



An
Bord
Pleanála

Inspector's Report ABP-300529-17

Development

Amendments to permitted development (4214/16) including a) the construction of 1 no. three bedroom unit of 112m² to fourth floor level only, with private balcony of 41 sqm and b) reduction in area of the communal terrace at fourth floor by 3 sqm.

Location

27, Carman's Hall, Dublin 8

Planning Authority

Dublin City Council Sth

Planning Authority Reg. Ref.

3986/17

Applicant

Carman Development Ltd.

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant

Carman Development Ltd.

Observer(s)

None

Date of Site Inspection

15th of March 2018.

Inspector

Karen Hamilton

1.0 Site Location and Description

1.1. The subject site is located on the north side of Carmen's Lane which radiate east from Meath Street in The Liberties, Dublin 8. The site has a four storey building currently under construction and nearing completion as per granted permission Reg Ref 4214/16 for a mixed use scheme which comprises commercial on the ground floor and 12 no. apartments on the upper three floors. The building directly adjoins a row of two storey dwellings along the east of the site, Ash Street, and there is an apartment development to the rear at the north and North West.

2.0 Proposed Development

2.1. The proposed development would comprise of:

- Amendments to permitted development (Reg Ref 4214/16) for the construction of 1 no three bedroom unit of 112m² to the fourth floor only, with private balcony 41m²,
- Reduction of communal terrace at fourth floor by 3m².

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for the following reason:

Having regard to planning history on the subject site and its immediate vicinity, the prevailing height of structures on Carmans Hall, the location of the subject site within the Thomas Street and Environs Architectural Conservation Area, the proposed development by reason of its scale and massing of five storeys on a street of predominantly two storey and three storey structures, would be visually obtrusive and would result in a loss of grain and character of this portion of the street contrary to the provisions of the Thomas Street and Environs Architectural Conservation Area. The additional 3 bedroom apartment at fourth floor would overlook, overbear and overshadow development sites to the rear of Meath Street. Therefore, the

proposed development would be seriously injurious to residential amenity and would be visually obtrusive contrary to the proposed planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and may be summarised below:

- Section 7.2 of the Liberties LAP allows for significant development sites at Vicar Street and the corner of Francis Street and Carmans Lane is designated as 4 to 5 storeys in height.
- Section 6.2.8 (new build) guidance for the ACA requires the surrounding area and streetscape to be considered.
- The prevailing height of the area is 2 to 3 storeys.
- A current application on the adjoining site at No 58 and 59 Meath Street, to raise the height of the approved structure (Reg Ref 3985/17) from five storeys to six storeys has been requested to reduce the height in a further information request.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to conditions.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

None received.

4.0 Planning History

Reg Ref 3797/17

Permission granted for amendments to permitted development (4214/16) to include an additional floor area of 45m² to the south/ front of café/ retail unit; and 7m² to local office unit and revised shop fronts/ elevation treatments to ground floor level only.

Reg Ref 2217/17

Permission refused for the existing site and the adjoining site to the west, No 58-59 Meath Street, for alterations to 4214/16 including a new 6 storey mixed use building that will amalgamate with the permitted 4 storey development under 4214/16. The proposal includes a) demolition of 2 no. 2 storey derelict terraced buildings at 58 and 59 Meath Street (232m²), b) construction of a 6 storey mixed -use building to contain 1 no. retail / commercial unit at ground level (total 317m²); with apartments (9 x 2-bed and 3 x1-bed units) on the upper floors.

Two reasons for refusal included the scale of the building along Meath Street with 6 storeys along a predominantly 3 storey street space and the amalgamation of two historical plots and the unknown impact on the cultural heritage of the site, namely the demolition of Dutch Billy/ Gable fronted structure (left) and set piece.

Reg Ref 4214/16

Permission granted for the demolition of an existing two storey multi-dwelling building of 147 m² and the construction of a four-storey mixed-use building to contain two retail/café/medical consulting/local office unit at ground level (total 231 m²); with twelve apartments (6 x 1-bed and 6 x 2-bed units) on the upper floors. Private balconies are provided to each apartment on the south/street-facing facade, 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.

PL29S.247548 (Reg Ref 3362/16)

Permission granted for the demolition of a building and erection of a mixed use building comprising of retail/ offices and 6 apartments with balconies.

Condition No 2 required the third floor to be reduced in area by removing c. 3.8m from the eastern end, the omission of Unit 6 and the enlargement of unit 5 to form a 2 bed unit.

Adjoining site to the west, No 58-59 Meath Street

Reg Ref 3985/17

Current application with Dublin City Council for the partial demolition of existing structures and construction of a six-storey building of 1033m², to contain: a) A retail unit at ground level (150m²), amalgamating the ground floor retail unit at 27 Carman's Hall (currently under construction - reg. 4214/16 applies) to create a retail unit of total 360m²; and b) 9 apartments on the upper floors (8x two beds and 1 x one bed) and c) a private balcony to each apartment and a communal terrace at fifth floor of 51m².

Further Information request 2 (i) is requesting the reduction from 6 storeys to 5 storeys.

Site to the rear, north of the appeal site at the rear of No 60-63 Meath Street.

Reg Ref 3103/16

Permission granted for the construction of 7 no. 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. The accommodation will consist of 7 no. 2 bed units. All apartments will have corner balconies. 18 no. cycle parking spaces will be provided at ground level and a roof terrace is also proposed.

Condition no 19 required the omission of the third floor apartment and the omission of the second floor north facing apartment, reduction in the number of apartments to 5 in total, omission of proposed balconies on all upper floors and the set back of the southern elevation boundary by a minimum of 1m. The planners report noted the location of the development adjacent to balconies of existing apartment developments and to the west of existing two storey dwellings.

5.0 Policy Context

- 5.1. Architectural Heritage Guidelines for Planning Authorities, 2004. Development guidelines for Protected Structures and Areas of Architectural Conservation.
- 5.2. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018).

5.3. **Dublin City Development Plan 2016-2022.**

The majority of the site is zoned as **Z4 City Centre** where is it an objective “*To provide for an improve mixed use facilities*” , part of the site adjoining Ash Street dwelling is zoned as **Z1 Residential**, where it is an objective “ *To protect, provide and improve residential amenities.*”

The site is located within the Strategic Development and Regeneration Area (**SDRA**) **16, Liberties and Newmarket Square** there is no specific height strategy within Section 15.1.1.19 of the development plan to restrict heights.

The Liberties Local Area Plan (extended until 2020)

Section 5.1.4 Liberties/ the Coombe

- Building heights are generally 1 to 3 storeys.
- New infill development should relate to the heights of adjacent buildings.

Section 6.5.3 Height Strategy

- Site is not included with any specific redevelopment site or height restriction.

Section 16.7.2 Height Limits and Areas for Low-Rise, Mid- Rise and Taller Development

- Proposals for high buildings should be in accordance with the provisions of the relevant LAP/ SDRA.
- Plant, flues and lift overruns should not be included in the height of the building, as long as they are set back and properly screened and do not significantly add to the shadowing or otherwise of natural light beyond that of the main structure.
- Low Rise/ Outer City: 16m (commercial and residential) as a max height.
- Pre-existing height in the surrounding area may be used to justify additional height where impact is assessed.

The subject site is within an **Architectural Conservation Area**, Thomas Street and Environs ACA, therefore the following polices apply:

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Appendix 24: Protected Structures and Buildings in Conservation Areas.

Thomas Street and Environs ACA, 2009

Section 6.2.8 New Build should have regard to the grain and character of the adjacent buildings, including height, massing, proportions and plot width.

5.4. **Natural Heritage Designations**

None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are submitted by the applicant in relation to the decision of the planning authority to refuse permission and the issues raised may be summarised below:

- The site is located in Thomas Street ACA and the prevailing height of the immediate area is 4/5 storeys.
- The existing development already provides a pop up fifth storey element at the fourth floor which provides access to the communal roof garden.
- The height of the development will only be 0.8m higher than the existing.
- The site to the east (Reg. Ref 3985/17) currently has a further information request to reduce the height from 6 storeys to 5 storeys, therefore, the Dublin City clearly considers the height of a 5 storey acceptable in the vicinity.

- Student accommodation at Carmans Lane and Garden Lane (Reg Ref 2827/17) has permission for up to 6 storeys and is within Thomas St ACA.
- Section 2.24 of the draft updated guidelines for apartment's states there is a greater flexibility required to achieve increased apartment development in Irelands Cities.
- A recent refusal of apartment development by the Board in County Wicklow (PL27.248705) related to the car dependant nature of the development. The proposed development is a city centre site.
- The development has been designed to minimise any visual, obtrusiveness or overbearing impact with a set back and minimal increase of 0.8m.
- There would be no material increase in overshadowing on the subject site as the inner city is characterised by a dense shadow environment due to the high density, most overshadowing will come from the parent permission.
- There is only one window on the northern elevation, for a kitchen, which could cause overlooking although there are existing windows from the existing development which cause the same overlooking. The applicant would be happy with a high level window if the Board was concerned with the window.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development

- Impact on Visual Amenity and Built Heritage
- Impact on Residential Amenity
- Other
- Appropriate Assessment

Principle of development.

- 7.2. The current building on the site is a 4 storey mixed use development and the proposed development includes alterations to Reg Ref 4214/16 for a mixed use development including café/ retail on the ground floor and twelve apartments (6 x 1-bed and 6 x 2-bed units) on the upper floors, for an additional apartment. There is a 4 storey apartment development located directly to the North West and a 2 storey commercial building to the west fronting onto Carmans Lane.
- 7.3. Planning History: As stated above the current building is constructed under Reg. Ref 4214/16. A subsequent application was refused on the site (Reg Ref 2217/17) which included the amalgamation of the adjoining site to the west, No 58-59 Meath Street, for a 6 storey mixed use development for reasons of impact on the 3 storey street space the joining of historical plots. Prior to this refusal the Board permitted (PL29S.247548) a four storey mixed use development and Condition No 2 required the reduction of the third floor along the east of the site and permitted four storeys along the west, the subject of this application.
- 7.4. There is currently a planning application with Dublin City Council for a mixed use development (Reg Ref no 3985/17) on the adjoining site to the west, No 58-59 Meath Street, and the planning authority have issued a further information request requiring a reduction in height of the building from 6 to 5 storeys. The grounds of appeal consider this request is a clear justification for the acceptance of the principle for a 5 storey building at this location, although in the absence of any final decision I do not consider this proposal may be used as a precedent for similar developments. The proposed apartment is located along the western section of the fourth floor and I do not consider the proposal contradicts any conditions of previous permissions or prevent the development of sites in the surrounding area.

- 7.5. Development Plan compliance: The additional apartment on the fourth floor will increase the height of the building to c. 16m. Guidance for building heights in Dublin City is included in Section 16.7.2 of the development plan with a maximum height of 16m in low rise areas of the outer city. The Liberties LAP promotes the development of modern, high quality buildings for future generations and does not include specific restrictions on heights, each character area includes a height strategy for the promotion of mid-rise (15 - 60m) and tall buildings (60-150m) at specific locations. The site is located in the Liberties/ The Coombe character area and not included for any specific development strategy. Therefore, having regard to the height of the building and the guidance in the development plan in relation to low rise and mid-rise buildings, I consider proposal to be a low rise building and the proposed height complies with the guidance of the development plan and LAP for the area.
- 7.6. Residential Development Standards: The proposed development is required to adhere to the minimum standards for a apartments as set out the national guidelines, '*Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities (2018)*', the *Quality Housing for sustainable communities –Best Practice Guide for delivering Homes Sustaining Communities*' (DoEHLG, 2007) and Section 16.10.1 of the development plan. The proposed 3 bedroom apartment is c.112m² in size with a south facing balcony 41m² and the room sizes meet the minimum standards.
- 7.7. Therefore, based on the planning history on the site, the guidance for appropriate building heights and apartment development in the development plan and the size of the apartment, subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

Impact on Visual Amenity and Built Heritage

- 7.8. The proposed apartment is located along the west of the fourth floor and the height of the building will be c. 16m, inclusive of the apartment (additional 2.8m). The reason for refusal includes the impact of the scale and massing from the five storeys and the impact on Thomas Street and Environs ACA which would be visually obtrusive and would result in the loss of grain and character of this portion of the street. The grounds of appeal refer to the existing pop up element at the rear, in the centre of the building which provides access to the communal open space and states

that the proposed development will only be 0.8m higher than the highest part of the existing building.

- 7.9. Section 16.7.2 of the development plan refers to the building height and states that cognisance should be given to the pre-existing heights in the surrounding area. The apartment development to the north east is 4 storeys in height. The Liberties LAP includes an in-depth analysis of the characteristics of the area and provides a height strategy for new development and whilst the site is not included in an area designated for a high rise building there are no restrictions or specific design criteria for the subject site. In addition to the above information on heights, Policy CHC4 and the national guidance "*Architectural Heritage Guidelines for Planning Authorities, 2004*" includes guidance for appropriate development within ACAs. In relation to height there are no restrictions although regard is to be given to the character and distinctiveness of the area when assessing the impact on the ACA. Section 16.2.8 of the Thomas Street ACA appraisal states that new build shall respect the characteristics of the adjoining buildings. The current new building, is surrounded to the north east and west by other modern buildings and the site to the west is the subject of a separate planning application.
- 7.10. The precedent for four storeys in the area has been established by the current development on the subject site and those apartment developments to the north west of the site. The two storey building, to the west, on the corner of Carmans Lane and Meath St, has planning history including a refusal for a six storey development and current application for further information request. The views towards the site are restricted by its location as a tight urban site fronting onto Carmans lane and I do not consider an additional storey set back 2.8m from the edge of the building line will be have a significant negative visual impact on the surrounding area or the streetscape along Carmans Lane or the overall ACA. I consider the pop up to the rear, which provides access to the communal space on the fourth floor, has established a precedent for an additional floor, when viewed from the rear, north, the apartment will not be visible from the surrounding area. The external materials include a fibre cement façade panel, different from the brick detail on the current façade, although I consider acceptable to ensure the apartment is distinguishable from the main building, setback from the edge of the building line and compliments the modern appearance of the building.

7.11. Having regard to the location of the site, the height of the buildings in the vicinity, the existing access to the fourth floor, the planning history on the site to the north and the design of the apartment I do not consider the proposal would have a significant negative visual impact on the area and in turn not have a negative impact on the character and setting of Thomas Street ACA.

Impact on Residential Amenity

7.12. The site faces a row of two storey terrace dwellings to the south of the site, on the opposite side of Carmans Lane and there is a four storey apartment block along the south east facing onto Meath Street. The reason for refusal states that an additional three bedroom apartment at the fourth floor would overlook, overbear and overshadow development sites to the rear of Meath Street.

7.13. Overlooking: The proposed apartment includes one kitchen window to the rear, north, and balcony along the street side, to the south, in keeping with the existing permitted apartments. The grounds of appeal state that the applicant is prepared to redesign the kitchen window as a high level window in any grant of permission should the Board require. There are no balconies or windows along the south of the apartment development to the rear of the site, therefore there will be no overlooking from the proposed kitchen window. The existing balconies along the front of the site, south, face towards a row of two storey dwellings on the opposite side of Carmans Lane and having regard to the location of the existing balconies and the height of the proposed apartment on the fifth floor above these dwellings, I do not consider there will be any significant increase in overlooking.

7.14. Overshadowing: A shadow projection drawing accompanied the grounds of appeal to illustrate the potential for overshadowing from the permitted development during Spring Equinox which illustrates overshadowing along the north of the site. The grounds of appeal state that the additional apartment will not cause any additional overshadowing on the surrounding area, which I consider reasonable. Therefore, having regard to the height of the existing dwelling and the orientation of the site I do not consider the proposed development will cause any significant overshadowing on the surrounding area.

- 7.15. Overbearing: The visual impact on the surrounding area has been addressed above and having regard to the location of the apartment along the west of the fourth floor, directly adjacent to the pop up element for access to the communal garden, I do not consider there would be any significant overbearing on the surrounding area.
- 7.16. Open Space: The proposed development includes the reduction of the communal open space on the fourth floor by 3m² (133m²). Appendix 1 of '*Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities (2018)*', includes a requirement for 73m² communal amenity space, in addition to the private balconies. Having regard to the size of the balconies for each apartment and the remaining communal open space, I do not consider the reduction of space or provision of the additional apartment would have a significant negative impact on the amenity of the residents of the remaining apartments.
- 7.17. Having regard to the existing permitted apartment development, the orientation of the site and overall design of the apartment, I do not consider the proposed development would have a negative impact on the amenity of the residents of those properties in the vicinity.

Other

- 7.18. The site is 0.04ha, there are currently 12 apartments granted. A Social Housing Exemption Certificate was granted for the proposed development, which I consider reasonable, therefore I do not consider Part V is applicable to the proposed development.

Appropriate Assessment

- 7.19. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development 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. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to;

- a) the Z5 City Centre and the Z1 Residential zoning in the Dublin City Development Plan and the policies and objectives, in particular Section 16.7.2 Building Heights,
- b) the height strategy in The Liberties LAP,
- c) the planning history on the site and immediate surrounding area,
- d) the location of the site within the Thomas Street Architectural Conservation Area,
- e) and the pattern of development in the vicinity;

It is considered that the proposed development would not seriously injure the residential or visual amenity of the area or be detrimental to the character and setting of Thomas Street and Environs Architectural Conservation Area. 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 received by An Bord Pleanála, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the

terms and conditions of the permission granted under, planning register reference number 4214/16, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. 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

Karen Hamilton
Planning Inspector

27th of March 2018