail-led space at ground floor level. This includes that the unit at the Meath Street end of the site is most likely to be occupied by a café i.e the façade has been set back from the street frontage, creating an overhang above which coupled with the south and west aspect, will offer a pleasant street-front café environment. It is also noted that it is proposed to set back one of the ground floor units back approx. 1.7m which will increase the width of the footpath to approx. 4m at this location. There is no objection to this set back, which is to provide some space outside of the proposed the café use and some continuity with the corner set back of no. 58 Meath Street. It is proposed to overhang this setback for the other retail units and at upper floors.
- 7.2.6. In response to the Council's F.I clarification request, it is provided that at present a tenant has not been located but a suggested location of the kitchen and café extract ventilation has been annotated on the relevant drawings. The other two ground floor units will allow for flexibility of use, with permission sought for use as retail, medical consulting or local offices e.g. solicitor or accountant etc. It is recommended that if the Board decide to permit that it be conditioned that the use of these units be agreed in writing with the Council prior to their commencement of use.
- 7.2.7. The material finishes are proposed to be of a high standard, primarily in brick but finished with, contemporary detailing. As shown on the elevations submitted two different bricks are to be used to differentiate between the office and residential

elements, which it is considered will be beneficial to break up the visual mass of the building. It is recommended that if the Board decides to permit that a condition be included regarding the use of quality material finishes.

7.3. Regard to Impact on adjoining properties

- 7.3.1. It is noted that this is an infill site with frontage onto Carman's Hall. However, it adjoins other sites that are earmarked for development and it is considered important that it does not restrict the development potential of these sites. The Third Party is concerned about the windows facing towards Meath Street at the South West corner of the proposed building. He is concerned that these corner windows would extend to the full depth of his front wall onto Carman's Hall and impact negatively on his ability to develop his property on the existing building line. He submits that either the corner windows be omitted or that they be obliged by a planning condition not to extend beyond the adjacent building line, and be recessed from the party wall a reasonable distance so as not to impede the redevelopment potential of his adjoining property at no.58 Meath Street.
- 7.3.2. It is noted that revised drawings were submitted in the First Party response to the Council's request for further information. These were to amend the discrepancies in the drawings to reflect the outline of the third floor plan. They provided that the total floor area is to remain as stated in the original submission documents. It is noted that condition no.6 of the Council's permission provides in the interest of orderly development and visual amenity: *The west facing bathroom windows of the office block shall be permanently glazed with obscure glass on each floor.* It is also recommended that if the Board decide to permit this condition be amended to include the omission of the south west facing side windows of the office development.
- 7.3.3. Regard is also had to the impact of the proposed eastern elevation on the two storey residential properties fronting Ash Street. The layout shows that the subject development will be adjoining the boundary with no.29 Ash Street. This has a blank elevation facing the site. The proposed eastern elevation shows that while the building will be two stories higher than this residential property, it will be pulled back so that it does not extend the width of their side garden area. This is considered important as to extend further would result in loss of light and being overbearing for

the rear of this property. It is also noted that as a design feature the proposed bedroom windows are shown angled and the hallway windows on the northern elevation are to be obscure glazed to prevent overlooking of the adjoining site to the north.

7.4. Regard to Height issue

- 7.4.1. As noted in the Planning History Section above (Reg.Ref.3103/16), the site to the north has a recent permission for the construction of 7no. apartment units in a 3/4 storey building to the rear of the existing commercial and residential building at 60-63 Meath Street with proposed access to the apartment development from Crosstick Alley, off Ash Street. The Southern elevation of that proposal faces the site. The outline of this building is shown superimposed relative to the current plans for the proposed northern elevation and on Proposed North Elevation and Section AA and Section BB. This application was recently the subject of an appeal to the Board and was subsequently withdrawn (PL29S.247168 refers). Condition no.19 of the Council's permission provides some restrictions on the scale of this development, reducing the number of apartments and omitting the proposed third floor apartment.
- 7.4.2. It is of note that the subject building is shown higher than that outlined for this adjoining site. As shown on the sections and elevations submitted the height and bulk of the proposed apartment block will be higher than that of the buildings in the immediate surrounding area although there are some higher buildings in the vicinity. The plans show that the highest part is to be c.15.25m, with the bulk of the proposed building at in excess of 13m in height. While it complies with the height policies in the DCDP 2016-2022, the need to protect the character of the ACA is noted. In this respect Policy CHC4 seeks: *To protect the special interest and character of all Dublin's Conservation Areas (11.1.5.4). Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*
- 7.4.3. There is a mixture of more traditional two storey and more modern three storey residential development in this area. There is three storey residential development facing on the opposite side of Carman's Hall. There is some 4 storey mixed use on Meath Street which appears as more of a mixed use commercial area than the

residential Carman's Hall, although it is noted that the western part of the subject site is within the Z4 zoning. The rear of the apartment block to the north west is 3 to 4 stories in height. It is also noted that a communal roof garden is to be included on top of the Third Floor. This is considered to be an important amenity for the residents in the apartment development and it is provided that it will be screened by a 1.8m wall to prevent overlooking to adjoining properties.

- 7.4.4. In the context of the character of this area of the ACA, surrounding development in Carman's Hall and the adjacent two storey residential development in Ash Street, it is considered preferable that the proposed building block in this location be reduced to three storey in height. This would be more in character with the more modern three storey residential opposite the site and further to the east fronting Carmen's Hall. This would also reduce the plot ratio which as noted above at 2.79 is greater than that recommended in the Indicative Plot Ratio Standards in Section 16.5 for the Z1 and Z4 land-use zoning. Also there is some concern that the four storey elevation facing the development plot to the north (Reg.Ref.3103/16 relates) will be excessive and will restrict the redevelopment potential of this site. It will also appear more dominant in the streetscape when seen from Gray Street, above the period two storey properties at nos.58/59 Meath Street. In order to facilitate the proposed design of the building, in particular the recessed element on the third floor, it is recommended that if the Board decide to permit that it be conditioned that the first or second floor be omitted.

7.5. **Regard to the Boundary wall issue**

- 7.5.1. The Site Layout Plan submitted shows the extent of the application site marked in red. It also shows a wayleave area marked out in yellow. The southern part of the site facing Carman's Hall is currently bounded by a palisade fence. There is a high block wall along the northern and western site boundaries. There is a gated access to the site via the adjoining site to the west 58/59 Meath St, but this does not appear to be in use.
- 7.5.2. The Third Party Appellant's site is to the west of and adjoins the subject site. As referred to in the Planning History Section above there has been a recent planning permission for development on this site (Reg.Ref.2920/16 refers). His concern is that the existing boundary wall between the subject site and his holding at nos.58 -59

Meath Street, is to be demolished and the space on which it stands entirely absorbed into the proposed redevelopment. An expert report is provided on his title deeds, which he provides establishes that this wall is either entirely in his ownership, or is a party wall. It is provided that a modern concrete block boundary wall has been constructed on the line of and extending up from the earlier masonry boundary wall. Regard is had to the history relative to the title deeds of this site. Details are included relative to Findings on Comparison of Site Survey against Deed Maps. Also, that the boundary line separating the subject property nos.58 &59 Meath Street from no.27 Carmen's Hall is immediately to the east of the concrete block boundary wall that has been constructed over the line of the original masonry wall. It is provided that this would imply that the concrete block boundary wall constructed on the line of the original masonry wall forms part of property nos.58 and 59 Meath Street. Appendix 1 of this Report includes a Copy of an O.S.I map with property nos.58 & 59 showing the wall outlined in green. The boundary between this property and the adjoining property no.27 Carman's Hall is highlighted in red. Photographs including an aerial view are also included showing this wall. It is noted that the current plans for the subject site appear to include this wall within the site area shown red.

- 7.5.3. Having regard to these issues, it is noted that the Third Party is concerned about demolition of this boundary wall and the issue of encroachment. It is of note that this issue is a civil matter and I do not propose to adjudicate on this. I note here the provisions of S.34(13) of the Planning and Development Act: "A person shall not be entitled solely by reason of a permission under this section to carry out any development". Under Section 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts..."

7.6. Impact on the Character and Amenities of the Area

- 7.6.1. As has been noted in the Planning History Section above, there are a number of developments proposed or permitted in the area, which have yet to be constructed. It is provided in the Development & Planning Assessment submitted with the application that the scale and bulk of the building has been carefully considered so

as to achieve a harmonious relationship with adjoining properties, to fit in well with its surroundings, but also anticipates likely future development of adjoining properties.

- 7.6.2. To the east is a small corner site which contains a single 2 storey dwelling house. This house is an anomaly on the Carman's Hall as it is the only building along the whole length of the street that is set back from the pavement edge. It is noted that the proposed building will be set c.3m further forward of this residential property and reduce the wider width of the footpath. However, it is contended that generally there is a long established trend that all buildings in this area be hard on the pavement line. They consider that the site to the west maybe redeveloped in the future but that notwithstanding this, the second and third floor levels have been set back somewhat to respect the scale of the house, and the rear building line respects the rear wall of the house.
- 7.6.3. They provide that cognisance has also been taken of the private dwellings fronting onto Ash Street. Their private back yards are small (when not built over), and the proposal has been designed to minimise any impact on them. There are no windows serving habitable accommodation provided on the north façade. As noted above these have been angled to prevent overlooking and the hallway windows are shown obscure glazed.
- 7.6.4. The First Party contend that the proposed development will enhance the streetscape of Carman's Hall by completing the existing urban building line, which has long been broken by this largely derelict site. Also that it will create a vibrant ground floor level through the insertion of a café and retail units, employ a character building, with suitable window proportions, reflective of the inner-city residential setting and use high quality materials which will complement the commercial and residential nature of the site.
- 7.6.5. While all these matters are taken into account it is considered that the proposed scale and height of the development with a higher plot ratio and site coverage relative to the land-use zoning of the area will appear considerably greater in scale and bulk than proximate two and three storey buildings in Carman's Hall. Regard must also be had to the height issue and to the impact on the development potential of adjoining sites. As noted in the Height Section above it is recommended in the interests of the visual amenity and character of this part of the Liberties in the ACA

and the residential amenities of the area that the height of the proposed development be reduced to three stories.

7.7. **Archaeological issues**

- 7.7.1. The City Archaeologist Report notes that the proposed development is within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City), which is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. Further the site in question is located within a Zone of Archaeological interest in the DCDP 2011-2017. They recommend a detailed condition including the submission of a Method Statement and having regard to archaeological monitoring. It is noted that the Council included such a condition and it is recommended that if the Board decide to permit that an archaeological condition be included.

7.8. **Access and Car-Parking**

- 7.8.1. As shown on Map J the subject site is within Zone 1 Parking area. Section 16.38 of the DCDP 2016-2022 relates to the car parking standards in the city area. This includes: *Given the high accessibility by public transport to Zone 1 there shall be no minimum requirement for car parking in that zone.*
- 7.8.2. A variety of uses are proposed at ground floor level, each of which has a different car parking standard. It is provided that 6no carparking spaces would be required i.e one per unit for the proposed residential development, and 1 for the offices (i.e.1 space per 400sq.m GFA (Gross floor area) and one for the retail (i.e 1 space per 1 per 350sq.m GFA). The café would not require an allocated space in the Zone 1 area.
- 7.8.3. Given the city centre location, and the very limited size of the site, it is not intended to provide any car-parking. Table 16.2 of the DCDP provides the Cycle Parking Standards. Bicycle parking is provided to the rear at ground level, with separate areas of residential and office occupants (10no. cycle parking spaces for the apartments, 8no. for offices). These spaces are to be provided in 2 separate areas.
- 7.8.4. Separate refuse stores are provided for each of the users. Refuse collections will be undertaken by companies operating in the area, either via bins or 'bag and tag' basis. All servicing, deliveries and waste collection, would be handled through the

front of the building, with store rooms located along the rear boundary wall. It is considered that the refuse area needs to be enclosed and secure in that it is to be provided adjacent to the rear wall of no.29 Ash Street.

- 7.8.5. While there may be some parking overspill from the proposed development, regard is had to its central location and proximity to transport links. It is noted that while there is some on-street parking in the area, the Council's Roads Street & Traffic Department notes that there is no entitlement to on-street residential parking permits in this zone. However, they do not object to the proposed development including the non-provision of onsite car parking in this instance. Having regard to the locational context it is considered that the lack of on-site parking is acceptable in this case.

7.9. **Drainage issues**

- 7.9.1. A Site Services Report has been submitted with this application. This provides details of foul water drainage and notes that it is proposed to connect to the existing combined sewer running parallel to the front façade of the site on Carman's Hall. Details of Foul Water Calculations are given in Table 2 of the Report. It is provided that the design of the foul water drainage has been based on current standards and guidelines.
- 7.9.2. It is proposed that surface water runoff be to a water harvesting unit and details are given of this. It is provided that strict separation of surface water will be imposed on the development. Also that the surface water drainage system is designed with reference to SUDs. Surface water runoff calculations are included in Appendix A.
- 7.9.3. The site is currently serviced by a connection to the existing water main. Appendix C - Irish Water Records has regard to the existing cast iron water main to the front of the proposed development. It is proposed to provide an additional four no. connections to water mains to allow for a mains connection for the office units; for the residential units (to be split and separately metered by the management company and to provide separate supplies for the ground floor commercial units. Regard is had to this in the Drainage Layout drawings in Appendix E.
- 7.9.4. It is of note that the Council's Engineering Department Drainage Division does not object to this proposal subject to recommended conditions including the

incorporation of SUDs in the management of stormwater. It is recommended that if the Board decide to permit that a drainage condition be included.

7.10. Appropriate Assessment

- 7.10.1. The site is not located within or near to a Natura 2000 site. It is a fully serviced urban site. The current proposal is for the development of this site and so it poses no appropriate assessment issues. Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the documentation submitted, to the submissions made, to the Assessment above and to my site visit, it is recommended that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions in the Dublin City Development Plan 2016-2022 and the residential and mixed use land use zoning, to the location of the subject site within the Architectural Conservation Area and the Liberties Local Plan Area , and to the existing pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of properties in the vicinity, would not detract from the character of the Architectural Conservation Area, would not be detrimental to the character and amenity of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further

plans and particulars submitted on the 19th day of September 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:-
 - a) The overall height of the proposed development shall be reduced i.e. it shall drop by one floor. In order to preserve the concept of the proposed set back, the first or second floor of the proposed development shall be omitted.
 - b) The west facing bathroom windows on the office block shall be permanently obscure glazed and the proposed side windows on the south west elevation shall be omitted.
 - c) The proposed roof top communal terrace shall be bounded on all sides by a 1.8m high wall.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of proper development, as the height of the proposed block, is considered to be visually obtrusive and unacceptable within the streetscape and in the context of the Architectural Conservation Area, and to ensure that unacceptable overlooking would not occur.

3. Details of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

4. The uses of the ground floor service/retail units including new signage shall be subject to a separate planning permission.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

5. Details for the effective control of fumes and odours from the café premises shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

6. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site or any adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

8. Water supply and drainage arrangements including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground within the site.

Reason: In the interest of visual and residential amenity.

10. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

11. A plan containing details for the management of waste and recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and recyclable materials, in the interest of protecting the environment.

12. Site development and building works shall be carried out only between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 14.00 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities of adjoining properties.

13. a) Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

b) This shall include a detailed method statement to mitigate potential nuisance including noise and dust. The statement shall outline how it is proposed to prevent spillage or deposits of clay, rubble or other debris on adjoining roads during construction.

Reason: In the interests of sustainable waste management and to mitigate potential construction nuisance.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

15. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory provision of services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Angela Brereton
Planning Inspector

10th of February 2017