



An
Bord
Pleanála

Inspector's Report

ABP-305927-19

Development	Partial demolition and change of use from existing building to shop and extension of remaining structure to provide for shop
Location	Site of c. 0.1629ha on lands at the former Alasta Motors site, at Bath Avenue Place near the junction at South Lotts Road, Ringsend, Dublin 4, D04 DH94.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3068/19
Applicant(s)	Alasta Co Ownership.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeals	Third Party
Appellants	RGDATA Gordon Chase Green Design Build

Observers Killian Stokes and Derek Mary Dent
Beggars Bush Business Community
Theresa & Gerard Ryan
Calum Clissmann
Colm and Catherine Lennon
Senator Kevin Humphreys.

Date of Site Inspection 10th February 2020.

Inspector Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.16ha is located to the east of Bath Avenue Place close to its junction with South Lotts Road in Ringsend, Dublin 4. Bath Avenue Place is a short street running north from Bath Avenue to South Lotts Road. The appeal site comprises a walled yard occupied by a single storey warehouse type building. The site is enclosed to the north, east and south by residential properties and was most recently occupied by Alasta Motors Mechanics and used as for car servicing. The site is bounded to the south by the rear of properties No's 16-20A Bath Avenue, to the north by No 11 South Lotts Road, to the east by rear of properties no's 1,3,5 and 7 Margaret Place. Access and egress from the site is provided to the north eastern corner. The site also incorporates an area to the northwest of the former garage site adjoining 12 Bath Avenue Place comprising vacant land in the ownership of Dublin City Council.
- 1.2. The surrounding area is predominantly residential while *The Old Spot* pub is located on the southern corner of Bath Avenue Place facing onto Bath Avenue. *Lotts and Co* Shop and delicatessen is located to the rear of the houses on the western side of Bath Avenue Place and faces South Lotts Road.
- 1.3. Bath Avenue Place is a narrow one-way southbound street with footpaths on both sides and which narrows to a 2.5m pinch point created by three car parking spaces adjacent to the appeal site. The DART rail line runs within 30m to the south west of the site with height restricted bridges under the rail line at Bath Avenue and South Lotts Road. The overhead wirescape on Bath Avenue Place is visually prominent as it traverses the public road at a number of points.

2.0 Proposed Development

- 2.1. The proposed development involves the refurbishment and extension of the existing warehouse building on the site to accommodate a neighbourhood shop. The proposal will provide a total GFA of 888sq.m and 626 sq.m of retail floorspace. Public notices submitted describe the detail of the proposal as follows:
 - The partial demolition and change of use of the existing building to shop and

- The extension of the remaining structure to provide for a shop with ancillary licensed area (not to exceed 10% of the retail area). The proposed shop will have a gross floor area of 888 sq.m and a net retail area of 626 sq.m
- The relocation of 2 no on street car parking spaces to the south along Bath Avenue Place;
- Landscaped area to existing pedestrianised island opposite the Alasta Motors Site, and
- All associated signage, landscaping, bicycle parking, roof plant and site development works to support the proposed development.

2.2 As the proposal includes lands in the control of Dublin City Council the application is accompanied by letter of consent from City Engineer with regard to the making of the application.

2.3 In response to request for additional information amendments to the proposal included relocation of the plant internally to the eastern side of the building resulting in a slight reduction in retail floor area and omission of plant at roof level. (Retail area 608sq.m)

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 21 October 2019 Dublin City Council issued notification of its decision to grant permission subject to 16 conditions including the following of particular note:

- Condition 2 Development Contribution €17,738.62 in accordance with the Development Contribution Scheme.
- Condition 3. The 3 no 6m high pole lights indicated on the northern boundary on Drawing E-(6)01 Site Lighting Layout, do not form part of the application and shall be permanently omitted from the scheme.

- Condition 4. The access laneways around the perimeter of the building shall be kept clear at all times and shall not be used for the storage of goods / waste or any similar ancillary use.
- Condition 5. The PIR lighting control system shall not be fitted with a motion activated alarm or noise.
- Condition 6. Noise minimisation plan for deliveries. No deliveries before 7am and after 8pm. Noise limits.
- Condition 7. Drainage.
- Condition 8, Construction Management Plan. Servicing Management Plan.
- Condition 9. Compliance with codes of practice. Drainage Transport Noise and Air Pollution.
- Condition 10 & 11. Site and building works hours and maintenance of roadways.
- Condition 12 & 13. Signage and advertising.
- Condition 15. Construction Demolition Waste Management Plan.
- Condition 15. Waste.
- Condition 16. No additional plant at roof level.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Initial Planning Report notes concern with regard to potential for impact on residential amenity arising from noise and disturbance. A request for additional information sought a number of items including a noise assessment with regard to mechanical plant, lighting proposals, servicing management plan, and a construction management plan. The request also encouraged the option of use of smaller servicing vehicles in light of the traffic constraints. Emergency vehicle access to be demonstrated with relocated spaces along Bath Avenue Place.

3.2.1.2 Final report concludes that specific mitigation can ensure no undue impact on residential amenity. Strict adherence to conditions will be required given the sensitivity of the site. Permission was recommended subject to conditions.

3.2.2. Other Technical Reports

3.2.2.1 Engineering Department Drainage Division report. No objection subject to compliance with Greater Dublin Regional Code of Practice for Drainage works Version 6.0. Drainage design on separate system. Incorporation of SUDS measures.

3.2.2.2 Transportation Planning Division initial report – Additional information required relating to servicing management plan including details of frequency type and quantum of delivery vehicles. Due to negative impact on public realm option of smaller vehicle servicing to be considered. Emergency vehicle access with relocated car spaces along Bath Avenue Place. Preliminary construction management plan to be submitted. Detailed construction management plan to be prepared.

Second report deems the proposed service access arrangements to be acceptable subject to conditions relating to the relocation of the combined ESB and public lighting column, on street car parking and agreement on works to the public realm. Service Management Plan to be put in place by store operator.

3.2.2.3 Environmental Health Report. Noise after 9pm may cause disturbance to nearest residences. Operational noise survey within 3 months. Mitigation measures to control noise from plant.

3.3. Prescribed Bodies

3.3.1 Iarnród Eireann submission notes the height restricted bridges under the railway at Bath Avenue and South Lotts Road. Traffic management plan to address this.

3.4. Third Party Observations

3.4.1 A number of third party submissions object to the proposed development raising common concerns summarised as follows:

- Parking & Traffic – Proposal will exacerbate existing congestion and unauthorised parking and result in traffic hazard.
- Access to rear lane of 13-37 South Lotts Road to be maintained. Established rights of way to be maintained.
- Negative impact on residential amenity arising from noise disturbance, litter and other nuisance.
- Over intensification of development on the site.
- Impact on character of the area.
- Articulated truck deliveries including reversing movements will give rise to safety hazard.
- Contest assertion that there is under provision of retail in the area. Excessive number of off licenses.
- Anti-social behaviour
- Scale and design out of character.
- Proposal is a destination shop rather than local shop.
- Waste
- Strain on local wastewater infrastructure. Clay pipe network for foul water.
- Information insufficient.
- Visibility of advertising hoarding display on gable of 12 Bath Avenue to be maintained.
- Visual impact of noise attenuating structure.
- Lack of local consultation.
- Impact of multinational on local business.

- Conflict with Development Plan zoning objectives and plans for south docklands.
- Potential site contamination. Asbestos roof.
- Pluvial flooding.
- Proposal will not deliver on zoning objectives will have negative impact on neighbourhood facilities and result in loss of more appropriate development for the site.
- Construction impacts.

3.4.2 One third party submission is supportive of the application. Proposal is welcome and well considered. External materials and finish should be subject to agreement.

4.0 Planning History

PL29S240425. Permission granted for development comprising alteration of vehicular access and new signage. The proposed works will include removal of existing gates and boundary wall, the formation of a wider vehicular entrance, the erection of a 2.9m high gates and railings and construction of 3.2m high flanking boundary walls. Works also to incorporate the erection of the railings of two internally illuminated signs 2.2m high by 1.4m wide and other associated contingent works.

5.0 Policy Context

5.1 Retail Planning Guidelines for Planning Authorities Department of Environment Community and Local Government. April 2012.

5.1.1 The Retail Planning Guidelines 2012 forms the basis of the national planning policy framework for developments of a retail nature. The guidelines have 5 key policy objectives;

Ensuring that retail development is plan led;

- Promoting city/town centre vitality through a sequential approach to development;

- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel Strategy; and
- Delivering quality urban design outcomes.

Notably the distinction between discount stores and other convenience goods stores which was contained in the 2005 Retail Planning Guidelines will no longer apply.

5.1.2 At 4.11.6 Local Retail Units. *“Local retail units such as corner shops or shops located in local or neighbourhood centres serving local residential districts perform an important function in urban areas. Where a planning authority can substantiate the local importance of such units in defined local centres, they should safeguard them in development plans, through appropriate land-use zoning. Development management decisions should support the provision of such units, particularly where they encompass both food-stores and important non-food outlets such as retail pharmacies, and have significant social and economic functions in improving access to local facilities especially for the elderly and persons with mobility impairments, families with small children, and those without access to private transport.”*

5.2 Design Manual for Urban Roads and Streets 2013. DMURS

5.3 Development Plan

5.3.1 The Dublin City Development Plan 2016-2022 refers. The site is zoned Z1 to protect, provide and improve residential amenities. Shop (local) is permitted in principle in this zone. A small proportion of the lands to the southern boundary of the site are zoned Z2 which seeks *“to protect and / or improve the amenities of conservation areas.”* A portion of the lands to the west are zoned Z3 *“to protect and / or improve neighbourhood facilities.”*

5.3.2 Appendix 3 of the Development Plan Comprises the Retail Strategy Table 2 entitled

“Retail Outlet Types, Related Floorspace Information and Key Documents” references the Retail Strategy for the Greater Dublin Area 2008-2016. Local Shop is defined as a shop with 500-1,500 sq.m range of lettable space which is typically is part of the retail focus for surrounding residential areas.

5.3.3 The site is within the boundary of the Strategic Development and Regeneration Area 6 as set out in Map K. The designation provides for the continued physical and social regeneration of this part of the city, consolidating the area as a vibrant economic, cultural and amenity quarter of the city, whilst also nurturing sustainable neighbourhoods and communities.

5.4 Natural Heritage Designations

None

5.5 EIA Screening

5.5.1 Having regard to the limited nature of the proposed development and to the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6 The Appeals

6.1 There are a total of five third party appeals from the following:

- RGDATA.
- Gordon Chase, 12 Bath Avenue Place.
- Marston Planning Consultancy on behalf of Green Design Build, 142 Upper Leeson Street.
- Killian Stokes and Derek Mary Dent, Residents of South Lotts Road.
- Beggars Bush Business Community.

6.2 The various grounds of appeal raise a number of common issues which, in the interest of avoiding duplication, I have summarised as follows:

- Proposal is for discount supermarket not a neighbourhood shop. Proposed shop will attract car borne shoppers from a wide catchment.
- Catchment is already well serviced with a total of 16 no convenience stores located within 1.2km radius of the site.
- Proposal will result in exacerbation of traffic congestion and illegal parking issues.
- Deliveries by articulated trucks will pose a significant traffic hazard.
- Negative impact on neighbourhood amenity.
- Landscaping of pedestrian island will impede views of established advertising hoarding on gable end of No 12 Bath Avenue Place.
- Decision provides for key issues to be addressed by condition depriving third party participation
- Proposed supermarket on Z1 lands is excessive and would undermine the immediately adjoining Z3 zoning contrary to the retail strategy of the City Council and Dublin City Development Plan 2016-2022.
- Lack of Flood Risk Assessment.
- Traffic and transport assessment required.
- Works to the public realm. Loss of public open space without proper planning and public participation contrary to the Your City Your Space Public Realm Strategy and Your City Your Space Public Realm Implementation Plan

- Scale of the proposed supermarket is excessive in terms of what can reasonably be interpreted as a local shop.
- Non-conforming nature of existing use should not be viewed as precedent for scale of proposal.
- Negative impact on residential amenity most significantly on no 5 and no 7 Margaret Place within a residential conservation area as well as no 11 South Lotts Road which will be left with virtually no sunlight on completion of the development at Spring and Autumn equinox. Extension of the structure will have significant impact on residential and visual amenity as result of overshadowing.
- Closest bus stop on Haddington Road is at least 800m from the site while Grand Canal Station is 500m from the site. Walking distances not considered feasible.
- Section 2.2 of the Traffic and Transport Assessment Guidelines PE-PDV-02045 (May 2014) states that when a proposed development meets two or more of the sub threshold criteria outlined in Table 2.3 of the document, a TTA should be requested by the local authority. There are clear criteria for TTA and in the absence of same the application is deficient.
- Harmon McCartney Engineers provide an alternative swept path analysis which demonstrates that it is not possible for an Dennis Sabre Fire Tender measuring 2.43m in width to access the proposed development via Bath Avenue Place without a certain collision with parked cars. The fire tender would have to mount the footpath resulting in severe threat to residents pedestrian cyclists and children as a consequence.
- Servicing represents a fundamental part of the application and it is not appropriate that this be addressed by way of condition.
- Floor plan submitted with further information response demonstrates an articulated truck measuring 16.5m wide in the servicing bay. Overall design should be

amended to ensure that the development can never be serviced by an articulated vehicle.

- Beggars Bush area is characterised by established residential development, thriving local business and strong sense of local community within a consolidated urban area. Proposed development fails to protect the integrity vibrancy and viability of the area
- Evidence provided by the applicant in relation to existing retail provision fails to justify need. The unique circumstances of the planning application should have required further assessment in terms of retail impact such as sequential test or retail impact assessment.

6.4 Applicant Response

6.1.1 The First Party response to the appeals is submitted by John Spain Associates. It also includes a number of enclosures including a Shadow Analysis by JSA Architects, and a response to the appeal by Molony Millar, Consulting Civil and Structural Engineers relating to traffic and access and secondly a flood risk assessment. The submission is summarised as follows:

- A number of the appellants are competitors.
- Appellants have erroneously identified the development as an Aldi discount store. The scale and size is significantly smaller than a discount food storey (typically 1,800 to 2.600sq.m gross). There is currently no operator and the proposal is for local shop not destination for weekly shop. (880sq.m gross 608sq.m net.)
- Proposed retail use on the site is complementary to the adjacent Z3 lands which currently provide a limited range and offer (Europsar, public house pharmacy Lotts & Co.)
- Change of use to shop may be considered exempt in any event, notwithstanding the proposed use and associated works subject of the application.
- Proposal will deliver on the overall zoning objective and provide for an improvement with the replacement of the existing non-conforming use which would be comparable to a light industrial use in terms of noise and activity.

- Unnecessary to carry out Retail impact assessment for a small local shop. Sequential tests are for larger retail development outside the retail core of towns or cities.
- Key element of the design has been to limit potential impact on surrounding residential amenities.
- Shadowing exercise by JSA architects shows limited impact of the extension on properties in the vicinity. Some additional shadowing to the rear amenity spaces of 5 & 7 Margaret Place. Amenity spaces would achieve at least two hours of sunshine on 21st March in Accordance with BRE Guidelines.
- No anticipated additional car will be trips generated.
- Molony Millar exercises demonstrate that the relocated car parking space at 2.4mx6m DMURS parallel parking and emergency vehicles can access without mounting the kerbs.
- During discussion with Dublin City Council it was identified by the Traffic and Transport Division that the Council currently exploring options to upgrade public realm in the wider area and this would be subject to agreement with the City Council. Public consultation would typically be the standard approach.
- Regarding concern of Mr Gordon Chase in respect of hoarding planning permission for this hoarding is not clear. Detail of public realm will take into account the local environment with view to creating a welcoming place.
- Flood risk assessment carried out by Molony Millar Consulting Engineers submitted with response conforms low risk of flooding.
- Signage details are unknown given no current operator. Location has been identified and the proposal provides a palette of materials sympathetic to the design.

6.5 Planning Authority Response

6.2.1 The Planning Authority did not respond to the grounds of appeal.

6.6 Observations

6.3.1 Observations are submitted by a number of local residents and interested parties:

- Theresa Ryan & Gerard Ryan 18d South Lotts Road,
- Colum Clissmann 19 Hastings Street,
- Colm & Catherine Lennon 17 South Lotts Road.
- Senator Kevin Humphreys.

6.3.2 The observers express support for the third party appeals and reiterate objection to the development on basis of :

- Traffic and Parking concerns.
- Need for shop has not been justified.
- Contrary to zoning objective.
- Traffic and Transport Assessment required.
- Congestion and noise.
- Loss of public open space for community good.
- Safety and Emergency vehicle access.
- Antisocial behaviour and noise disturbance.

6.7 Further Responses

6.4.1 Response of Beggars Bush Business Community to the response of the first party to the appeals is summarised as follows:

- Board should dismiss comments regarding potential use of planning system to prevent /delay competition. Grounds of appeal are planning based and entirely legitimate.

- Response fails to address issue of threat arising from Dennis Sabre Fire Tender measuring 2.543m in width accessing the development via Bath Avenue Place without collision with 2 relocated car space.
- Exempted development provision does not bear relevance to formal planning application and as the previous use is for servicing not sale therefore change of use in accordance with said exempted development provisions would not be applicable.
- Proposal is not compliance with Z1 land use zoning.
- Proposal is not consistent with typical description of level 5 'local corner shop',
- Loading bay is still designed to accommodate articulated servicing vehicles. This issue is not addressed in the response nor has response has not addressed need for Traffic and Transport Assessment.
- All servicing vehicles have to reverse from Bath Avenue Place and mount a pedestrian footpath to access the servicing bay with store manager being required to navigate every vehicle. The proposal is impractical in a densely populated residential area.
- Applicant failed to address the correct measurements at Bath Avenue Place as set out in survey by Precision Surveys which inform revised swept path analysis by Harmon McCartney Engineers. Applicant's layout fails to indicate location of 2 ESB public lighting columns. Fire tender will have to mount public footpath potentially collide with ESB public lighting column resulting in severe risk to residents, pedestrians, cyclists and children.

6.4.2 Response submission of Mr Gordon Chase is summarised as follows:

- Reassurance is required regarding non-interference with views to advertising hoarding.
- Categorisation as a neighbourhood centre supermarket.
- Maintain the contention that the development is contrary to zoning objective.
- Submission in response to appeals does not substantively address many of detailed objections on traffic grounds. No substantive new information on servicing.
- Maintain contention that reliance on agreement in terms of conditions subverts the planning process and deprives interested parties.

7 Assessment

7.4 From my review of the file, all relevant documents and inspection of the site and its environs and having regard to national and local policies relating to retail development, I consider that the main issues for consideration may be considered under the following broad headings:

Principle of Development. Zoning Considerations, Retail Impact

Impact on Residential Amenity

Design, Layout and Presentation to the Public Realm

Traffic and Parking

Flooding

Appropriate Assessment

7.2 Principle of Development

7.2.1 The site is zoned Z1 which seeks *“to protect, provide and improve residential amenities”*. Shop (local) is a permissible use within this zoning. I note reference within the Dublin City Development Plan Retail Strategy (Appendix 3) a local shop is defined as meeting the basic day-to-day needs of surrounding residents. “Typically, they comprise one or two small convenience stores or a newsagent, butcher, greengrocer or a public house. The retail element in total ranges approximately from 500-1,500 of lettable space.” The proposal provides for a shop of 888 sq.m (Retail space 608sq.m) which, while larger than many of the established local shops in the vicinity falls within the definition of local shop. The retail planning guidelines define supermarket as single level, self-service store selling mainly food, with a net retail floorspace of less than 2,500 sq.m.

7.2.2 In relation to the question of justification for this additional retail unit I note the Planning Report by John Spain Associates asserts that the area is generally poorly

served for convenience retail needs. The submission notes that the nearest comparable stores are located over ten minutes walking distance from the site. It is asserted that there would not be any significant impact on the retail offer in the immediate vicinity which is smaller in scale.

7.2.3 I note the concerns expressed by third party appellants which question the need for an additional convenience retail unit at this location and consideration that the proposal will impact negatively on the adjacent neighbourhood centre. The appellants also argue that a detailed a retail impact assessment and sequential test should be carried out. I consider that given the scale of the proposed retail unit a retail impact assessment is not required. I consider that based on the information provided on the appeal file the development is acceptable in terms of the quantum of floorspace proposed. I note that the relevant local policy documents and the retail planning guidelines 2012 provide that the planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation. On balance I consider that based on the details provided it has been demonstrated that there is sufficient capacity to support additional convenience provision and that the establishment of a new retail store at this location has the potential to enhance the potential for shared trips and improved retail offer provided in the adjacent Z3 Neighbourhood Centre. On this basis I consider that the proposed development could indeed have a positive impact on the vitality and viability of the existing neighbourhood centre.

7.3 Impact on established residential amenity.

7.3.1 The site is enclosed on three sides by residential properties and is located within a well-established residential area and to which Zoning objective Z1 “to protect provide and improve residential amenities” applies. The proposed development replaces an existing non-conforming use as car repair garage, which has its own negative impact in terms of traffic generation, noise, disturbance and other nuisance. However, the proposed retail use nevertheless in itself has the potential to give rise to negative

impact on residential amenity in terms of disturbance, noise impacts and nuisance. The third-party appellants also raise concerns with regard to traffic generation however given that the proposal does not provide additional car parking I am satisfied that the proposal will not give rise to significantly traffic generation.

- 7.3.2 On the issue of noise generation, the revisions to the proposal in response to the Council's request for additional information provide for a plant room within the building thereby mitigating potential noise impact from refrigeration units and other mechanical noise sources.
- 7.3.3 As regards operational noise, I note the intended opening hours of 07:00-23:00 Mon-Sat and 08:00-22:00 Sunday. I consider that subject to standard good management no significant operational noise or disturbance will arise. Given the central urban location servicing can be appropriately timed and managed without giving rise to any significant impact on established residential amenity.
- 7.3.4 On the issue of overshadowing of adjacent gardens, having regard to the scale of the development overshadowing is not significant.
- 7.3.5 As regards construction impacts, I note that given the proximity to numerous residential dwellings there will be some potential for disturbance to residential amenity however given the short-term duration and subject to appropriate best practice construction methods such impacts can be appropriately mitigated. On the matter of waste and potential contamination I consider that an appropriately designed waste management plan and construction and demolition management plan will mitigate issues arising.

7.4 Design Layout and Presentation to the Public Realm

- 7.4.1 As regards the proposed design the proposal provides for retention and reuse of the structural columns and pitched roof and the southern and eastern external walls and existing poured concrete floor. The flat roofed extension to Bath Avenue Place is to be removed in order to widen the footpath to 2m. The proposed structure is extended northwards into the existing car park and insulation and render added to the original walls. All site boundary walls are to be retained. The proposed finishes to the north and western elevations will be a combination of red coloured brick and black

aluminium. The east elevation consists of 6m bays to scale the building down. Southern and east elevations are proposed in render. I consider that the proposal improves the presentation of the building to the public realm. I note the benefits of the proposal in terms of providing or rejuvenation of a currently vacant site.

7.4.2 The proposed development incorporates the pedestrianised island to the west of the site and seeks to provide for a more welcoming urban space by landscaping treatment. It is proposed to raise the central portion of the island to accommodate seating with planting at the core/ raised area would be paved in. Bicycle parking is also proposed here. The third-party appellants are critical of inclusion of this area within the boundary of the site asserting that the proposal excludes third party participation. Objections are also raised in the appeal of Mr Gordon Chase with regard to the potential obstruction of views to advertising hoarding on the gable end of his property. I consider that the upgrade of this island would be a welcome gain and provides for improved accessibility and pedestrian movement in the area. Clearly to restrict landscaping within the public realm on the basis of protecting views to advertising structures, would not be in the interest of proper planning and sustainable development. The application was the subject of some pre-planning discussion with the local authority, and I consider that works to this public area will significantly improve the public realm and provide for wider benefit.

7.5 Traffic and Parking

7.5.1 The proposed development provides for the relocation of two existing (undersized) on street car parking spaces to provide for access for servicing of the store. Servicing proposals were outlined in response to the request for additional information involve one 40ft rigid truck per day, 3x20fr vans and a refuse truck 2/3 times a week. Drawing AT02- Autotracks shows a 40ft rigid vehicle reversing in from Bath Avenue Place and pulling out directly onto South Lotts Road. I note that the third-party appellants outline concern with regard to potential servicing by articulated vehicles. I note that as outlined in Planner's report the site is within the Dublin City Council HGV cordon area which bans 5+ axle vehicles from entering this area with the exception of vehicles with a valid permit. The report of Traffic section notes that

access arrangements for refuse truck will require relocation of the combined ESB and lighting column. The decision of the Council required liaison with utility provider and Dublin City Council regarding relocation / removal.

7.5.2 The submission by Harmon McCarthy Projects Ltd, on behalf of the Beggars Bush Business community provides a topographical survey by Precision Surveys and an alternative swept path analysis in respect of a Dennis Sabre Fire Tender LWB from South Lotts Road turning onto Bath Avenue Place and travelling southwards along Bath Avenue Place. It is submitted that provision of relocated parking spaces at 2.4mx 5m in compliance with DMURS, will result in a narrowing of the roadway requiring the fire engine to mount the footpath to avoid the parked car. ESB poles within the footpath provide further obstruction. On this basis it is contended that the proposal will result in an impassable bottleneck for Fire Engines. I have reviewed the survey drawings by precision surveys and acknowledge the restriction particularly at the pinch point in the vicinity of the southernmost parking space. I consider that it is appropriate that alterations to on street parking will be carried out by or on behalf of Dublin City Council. In light of the established urban location I consider that the promotion of a practical approach to the accommodation of servicing deliveries and parking without compromising the urban fabric of the streets is appropriate and in this regard the Design Manual for Urban Roads and Streets advocates a balanced approach.

7.5.3 Given that the proposed development does not provide for car parking I consider that the proposal will not give rise to significant traffic generation. Having considered the detail of the application, I consider that the proposal is acceptable from a traffic and transport perspective.

7.6 Flooding

7.6.1 The first party provided a site-specific flood risk assessment in response to the third-party appeal. The assessment compiled by Molony Millar Consulting Engineers notes location of the site in flood Zone B and the development would fall within the less vulnerable category of development in terms of the Flood Risk Management

Guidelines. The risk of pluvial flooding has been mitigated through the use of SuDS including an attenuation tank with a capacity of 48m³. This provides capacity for 1% AEP pluvial storm events with a 20% allowance for climate change. It is noted that there has been no evidence of flooding near the site since 1963 and all flood defence works on the Dodder are complete risks associated with the site have been mitigated.

7.7 Appropriate Assessment

7.7.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European Site, 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 Recommendation

8.1 Having regard to the foregoing I am satisfied that the proposed development is in accordance with the objectives of the Development Plan, will improve the public realm and I consider that there will be no undue impact on the amenities of the locality and the proposed development is acceptable from a traffic safety perspective. I recommend that the decision of Dublin City Council be upheld and permission granted for the reasons and considerations set out below and subject to the conditions attached.

Reasons and Considerations

Having regard to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would therefore be in accordance with the proper planning and sustainable development of the area.

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 the 24th day of September 2019, and by the further plans and particulars received by An Bord Pleanála on 17th December 2019 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: **In the interest of clarity.**

- 2 Details of the general appearance of finishes to the building, including details of signage, shuttering (which shall be internalised) and lighting shall be submitted to and agreed with the planning authority prior to the commencement of development. No other advertisement or advertisement structure including poster signs or flagpoles shall be erected or displayed on the building, within the site's curtilage or along the roadside unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity. In order to allow the planning authority to assess the impact of any such advertisement or structure on the amenities of the area.

- 3 The road works associated with the proposed development including the setting out of the entrance, relocation of on street car parking, paving and surface finishes shall be carried out and completed in accordance with the requirements of the planning authority.

Reason: In the interest of traffic safety and orderly development.

- 4 Prior to the commencement of development full details of works to the public road and public realm shall be agreed in writing with the Planning Authority. The applicant

/ developer shall liaise with the applicable utility provider with regard to the removal / relocation of electricity public lighting column adjacent to the site. All works shall be carried out at the applicant's / developer's expense.

Reason: In the interest of amenity and of traffic and pedestrian safety.

- 5 Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended, no items associated with refrigeration, ventilation or air conditioning shall be erected or placed on any external surface of the proposed structures without the prior written agreement of the Planning Authority. Details relating to any items associated with refrigeration, ventilation or air conditioning proposed on any external surface shall be submitted to and agreed with the planning authority and shall also indicate clearly precautions that is containment to avoid excessive noise or nuisance to adjoining properties.

Reason: In the interest of the amenity of the area.

- 6 The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

7. Water supply and drainage arrangements shall comply with the requirements of the Planning Authority for such works and services, and shall be agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interests of public health and to ensure a proper standard of development.

8. The 3 no 6m lighting poles indicated on Drawing E-(6-01) Site Lighting Layout do not form part of the permission and shall be permanently omitted from the scheme.

Reason: In the interest of residential amenity.

9. All service cables associated with the proposed development (such as electrical, television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of the visual amenities of the area.

- 10 All materials and goods shall be stored within the confines of the building.

Reason: In the interest of visual amenity.

11. (a) During the operational phase of the proposed development, the noise level from within the premises, measured at noise sensitive locations in the vicinity, shall not exceed -
- (i) an LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday (inclusive), [The T value shall be one hour.] and
- (ii) an LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.

[At no time shall the noise generated on site result in an increase in noise level of more than 10dB(A) above background levels at the boundary of the site]

- (b) All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R 1996, 1, 2 or 3, "Description and Measurement of Environmental Noise", as applicable.

Reason: To protect the amenities of properties in the vicinity of the site.

12. A waste management plan including the provision for the storage, separation and collection of all waste, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the permitted use.

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

13 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 hours of working, noise management measures and off-site disposal of construction / demolition waste.

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

14. 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.

Reason: In the interest of sustainable waste management.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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. The contribution shall be paid prior

to the 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 the Board to determine the proper application of the terms of the Scheme.

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

Bríd Maxwell
Planning Inspector

20 February 2020