



An
Bord
Pleanála

Inspector's Report

ABP-314353-22

Development	Demolition of structures, construction of 5 storey mixed use building and all associated site works.
Location	49-51 Pleasants Street, Pleasants House & 5 Pleasants Lane, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3457/22
Applicant	Red Rock Pleasants Street Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Kevin Powell Philip Elliott, Elliotts Cash and Carry
Observers	Philip O'Reilly Cllr Claire Byrne
Date of Site Inspection	8 th June 2023
Inspector	Margaret Commane

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	10
3.4. Third Party Observations	10
4.0 Planning History.....	11
5.0 Policy Context.....	16
5.1. Dublin City Development Plan 2016-2022	16
5.2. Dublin City Development Plan 2022-2028	16
5.3. National Planning Policy/Guidance	22
5.4. Natural Heritage Designations	24
5.5. EIA Screening	24
6.0 The Appeal	25
6.1. Grounds of Appeal	25
6.2. Applicant Response	26
6.3. Planning Authority Response	29
6.4. Observations	29
6.5. Further Responses.....	30
7.0 Assessment	32
8.0 Recommendation.....	53
9.0 Reasons and Considerations.....	53

10.0 Conditions 54

1.0 Site Location and Description

- 1.1. The area surrounding the site at No. 49-51 Pleasants Street, Pleasants House & 5 Pleasants Lane, Dublin 8, features a mix of residential, commercial, retail and community uses. There is a mix of two, three and four storey dwellings and buildings in the vicinity of the site in a variety of architectural styles. With regards to public transport, Camden Street Lower to the east of the site is served by Bus Routes No. 9, 14, 15, 15A, 15B, 15D, 16, 65, 65B, 68, 68A, 83, 83A, 122, 140 and 142 and the subject site is also proximate to the Green Line Luas (the Harcourt Luas Stop located 450 metres south-east).
- 1.2. The site comprises a 0.0744Ha slightly irregular shaped site (made up of 3 no. land parcels) on the northern side of Pleasants Street in Dublin 8. The site's southern, eastern and western boundaries are flanked by Pleasants Street, Pleasants Lane and a laneway known as O'Neills Buildings, respectively. The southernmost of the 3 land parcels, Nos. 49-51 Pleasants Street, currently contains a terrace of 3 no. 2-storey buildings with associated rear yards fronting Pleasants Street. These 3 no. buildings are currently occupied by café/restaurant units and a residential unit at upper floor level. There is a small car parking area on the south-western corner of this land parcel, to the side of No. 51 Pleasants Street. The central land parcel comprises Pleasants House which is a 3-storey office building with frontage to both Pleasants Lane and the laneway known as O'Neills Buildings. The northernmost land parcel, 5 Pleasants Lane, comprises a double storey vacant building (former dwelling) with associated rear yard fronting Pleasants Street.
- 1.3. The site is bounded to the north by the Camden Hotel (easternmost section of the northern boundary), which is a Protected Structure, and by a single storey shed and yard associated with Elliots Cash and Carry (westernmost section of the northern boundary). Elliots Cash and Carry's rear yard has a secondary access point off O'Neills Buildings. To the east, on the opposite side of Pleasants Lane, are the Camden Hotel; a rear access/service yard associated with No. 83 Camden Street Lower; No. 82 Pleasants Lane, which comprises a 2 storey building; and No. 48 Pleasants Street, which comprises a double storey vacant building (former dwelling) with associated rear yard. Rear access to No. 81 Camden Street Lower is also provided off Pleasants Lane, immediately south of No. 82 Pleasants Lane. The

buildings to the east of the subject site fronting Camden Street fall within the Camden Street Conservation Area, as identified in Zoning Map E of the Dublin City Development Plan 2022-2028. To the west, on the opposite side of the laneway known as O’Neills Buildings, is Olympic House, which comprises a part 3-part 4 storey mixed use building featuring office use fronting Pleasants Street and residential units to the rear of the site. To the south of the subject site, on the opposite side of Pleasants Street, are No. 41 Pleasants Street, which comprises a recently constructed 4-storey dwelling; No. 41A Pleasants Street, which comprises a double storey commercial building; the intersection of Pleasants Street and Pleasants Place; and The Courtyard residential development, which comprise a 3-storey apartment development.

2.0 Proposed Development

- 2.1. Planning permission was sought for: - demolition of existing structures on site (c. 973.4 sqm GFA) and construction of a five-storey over basement mixed use building (max. height 20.3 metres and c. 3,518sqm total GFA, including basement of 564 sqm), comprising of office (2,120sqm) and retail/café/restaurant (258sqm) uses, with setbacks at 2nd & 4th floor levels and all ancillary services and works to facilitate the development. The development would be served by 38 no. bicycle spaces and an electric scooter store at basement level accessed via bike lift.
- 2.2. The proposal was revised in response to a further information request. The revisions made resulted in the following amendments to the proposed development:
 - The adoption of a 2.7 metre set back from the western boundary on the upper most floor.
 - A reduction in the size of the roof level plant area/associated screening and incorporation of an alternate vented aluminium plant screen treatment.
 - An increase in the size of the ground floor retail/café/restaurant unit from 258sq.m to 336sq.m.
- 2.3. A summary of the key site statistics/details of the proposed development (as amended by a further information response) are provided in the table overleaf:

Site Area	0.0744Ha
Demolition Works	973sqm
Total Gross Floor Area	2,920sqm (excluding basement; 3,484sqm including basement)
Office Space	2,030sqm
Retail/Café/Restaurant Unit	336sqm
Bicycle Parking	38 no. at basement level (plus 7 no. electric scooter spaces at basement level).
Car Parking	0 no. spaces
Height	5 storey over basement (maximum 20.3 metres, 18.77 metres to the parapet)
Site Coverage	93.6%
Plot Ratio	3.92

- 2.4. The proposed development will be contemporary in design, adopt a flat roof and materials/finishes will consist of brick, aluminium curtain wall/windows/doors/panels and concrete band beams.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council granted planning permission subject to 15 no. conditions. These conditions are generally of a standardised format and relate to issues including surface water drainage, construction hours and development contributions/levies.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Initial Planners Report (4th May 2022)

- This is a revised application following on from a previous refusal (based on 3 no. reasons) for the demolition of all structures on site and for the construction

of a new 5 storey building with basement on the site which as has office use above ground floor and a café, restaurant, retail unit on the ground and basement level.

- In the context of the demolition of the buildings on site, the two buildings at Nos. 49-51 Pleasant's Street are not protected structures and are located just outside the Camden Street Conservation Area. While it is acknowledged that the buildings are modest and make a positive contribution to the streetscape, when viewed directly but given that they are set back from the road and in many instances not directly visible, it is considered reasonable to consider their demolition.
- The applicants propose a new building on the site. This will have a floor area of 3,518sqm giving a site coverage of 93% and will be 5 stories in height at 20.3m. The plot ratio is to be 1:3.96. The recommended plot ratio for Z4 land is 2, with a site coverage at 80%.
- The development has a maximum height of 5 stories (maximum of 20.3 metres). This has been reduced from the previous refused scheme at 7 stories. This reduction has significantly reduced the visual dominance of the building on the local environs, but the scale of the 4th floor is still a concern in relation to the visual dominance of it.
- The external finishes of the proposed development are to include clay brickwork which is to be buff coloured, with subtle variation in tone. Mortar will be used to accentuate the colour and texture of the buff clay brickwork. The glazing system for the windows doors and fenestration will comprise of powder coated aluminium to frame the external windows and doors. Smooth, fairfaced concrete band beams delineate the floor levels. At the intermediate floors, the concrete band beam is interrupted locally at the head of the curtain wall sections. The quality of the materials is considered to be acceptable and reflect the contemporary design of the building.
- The application included a Daylight and Sunlight Assessment Report which tested the levels of sunlight received in the surrounding properties (The Camden, 79-81 Camden Street Lower, The Courtyard, Olympic House, 46A Pleasant's Lane and Nos 46A and 82 Pleasant's Lane) as a result of the

proposed development being built. The Report shows that the building will have some impact on the neighbouring properties in relation to their access to sunlight and daylight, given the extent of development on the site.

- As part of this scheme the applicant has submitted 14 no. verified views of the existing context, the previously refused proposal and the proposed development. Of these, View 9 is of particular concern to the Planning Authority, from Pleasant Street showing the full length of the building and how its towers over the residential properties which are protected Structure and which are single storey over half basement. View 12 also shows the proposed development again extending over the houses on Heytesbury Street which are also protected and are single storey over half basement. The applicants have submitted a Townscape and Visual Impact Assessment which concludes that direct and permanent change will occur locally due to the development. The sensitivity of the site is considered high given the sensitive conservation designations that exist within the surrounding areas of the site. It is considered that the applicant should be requested to review the massing of the building to alleviate the visual dominance of it, which is of particular concern when viewed from further west of the site along Pleasant Street and Heytesbury Street.
- The revised application is now for office use in the first, second, third and fourth floor, amounting to 2,120sqm of floor space. The Z4 zoning allows for 600sqm of office space and only 1,200sq.m of office space as open for consideration. A report accompanying the application details demand in the Dublin 8 area for smaller floor plates of less than 929sqm similar to this. The Planning Authority note that the majority of the retail/café/restaurant use is in the basement with only 91sqm at ground floor level. The concern is that the site does not provide for a meaningful mix in the proportion of office to non-office use.

The report recommends a request for further information in respect of the following:

- Item 1: In response to concerns regarding the mass and scale of the development, the applicant was requested to review the massing of the proposed to alleviate the visual dominance of it which should also reduce the impacts on adjoining buildings in relation to daylight and sunlight.

- Item 2: The applicant was requested to review the extent of office floor provided to provide for more active uses on the ground floor given the zoning of the site.

Planners Report (25th July 2022)

The Planners report, dated 25th July 2022, recommends a grant of permission subject to conditions. The following provides a summary of the points raised:

- In the context of FI Item 1: - revisions were made to the proposed building to address concerns raised, including the adoption of a 2.7 metre set back from the western boundary on the upper most floor and a reduction in the size of the roof level plant area/associated screening and incorporation of an alternate vented aluminium plant screen treatment. The set back and reduction in plant reduce the visual impact of the proposal in the requested views as shown in the revised 3D Design Bureau imagery. The Planning Authority welcome these changes. The visibility of the development against the single storey villa style period terraced properties along Pleasant Street is high given their scale but it is considered and shown in the Supplementary Design Statement that the modifications made will help to reduce the prominence but not to the level that would significantly alleviate this. The Planning Authority is therefore of the view that while the development would be prominent from the west, the site can be considered as 'transitional' and given its proximity to Camden Street Lower which is considered inner city, the proposal as amended is considered to be reasonable. A revised Sunlight and Daylight Assessment was also submitted, which accounts for the reduction in massing and additionally sets out further contextual detail with respect to the predicted impacts arising from the proposed scheme on Olympic House.
- In the context of FI Item 2: - the applicant increased the quantum of retail/café/restaurant space at ground level through increasing the size of the unit from 258sq.m to 336sq.m. This has resulted in the reduction of the rear ground floor office from 156sq.m to 101sq.m. The site still exceeds the open for consideration office use but the applicant has provided examples of where this has been permitted in other sites. Having regard to the location of the unit, at the rear of the site, adjacent to the laneway which is used to service adjacent

sites, it is considered that the office use identified as unit A, is acceptable as it would not appear to be a suitable location for additional café/restaurant use.

- Overall, it is considered that the information submitted has addressed the further information request. It is considered that the proposed development, subject to conditions, can be accommodated on the site appropriately and will not detract from the residential or visual amenities of the area. Consequently, it is considered that the development accords with both the City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Transportation Planning (07/03/2022): No objection, subject to conditions.

Drainage Division (16/03/2022): No objection, subject to conditions.

Environmental Health Officer (06/04/2022): No objection, subject to conditions.

City Archaeologist (20/04/2022): No objection, subject to conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: No observations to make on the proposed development but asks that if the above application is successful a condition requiring payment of a Section 49 Levy (associated with Light Rail) be included, unless exempted.

3.4. Third Party Observations

9 third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

- Excessive scale and height.
- Impact on established character of the area, surrounding residential neighbourhood and adjacent area of conservation.
- Resultant loss of oldest surviving buildings in the area.
- Parking and traffic congestion.

- Pressure on existing utilities.
- Potential anti-social behaviour and flouting of rules.
- Overlooking/Loss of privacy.
- Restrictions on development potential on abutting properties.
- Buildability of the development given restrained nature of site.
- Loss of restaurant/café currently featuring on site.
- Incorporation of lane in the subject development.
- Office space in this location.
- Lack of housing within the development.

4.0 Planning History

4.1. Subject Site

4.1.1. The following previous application pertaining to the subject site are of relevance:

PA Reg. Ref. 2796/21

This application relates to an application for (in summary): - demolition of the existing structures on site and construction of a part seven / six / five / four storey (maximum height 23.4m) over basement building (c. 3,966.9sqm. total GFA including basement of c. 253.8sqm) with commercial/restaurant/café use (c. 155.2sq.m.), commercial storage (c. 37.7sqm) and residents amenity facilities (98.2sqm) at ground floor level and a “Build to Rent” residential development of 45 no. residential units at 1st to 6th floor levels (c. 2,128.9sqm).

Permission was refused by Dublin City Council on 8th July 2021 for the following reasons:

1. *Having regard to the location of the proposed development in close proximity to a number of protected structures and the Camden Street Conservation area, it is considered that a seven storey building at this location, due to its design, height, bulk, scale and mass, would visually dominate and harm the streetscape and would represent a visually discordant feature that would be detrimental to*

the character of this area. The proposal does not respond to its overall built environment and does not make a positive contribution to the urban neighbourhood and streetscape and would therefore be seriously injurious to the visual amenities of the area. The proposed development would, therefore, contravene materially the provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the location of the seven storey building in proximity to boundaries on both the east and west, with windows and balconies on these boundaries, it is considered that this could cause unacceptable levels of overlooking to adjoining properties and would appear overbearing when viewed from these properties, which would seriously injure their visual and residential amenities which would be contrary to the proper planning and sustainable development of the area.*
3. *Policy 16.10.17 of the Dublin City Council Development Plan 2016-2022 provides that 'the planning authority will actively seek the retention and re-use of buildings/structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.' The modest but architecturally characterful buildings at No.'s 49-51 Pleasant's Street make a positive contribution to the character, appearance and quality of the local streetscape. The demolition of these locally significant historic buildings would therefore contravene Policy 11.1.1.2 and 16.10.17 of the Dublin City Council Development Plan 2016-2022 and the construction of a new 5-7 storey building in their place would seriously injure the amenities of the wider area.*

4.2. Adjacent Sites

- 4.2.1. There has been a no. of recent applications on the sites adjacent to the subject site that are pertinent to the current proposal.

No. 12 Camden Row, Saint Kevin's, Dublin 8 (north-west of the subject site)

PA Reg. Ref. 3883/23

An application was received by Dublin City Council on 2nd June 2023 seeking permission for demolition of the existing building on site (c. 2,155.9 sq.m) and the construction of a 7 storey (over basement) hotel (total height c. 22.45 metres above ground level) with setback upper floor (including external terrace), providing 195 bedrooms with reception, gallery and restaurant, patio area and garden at the western elevation at ground floor level, cycle parking accessed from Camden Row, plant and staff facilities at basement and ground floor level, landscaping, waste storage area at the eastern elevation at ground level, alongside substation and switch room (accessed via undercroft from Camden Row), sedum green/ blue roof and all associated works to facilitate the development. The total gross floor area proposed is c. 5,511.1sqm including a c. 614.4sqm basement.

At the time of writing this report, a determination had not been made on this application.

No. 41 Pleasants Street, Dublin 8 (south-east of the subject site)

PA Reg. Ref. 2542/18 (Appeal Ref. ABP-302151-18) - parent permission

This application relates to an application for: - demolition, sympathetic reconstruction and extension of an existing derelict 3 storey building to provide a three bedroom mews dwelling, the works include the demolition and rebuilding of the front facade using like for like materials, including salvaged brick, a new roof and parapet, replacement sash windows, alterations to the ground floor facade, new windows and doors within the extended gable, a new 1st floor screened terrace to the side with a bin store below, demolition of an external WC and associated site works as a revision to previous planning approvals granted (Dublin City Council Planning Refs: 3030/16, 2778/10 & 2778/10x1) for alterations to a residential property.

Permission was granted by Dublin City Council in June 2018. Condition No. 3 of the Planning Authorities decision, pertaining to the first floor screened terrace and associated access stairs, was appealed to An Bord Pleanála by the first party (Appeal Ref. ABP-302151-18). The Board amended the applicable condition in December 2018.

PA Reg. Ref. 2157/20

Permission was granted by Dublin City Council in March 2020 for the following amendments to previously granted Reg. Ref. 2542/18/ABP Ref. ABP-302151-18: - a) Revised floor layouts to the ground, first, second and third floors; b) Revised roof profile and roof lights; c) Revised North (Front) and West (Side) elevations to include new fenestration locations, proposed escape hatches and the omission of the Zinc as proposed in the previously granted application; d) Revision to omit the external access stair and screened first floor terrace as per the condition within the An Bord Pleanala decision; and e) Landscaping to the side garden and all ancillary siteworks to facilitate the development.

4.3. Sites in the Vicinity

4.3.1. There has been one recent application in the vicinity of the subject site that is pertinent to the current proposal. This is summarised below.

The site of the former Dublin Institute of Technology / Technological University Dublin (TUD), Kevin Street Lower, Dublin 8 and 23 Liberty Lane, Dublin 8

PA Reg. Ref. 2682/20 (Appeal Ref. ABP-309217-21) - parent permission

This application related to a proposal for (in summary): - demolition of the existing TUD Main buildings, the Annex Building located at Kevin Street Lower, Church Lane South, and Camden Row, warehousing Structures fronting 1-8 Church Lane South and Liberty Lane and Nos. 30-35 (inclusive) New Bride Street (No. 35 also known as 19A Kevin Street Lower), with a total combined gross floor area (GFA) of 27,144 sq.m; and construction of a new mixed-use development in 5 no. blocks (Blocks A - E) ranging from 1 to 14 no. storeys in height above lower ground and basement levels (3 no. levels). The development includes 53,110sq.m of commercial office floorspace in Blocks A, B and C and 21,669sq.m of residential accommodation in Blocks D and E, providing a total of 299 no. Build to Rent residential units (130 no. studios, 130 no. 1-bed units, and 39 no. 2-bed units) and residential support and amenity facilities. The proposal includes 1 no. creche facility (305sq.m), 1 no. café / restaurant unit (122sq.m) and a double height exhibition space extension to the rear of Kevin Street Library (245sq.m). The total GFA, including lower ground / basement levels, of the proposed development is 85,436sq.m.

Permission was granted by Dublin City Council in December 2020. The Planning Authorities decision was appealed to An Bord Pleanala by a third party (Appeal Ref. ABP-309217-21). The Board granted permission in August 2021 subject to 28 no. conditions, Condition No. 2 (among other things) requiring a 1 storey reduction in the height of Block C and an increased setback in Block C's 3rd floor.

PA Reg. Ref. 3150/22 (Appeal Ref. ABP-313366-22)

This application sought the following amendments to the permitted development under Reg. Ref. 2682/20/ABP Ref. ABP-309217-21: - provision of 2 additional floors to Block D (increasing the permitted block by 3.80m in building height from a part 4 to part 14 storey building over lower ground levels to a part 4 to part 16 storeys building over lower ground levels) and 1 additional floor to Block E (increasing the permitted block by 2.85m in building height from a part 1 to part 10 storey building over lower ground levels, to a part 1 to part 11 storey building over lower ground levels); the proposed alterations result in the provision of 27 additional Build to Rent residential units (increase from 299 to 326) and a further rationalisation of the blocks; alterations to the lower ground level, comprising a reduction of 2 no. residential car parking spaces (from 61 to 59 no. spaces for the residential units), and a reduction in the depth/levels (by 800mm); and other associated alterations including to the hard and soft landscaping areas, PV panels at roof level, to the plant rooms and block cores, to plant areas at roof level and provision of additional bicycle spaces at lower ground level.

Permission was granted by Dublin City Council in March 2022. The Planning Authorities decision was appealed to An Bord Pleanala by a third party (Appeal Ref. ABP-313366-22). The Board refused permission on 23rd June 2023 for the following reason:

'Having regard to the increased density, height, mass and volume of the development from that permitted under planning register reference number 2682/20 (An Bord Pleanala appeal reference number ABP-309217-21), it is considered that the resultant development would constitute overdevelopment of the site which would result in unreasonable overbearing impact on the visual and residential amenities of the area. The proposed development would, therefore, by itself and by the precedent it would set for other development, seriously injure the visual and residential amenities of property in the vicinity of the site, would seriously injure the character of the area,

would be contrary to the provisions of the Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.'

PA Reg. Ref. 3565/22

This application sought the following amendments to office Blocks A, B and C permitted under Reg. Ref. 2682/20/ABP Ref. ABP-309217-21 (in summary): - amendment and extension of permitted Block B at eighth and ninth floor levels resulting in additional office floor space (GFA of 392sq.m); amendment and extension of permitted Block C at ground to second floor levels to amalgamate with the permitted office building at No. 23 Liberty Lane (permitted under Reg. Ref. 3897/20); alterations to the elevations of the permitted blocks A and B; provision of glazed balustrades to the permitted roof terraces on Blocks A and B at the 5th, 6th, 7th, 8th, 9th, and 10th floor levels, and amendment and extension of the permitted roof terrace at 8th floor level to the north and east of Block B; associated alterations at roof level, including additional plant area on Blocks A and B, increase in the size of the atrium roof lights on Block A, provision of 3 no. broadband antenna zones at roof level of Blocks A, B and C, and associated amendments to the green roofs; and an extension of the application site boundary of planning permission Reg. Ref. 2682/20/ABP Ref: PL29S.309217 to facilitate the extension of Block C to incorporate the permitted office building at No. 23 Liberty Lane (Reg. Ref. 3897/20).

Permission was granted by Dublin City Council in June 2022.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

The subject application was originally assessed having regard to the Dublin City Development Plan 2016-2022. This has subsequently expired.

5.2. Dublin City Development Plan 2022-2028

In the intervening period since the subject application was determined, the Dublin City Development Plan 2022-2028 has been adopted by the elected members on 2nd

November 2022 and came into effect on 14th December 2022. The relevant provisions are discussed in turn overleaf.

5.2.1. **Land Use Zoning**

The site is zoned 'Z4 – Key Urban Villages / Urban Villages' in the Dublin City Development Plan 2022-2028 with a stated objective to '*provide for and improve mixed-services facilities*'. The Development Plan details the following function in relation to this zoning objective: - '*Key Urban Villages and Urban Villages (formerly District Centres) function to serve the needs of the surrounding catchment providing a range of retail, commercial, cultural, social and community functions that are easily accessible by foot, bicycle or public transport; in line with the concept of the 15-minute city.*'

The following general principles are set out in relation to development in Key Urban Villages/Urban Villages. Proposals for development within these areas should be in accordance with these principles in addition to complying with the land-use zoning:

- *Mixed-Use: Promote an increased density of mixed-use development including residential development with diversity in unit types and tenures capable of establishing long-term integrated communities.*
- *Density: Ensure the establishment of higher density development capable of sustaining quality public transport systems and supporting local services and activities. Encourage the development/redevelopment of under-utilised sites and intensification of underutilised areas such as surface parking. Opportunity should be taken to use the levels above ground level for additional commercial/retail/services or residential use.*
- *Transport: Ensure provision is made for quality public transport systems. Provide improved access to these systems and incorporate travel plans, which prioritise the primacy of pedestrian and cyclist movement and address the issue of parking facilities and parking overflow. Ensure that enhanced connectivity and permeability is promoted.*
- *Commercial/Retail: Promote the creation of a vibrant retail and commercial core with animated streetscapes. A diversity of uses should be promoted to maintain vitality throughout the day and evening.*

- *Community and Social Services: Encourage these centres to become the focal point for the integrated delivery of community and social services.*
- *Employment: Encourage the provision of employment uses incorporating office, work hub, live-work units, professional and financial services, and the creation of small start-up units.*
- *Built Environment: Ensure the creation of high-quality, mixed-use urban districts with a high quality public realm, distinctive spatial identity and coherent urban structure of interconnected streets and child-friendly, accessible public spaces and urban parks. Development should have regard to the existing urban form, scale and character and be consistent with the built heritage of the area.*

5.2.2. Other Relevant Sections/Policies

The following policies are considered relevant to the consideration of the subject proposal:

Section 4.5.1 – Policy SC3: Mixed Use Development

To promote a mixed-use land use policy in the city centre, including the provision of high quality, sustainable residential development, and facilitating the conversion of both old office buildings and over shop spaces to residential.

Section 4.5.2 - Policy SC9: Key Urban Villages, Urban Villages and Neighbourhood Centres

To develop and support the hierarchy of the suburban centres, including Key Urban Villages, Urban Villages and Neighbourhood Centres, in order to:

- *support the sustainable consolidation of the city and align with the principles of the 15 minute city;*
- *provide for the essential economic and community support for local neighbourhoods; and*
- *promote and enhance the distinctive character and sense of place of these areas by ensuring an appropriate mix of retail and retail services.*

Section 4.5.3 – Policy SC1: Compact Growth

In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will:

- *enhance the urban form and spatial structure of the city;*
- *be appropriate to their context and respect the established character of the area;*
- *include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents;*
- *be supported by a full range of social and community infrastructure such as schools, shops and recreational areas;*
- *and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.*

Section 4.5.4 – Policy SC16: Building Height Locations

To recognise the predominantly low rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre, Strategic Development Zones, Strategic Development Regeneration Areas, Key Urban Villages and other locations as identified in Appendix 3, provided that proposals ensure a balance with the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.

Section 4.5.5 - Policy SC21: Architectural Design

To promote and facilitate innovation in architectural design to produce contemporary buildings which contribute to the city's character and which mitigates and is resilient to, the impacts of climate change.

Section 6.5.2 – Policy CEE8: The City Centre

To support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre and to facilitate the regeneration and development of key potential growth areas such as the Diageo lands, the St. James's Healthcare Campus and Environs and the TU Dublin campus at Grangegorman.

Section 7.5.3 – Policy CCUV22: Intensification

To support and promote the redevelopment and intensification of underutilised sites within Key Urban Villages and urban villages including surface car parks.

Section 11.5.3 – Policy BHA11: Rehabilitation and Reuse of Existing Older Buildings

- (a) To retain, where appropriate, and encourage the rehabilitation and suitable adaptive reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment.*
- (b) Encourage the retention and/or reinstatement of original fabric of our historic building stock such as windows, doors, roof coverings, shopfronts (including signage and associated features), pub fronts and other significant features.*
- (c) Ensure that appropriate materials are used to carry out any repairs to the historic fabric.*

Section 15.4.2 Architectural Design Quality

Imaginative, innovative and contemporary architecture is encouraged in all development proposals, provided that it respects Dublin’s heritage and local distinctiveness and enriches the city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance.

Key principles to consider are:

- The character of both the immediately adjacent buildings, and the wider scale of development and spaces surrounding the site.*
- The existing context and the relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid to void relationships, degree of uniformity and the composition of elevations, roofs and building lines. The scale and pattern of existing streets, squares, lanes and spaces should be considered.*

- *The existing palette of materials and finishes, architectural detailing and landscaping including walls, gates, street furniture, paving and planting.*
- *The suitability of the proposed design to its intended landuse and the wider land-use character of the area, along with its relationship with and contribution to the public realm.*
- *The design of new development should respect and enhance the Dublin's natural assets such as river and canal frontages, the River Liffey and many quality open spaces that contribute positively to the cityscape and urban realm, the settings of protected structures, areas of special interest and important views and that the design incorporates high quality detail, materials and craftsmanship.*
- *The need to protect and enhance natural features of the site, including trees and any landscape setting.*
- *The context and orientation in relation to daylight, sunlight and overshadowing and environmental performance including climate impacts such as downdraft or wind tunnelling.*
- *The main routes which should be distinguished by exploiting vistas, key buildings and landmarks with the activities and functions of the places made visible, thus bringing a sense of liveliness to spaces.*
- *Landmark features which can be used to give treatment to main entrances to a development, complement open spaces and assist in place-making and identity.*

Appendix 3 – Section 3.2 Plot Ratio and Site Coverage

The development plan sets indicative requirements of 2.5-3.0 for plot ratio and 60-90 for site coverage for Central Areas. Higher plot ratio and site coverage may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed.
- To facilitate comprehensive re-development in areas in need of urban renewal
- To maintain existing streetscape profiles.

- Where a site already has the benefit of a higher plot ratio.
- To facilitate the strategic role of institutions such as hospitals.

Appendix 3 – Section 4.1 Key Locations

In general, and in accordance with the Guidelines, a default position of 6 storeys will be promoted in the city centre and within the canal ring subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities. Where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities.

Appendix 5 - Section 4 Car Parking Standards

A car parking rate of 0 spaces is specified for Café, Restaurant and Takeaways and Offices located within Zone 1 as identified within Map J of the Dublin City Development Plan 2022-2028.

Appendix 5 - Section 3.1 Bicycle Parking Standards for Various Land Uses

A minimum bicycle parking rate of 1 long term space per 5 staff and 1 short stay space per 10 seats is specified for Café/Restaurant and 1 long term space per 1 per 75 sq. m. GFA and short stay spaces to be determined by the planning authority on a case-by-case basis specified for Offices.

Appendix 9: Basement Development Guidance

Appendix 16: Sunlight and Daylight

5.3. National Planning Policy/Guidance

5.3.1. Project Ireland 2040 National Planning Framework

The National Planning Framework (NPF) is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through re-using previously developed or under-utilised land and buildings. The following objectives are of note in this regard:

- *National Policy Objective 6 - Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing*

roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

- *National Policy Objective 11 - In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*
- *National Policy Objective 13 - In urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.*

5.3.2. Urban Development and Building Heights - Guidelines for Planning Authorities (2018)

These guidelines set out national planning policy guidance on building heights in relation to urban areas. Building height is identified as an important mechanism to delivering compact urban growth. In this regard, Specific Planning Policy Requirement 1 outlines a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. Further to this, the Guidelines outline that within the canal ring in Dublin, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of the objectives and criteria laid out in Sections 2 and 3 of these guidelines.

5.3.3. Design Manual for Urban Streets (2019)

The need to balance the needs of 'Place' and 'Movement' in relation to roads and streets informs the document. Section 4.2.3 notes that designers should seek to promote active street edges to provide passive surveillance of the street and promote

pedestrian activity. Increased pedestrian activity has a traffic-calming effect as it causes people to drive more cautiously.

5.3.4. Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)

These guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. They provide guidance in relation to development proposals in areas at risk of flooding.

5.4. Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European site. The nearest European site is the South Dublin Bay SAC (Site Code 000210) located c. 3.5 kilometres east.

5.5. EIA Screening

An Environmental Impact Assessment (EIA) Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units; and
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

It is proposed to construct a mixed-use development comprising of office and retail/café/restaurant uses. The site has an overall stated area of 0.0744Ha and is located within a business district. The site area is, therefore, well below the applicable threshold of 2ha. The site current comprises a no. of 2-3 storey buildings and associated rear yards/areas of hard standing and is surrounding by a mix of residential, commercial, retail and community uses. The provision of a mixed-use development on site would not have an adverse impact in environmental terms on

surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural heritage or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as concluded below under Section 7 of this report) and there is no hydrological connection present such as would give rise to significant impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other commercial uses/housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

Having regard to the nature and scale of the proposed development and its location in a serviced urban area 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.

6.0 The Appeal

6.1. Grounds of Appeal

Two third-party appeals have been submitted. The first appeal is from Kevin Powell and the second is from O'Neill Town Planning, on behalf of Philip Elliott of Elliotts Cash and Carry. The main points raised can be summarised as follows:

- The proposal will result in the loss of cafes/restaurants currently operating on site which currently contribute to the surrounding neighbourhood.
- The existing buildings on site are in excess of 100 years old/have a cultural significance to Dublin/contribute to the character of the area and their demolition is inappropriate. Instead, they should be protected/reused.
- There is sufficient provision of offices in the city.
- The windows featuring on the northern elevation overlook and restrict the development potential of the property to the immediate north.

- Concerns are raised regarding the buildability of the proposed development given the proximity of the proposed basement to adjacent buildings to the north.
- The proposed 5 storey office block, in terms of its use and design, is inappropriate given its proximity to an ACA and a no. of Protected Structures and the low rise nature/residential use of the surrounding built form.
- The proposed development constitutes overdevelopment. The proposed development exceeds the plot ratio/site coverage outlined for Z4 areas in the Dublin City Development Plan 2016-2022 and the scale/use proposed is contrary to a no. of specific policies and objectives contained therein as well as those outlined in the Draft Dublin City Development Plan 2022-2028, including Policy CU7.
- The proposed development would have a negative impact on the residential amenity of adjacent properties, including by way of overbearing and loss of daylight/sunlight, as well as the visual amenity of the area.
- In the context of Objective CEE03, it could be argued that Pleasants Street is already a high quality 'food hub' and should be protected on that basis.
- The proposed development is devoid of housing which is inappropriate given the current housing crisis and the fact that the current buildings on site currently feature some housing units.

6.2. Applicant Response

The applicant's response to the appeal can be summarised as follows:

- The proposed development includes 336sqm of retail/café/restaurant use which is a net increase when compared with the existing situation on site. Further to this, the proposed unit wraps around the building, increasing street activity and passive surveillance, which is another positive over the existing situation. It is contended that businesses in the surrounding area will benefit from the proposed development.
- The existing uses of the 3 no. units on site are not considered to be of cultural significance. The Conservation Comment, prepared by Lindsay Conservation Architects and submitted with the application, concluded as such. Further to

this, the subject site is not located within a Conservation Area. The Townscape and Visual Impact Assessment accompanying the application includes viewpoints from Camden Street Lower which is in a Conservation Area. In the context of these two viewpoints, the Townscape and Visual Impact Assessment concludes that *'the proposed development will be fully screened from this location.'* It is contended that the contemporary architecture and materiality of the proposed development will take their place comfortably within the existing streetscape/area.

- The existing office building provides 673.2sqm of office floor space while the proposal includes 2,030sqm. Therefore, the proposal will provide for a densification of employment uses in the city centre which is compliant with national policy and consistent with Table 6-1 of the Draft Dublin City Development Plan 2022-2028 which encourages the re-intensification of strategic employment areas within the M50 ring.
- The proposed development will provide for a greater densification of employment uses in the city centre close to high-capacity public transport connections, consistent with the guidance included in the National Planning Policy Framework. The existing site is brownfield/underutilised and presents a key opportunity site as identified in the National Planning Policy Framework for redevelopment of a mixed-use scheme.
- The proposed density and height of development is considered appropriate for the location of the site and availability of public transport services. As a result of the amendments made at FI stage, the development provides for a plot ratio of 3.92 and site coverage remains at 93.6%. While higher than the indicative ranges outlined in the development plan (as well as the Draft development plan), the proposed plot ratio/site coverage is considered appropriate having regard to the site's location and its close proximity to a high frequency public transport corridor. The proposal allows for the redevelopment of a suitably located site in need of urban renewal. There are a no. of examples of permissions granted by Dublin City Council which exceed their respective plot ratios (Reg. Refs. 3292/21, 2350/08 and 3700/10).

- In relation to the appellants claims that the proposed development will sterilise their development potential, the applicant notes that the proposed development is setback 2.7 metres from the site boundary and c. 9 metres from the appellants site. The windows referenced are minor and not integral to the proposed scheme to provide daylight given their northerly orientation. It is not considered that these windows overlook the neighbouring property in a way that would restrict development potential but should the Board form a different view, a condition to opacify or omit the relevant windows is welcomed by the applicants.
- The proposed development complies with the Draft Development Plan which encourages increased densities/intensification at highly accessible locations in the city centre which are well serviced by high capacity public transport connections.
- The proposed development, at 20.3 metres, complies with the 28 metre height limit applying to commercial development in inner city locations in the current development plan. The Draft Development Plan outlines a default position of 6 storeys within the city centre/canal ring and the subject proposal is consistent with this.
- In the context of additional submissions made at application stage (not necessarily addressed in the appeal submissions), the applicant justifies the absence of car parking having regard to the central location/proposed bicycle parking provision and potential traffic having regard to the absence of car parking spaces. In response to desires expressed regarding the provision of residential units, the applicant noted the sites' location and the proposals compliance with the zoning objective applying to the site.
- The applicant notes the proposals consistency with the following aspects of the Draft Development Plan: - the zoning objective, Objectives CEE1, CEE2, CEE3, CEE8 and CEE21 and Section 6.5.6.

As part of the applicant's response to the appeal, they have submitted an Outline Constructability Report, prepared by MMOS Consulting Engineers, responding to concerns raised in the third party appeals regarding the buildability of the proposed development. It concludes that the building works, including the basement structure,

can be completed safely and all within the site perimeter. The applicants ask that they be read in conjunction with the original material submitted with the planning application. Accordingly, this assessment is based on the plans and information received by Dublin City Council on 7th March 2022 as amended by further plans and particulars received by the Dublin City Council on 24th June 2022 and the Board on 12th September 2022.

6.3. Planning Authority Response

- It is requested that the Board uphold the decision of the Planning Authority and that if permission is granted conditions be attached requiring payment of a Section 48 contribution, Section 49 contribution and a bond.

6.4. Observations

6.4.1. Observations to the third party appeals were lodged from the following parties:

- Philip O'Reilly; and
- Cllr Claire Byrne.

6.4.2. The issues raised can be summarised as follows:

- The proposed height is out of character with the residential neighbourhood and the nearby Conservation Area.
- The proposed development will negatively impact upon neighbouring amenity, including by way of overshadowing/loss of privacy.
- The proposal will have a negative visual impact on the surrounding area.
- The existing buildings on site should be retained/restored as they are some of the oldest in the area and contain cafes/restaurants which contribute to the neighbourhood.
- There isn't a demand for more office space in this area and the subject offices will be vacant.
- The proposal is devoid of residential units.
- The proposal is inconsistent with the Dublin City Development Plan 2016-2022.

6.5. Further Responses

6.5.1. A response to the applicants response to the third party appeals were lodged by Kevin Powell, O'Neill Town Planning, on behalf of Philip Elliott of Elliotts Cash and Carry, and Philip O'Reilly.

6.5.2. The response received from Kevin Powell can be summarized as follows:

- He rejects the applicant's contention that the new café/restaurant use will be more beneficial to the area and again argues that the loss of the existing businesses on site will be detrimental to the neighbourhood.
- In response to the argument made regarding the existing buildings not being of cultural significance, he notes they make a far greater contribution than the building proposal as part of the subject application which will decline in aesthetic value over time.
- In terms of office space, the proposal results in a net loss in his view with 3 no. buildings being replaced by 1 no. and larger offices are at odds with the move to remote working currently occurring. Also, it will result in the end of 18 no. persons employment.
- Housing will not be provided for as part of the development which is the real need of the city.

6.5.3. The response received from O'Neill Town Planning, on behalf of Philip Elliott of Elliotts Cash and Carry, can be summarized as follows:

- While the omission of north facing windows suggested by the applicant is welcomed in terms of reducing overlooking, the issue of the building's height, proximity to the northern site boundary and proposed use remain.
- Given the short timeframe provided for responding to the applicant's appeal response, they are not in a position to definitively agree or disagree with the findings of the Outline Constructability Report, prepared by MMOS Consulting Engineers, in response to previous concerns raised regarding buildability. It is noted that this report offers a generic solution and is not supported by a survey of the applicable boundary wall.

- It is still their contention that the proposed development is at odds with the policies and objectives of the current and draft development plans and an unsuitable development for the subject site.
- They continue to form the view that the subject proposal constitutes a gross overdevelopment of the subject site and would be seriously injurious to the visual amenities of the area.

The response received from Philip O'Reilly can be summarized as follows:

- The increase in floor area is not considered a positive aspect of the proposal given the unsuitability of the building the floor space is contained within and the resultant loss of existing buildings.
- The cultural significance of the existing buildings on site is reiterated. The credentials of the Conservation Architect who provided commentary on the application is questioned.
- Intensification of employment uses at this location will lead to increased congestion of both vehicular and pedestrian traffic. The proposal will detract from the already thriving area.
- The public transport services referenced in the applicant's response are already overwhelmed and the subject proposal will intensify the existing problem.
- The subject site does not require redevelopment as it is already built on and thriving. It is currently functioning at full capacity and surrounding streets are already seriously congested such is the existing volume of businesses, offices and homes in the area.
- The validity of the opinions of the Conservation Architect and Planning Consultants that wrote reports accompanying the application/appeal is questioned.
- Residential development in this area should be prioritized over office development.
- The area already features high density development, as a result the drainage system is beyond capacity and flooding/drainage problems are regular occurrences.

- Having regard to the previous refusal reason, in granting permission for the current application, the local authority is a total contradiction in terms of the principles of proper planning and development.

7.0 **Assessment**

As part of their appeal response, the applicant submitted an Outline Constructability Report, prepared by MMOS Consulting Engineers, in response to the concerns raised in one of the third party appeals regarding the buildability of the proposed development. The applicants ask that they be read in conjunction with the original reports/plans submitted with the planning application and the response to the further information request. It is noted that the report submitted with the appeal introduces no new elements or issues which may be of concern to third parties in the context of the proposed development. Accordingly, this assessment is based on the plans and information received by Dublin City Council on 7th March 2022, the further information response material received by Dublin City Council on 24th June 2022 and the report received by the Board on 12th September 2022.

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Principle of Development/Demolition of Existing Buildings
- Design, Layout and Height
- Visual Amenity and Built Heritage
- Residential Amenity
- Parking and Access
- Other Matters
- Appropriate Assessment

As previously discussed, the subject application was originally assessed having regard to the Dublin City Development Plan 2016-2022. This has subsequently expired and in the intervening period, the Dublin City Development Plan 2022-2028 has been adopted by the elected members and came into effect on 14th December 2022. In light

of this, the subject application will be assessed having regard to the Dublin City Development Plan 2022-2028.

7.1. Principle of Development/Demolition of Existing Buildings

7.1.1. The subject proposal comprises a mixed-use development featuring office and retail/café/restaurant uses. In the context of the proposed uses, the appellants/observers argue that there is insufficient demand for the proposed office units and residential units should be prioritised at this site. The site is located with the 'Z4 - Key Urban Villages / Urban Villages' zoning in the Dublin City Development Plan 2022-2028, where it is the objective '*to provide for and improve mixed-services facilities*'. Section 14.7.4 of the Development Plan identifies 'café/tearoom', 'restaurant' and 'office' as 'permissible uses' under the Z4 zoning objective. It is worth noting that the maximum size specified for office use, under the permissible use and open for consideration use groupings in the Z4 – District Centre zoning, in the Dublin City Development Plan 2016-2022 do not feature in the current Development Plan. In terms of the general principles set out with regards to development in Key Urban Villages/Urban Villages, the proposed development is consistent with these given it comprises a higher density mixed-use development, which features office uses and a café/restaurant use which provides an active street frontage as well as employment opportunities. Having regard to the uses proposed and the proposed development's consistency with the general principles, as well as the sites' central location, I am satisfied that the proposed development is acceptable in principle subject to the proposed development being appropriate in terms of its impact on the visual amenities of the area and the established residential amenities of properties in its vicinity. These matters are considered in the subsequent sections of this report.

7.1.2. This proposal involves the demolition of five no. existing buildings on site. In their submissions, the appellants and observers contend that demolition of the existing buildings on site, in particular Nos. 49-51 Pleasants Street, is inappropriate as it will result in the loss of cafes/restaurants currently operating on site and they are of cultural significance so they should be protected/reused. They argue that, having particular regard to the previous refusal reason relating to demolition of the existing buildings on site, in granting permission for the current application, the local authority is a total

contradiction in terms of the principles of proper planning and development. The applicants in their appeal response state that the existing uses of the 3 no. units on site are not considered to be of cultural significance as outlined in the Conservation Comment, prepared by Lindsay Conservation Architects, which accompanied the application.

7.1.3. As previously discussed in Section 4.1, an application (Reg. Ref. 2796/21) for demolition of the existing buildings and construction of a part seven / six / five / four storey over basement mixed-use building comprising of a commercial/restaurant/café use and 45 no. “Build to Rent” residential units was previously refused by the Planning Authority in July 2021. In deciding to refuse permission (more specifically in their third refusal reason), the Planning Authority referenced Policy 16.10.17 of the Dublin City Council Development Plan 2016-2022, regarding retention and re-use of older buildings of significance which are not protected. They concluded that the buildings at buildings on site make a positive contribution to the character/appearance/quality of the local streetscape and their demolition would contravene Policies 11.1.1.2 and 16.10.17 and the construction of a new 5-7 storey building in their place would seriously injure the amenities of the wider area. Although the Dublin City Development Plan 2016-2022 has expired in the intervening period since this application was determined, I note that similar policies pertaining to the rehabilitation and reuse of existing older buildings feature in the recently adopted Dublin City Development Plan 2022-2028, at Policy BHA11. Therefore, the appropriateness of the demolition of the existing buildings on site still requires consideration in relation to the subject application pursuant to the current Development Plan.

7.1.4. In considering the appropriateness of the existing buildings on site, regard must be had to the degree of contribution the buildings on site, particularly Nos. 49-51 Pleasants Street, makes to the character and appearance of the area/streetscape. Upon review, I note that the applicable buildings are not included on the List of Protected Structures or included on the National Inventory of Architectural Heritage, nor are they located in a Conservation Area or Architectural Conservation Area. In this regard, it is worth noting that in preparing the Dublin City Development Plan 2022-2028, the Planning Authority would have carried out a review of their existing plans, policies and objectives, including its List of Protected Structures/the boundaries of its

Conservation Areas, and updated/amended as deemed necessary. I note that the subject buildings have not been added to Dublin City Council's List of Protected Structures nor have the boundaries of the Camden Street Conservation Area been extended to include the subject site as part of this review.

7.1.5. The planning application was accompanied by a Conservation Comment, prepared by Lindsay Conservation Architects. Contrary to the suggestions of one observer, I find the author to be appropriately qualified to prepare such a submission. This report comments on matters relating to the extant historic fabric and has regard to archive research and maps. Having assessed the subject buildings against the criteria set out in the Architectural Heritage Protection – Guidelines for Planning Authorities, 2011, this report concludes that the buildings would satisfy none of the criteria for inclusion on the Record of Protected Structures, having regard to the *'unremarkable qualities of the conventional design and construction of the houses, the loss of historic external features (particularly the loss of the shopfronts and original windows), the demolition of No. 52 in or about 1980'* and *'the stripped interiors'*. This report also evaluated the applicable buildings contribution in the context of the streetscape and found that *'Pleasants Street was a street of two parts, the regular and designed streetscape of the west and the irregular multi-dated streetscape of the east that included the buildings on site'* and that *'the buildings themselves did not contribute in any significant way to the east streetscape, for the most part being obscured by the recess in the roadway and had no impact on the streetscape of the more important west part'*.

7.1.6. Having visited the site and the surrounding area, I would form a similar view to Lindsay Conservation Architects regarding the subject building's contribution to the streetscape. Although the buildings do make a contribution to the streetscape, in my view it is limited given the recessed nature of the subject site and the modifications that have been made over time to the buildings as originally constructed (No. 52 Pleasants Street having been demolished, part of the rear of No. 49 Pleasants Street having been removed to accommodate a car parking area/the construction of Pleasants House and original shopfronts/windows having been removed), as well as the on-going change and re-development that has occurred on the eastern side of Pleasants Street over the years. Having regard to the limited contribution made by the subject buildings, I do not consider this an 'appropriate' situation warranting the

retention/reuse of the existing buildings on site, in the context of Policy BHA11. On balance, I consider demolition of the existing buildings and redevelopment of the site to be an appropriate proposal in this instance. The removal of the older buildings facilitates the introduction of a large structure providing 2,030sqm of office space and a 336sqm retail/café/restaurant unit on an infill, brownfield urban area near public transport, which is consistent with national policy and guidance promoting compact development and regeneration of underutilised sites in such accessible locations.

7.2. Design, Layout and Height

7.2.1. The appellants argue that proposed development constitutes overdevelopment, the proposed development exceeding the plot ratio/site coverage outlined for Z4 areas and the scale of development proposed being contrary to a no. of development plan policies and objectives. The applicant contends that the proposed development utilises a brownfield/underutilised and the proposed development's density/height is appropriate given the location of the site and availability of public transport services.

7.2.2. Before considering the appropriateness of the design, layout and height of the subject proposal, I think it beneficial to discuss the differences that exist between the subject proposal and that considered previously under Reg. Ref. 2796/21 in terms of design, layout and height. When the current application is compared to that previously refused by the Planning Authority, the current proposal involves a 793sqm reduction in gross floor area, a 2-storey (4.73 metre) reduction in building height and increased setbacks from the O'Neill's Buildings frontage. I consider that the changes adopted under the current application are significant/material so as to warrant or justify a change in the previous decision relating to the site. Irrespective of this, the proposed development will be assessed on its own merit.

7.2.3. The subject site is unusual in that 3 of its 4 boundaries (south, east and west) are flanked by streets/laneways and part of its northern boundary abuts a 5 storey blank wall associated with the Camden Hotel. The proposed development adopts a modulated footprint in response to the site's irregular shape/frontage to these streets and laneways which reduces the overall massing/bulk of the proposed building. In terms of layout, the proposed development addresses its Pleasants Street, Pleasants Lane and O'Neills Buildings frontages. The proposed restaurant/café unit and office

reception will maintain the active street frontage to Pleasants Street provided by the existing uses on site, while the proposed restaurant/café unit and Office Unit A will provide an improved level of streetscape activation along the O’Neills Buildings frontage. Pleasants Lane will be used primarily for servicing the development. The improvements made in terms of streetscape activation along O’Neills Buildings are welcomed as is the maintaining of active street frontage to Pleasants Street.

7.2.4. The proposed development is 5 storeys over basement fronting Pleasants Street, Pleasants Lane and O’Neills Buildings and extends to a height of 18.77 metres (to the top of the parapet, 20.3 metre to the top of the roof plant/associated screening). In terms of building height, Section 4.1 of Appendix 3 to the Dublin City Development Plan 2022-2028 promotes a default position of 6 storeys in the city centre and within the canal ring, subject to site specific characteristics, heritage/environmental considerations and social considerations. It also asks that where a development site abuts a lower density development, appropriate transition of scale and separation distances are provided. As previously mentioned, the Urban Development and Building Heights, Guidelines for Planning Authorities (2018), also outlines building heights of at least 6 storeys at street level as the default objective. The height of the building proposed is consistent with Development Plan and National policies in relation to building heights, including the Building Height Guidelines (2018), and is considered to appropriately respond to the adjacent buildings, stepping down and adopting setback in response to adjacent buildings as will be discussed in subsequent sections.

7.2.5. The proposed development will be contemporary in design, adopting a flat roof and featuring brick, aluminium curtain wall/windows/doors/panels and concrete band beams in terms of materials/finishes. As discussed in the previous section, the eastern section of Pleasants Street is varied in terms of building stock, architectural styles and materiality with re-development having occurred on numerous sites over the years. More specifically, the subject site sits between Olympic House to the west and No. 48 Pleasants Street to the east. In terms of design/materials and finishes, Olympic House is contemporary in design, adopts a flat roof and features a mix of brick and render walls punctuated with what appear to be metal windows/doors. No. 48 Pleasants Street is rendered, has a pitched roof and features traditional timber windows (however it is noted that the majority of these are currently boarded up, the property

being in a state of disrepair and currently unoccupied it would appear). On the opposite side of Pleasants Street, buildings feature a mix of brick (in a variety of colours/textures) and render and roof forms/materiality vary. In light of this, in my view the proposed contemporary development will sit comfortably within the existing streetscape in the context of materials/finishes and make a positive contribution to the urban landscape.

7.2.6. In terms of consistency with 'Plot Ratio' and 'Site Coverage' standards, the proposed development would equate to a plot ratio of 3.92 and a site coverage of 93.6%. Therefore, the proposed development is compliant with Development Plan policy regarding plot ratio. The proposed site coverage exceeds the applicable development plan standards. This is considered appropriate in this instance given the subject proposal involves the comprehensive re-development of a vacant brownfield site which is in need of urban renewal, the subject site's proximity to public transport services and the minimal nature of the exceedance.

7.2.7. Having regard to the foregoing, I consider the proposed development to be appropriate in terms of design, layout and height. The proposal is consistent with national policy and guidance, as well as the current Development Plan, which encourage the redevelopment of underutilised lands in appropriate locations to achieve higher density sustainable development.

7.3. Visual Amenity and Built Heritage

7.3.1. I now turn my attention to consideration of the proposed development's potential impact on the visual amenity and built heritage of the immediately surrounding area. At present, the subject site comprises a terrace of 3 no. 2-storey buildings/car parking area fronting Pleasants Street (Nos. 49-51 Pleasants Street), a 3-storey office building with frontage to both Pleasants Lane/the laneway known as O'Neills Buildings (Pleasants House) and a double storey building fronting Pleasants Street (No. 5 Pleasants Lane), which have a combined total floor area of 973sqm. The question that arises is whether the proposed development can be comfortably integrated with the development currently featuring on adjoining sites. The area surrounding the subject site currently features a variety of residential, commercial, retail and community land uses. The subject sites eastern, western and northern boundaries are flanked by

Pleasants Lane, a laneway known as O'Neills Buildings and the Camden Hotel/a single storey shed and yard associated with Elliots Cash and Carry, respectively. To the east, on the opposite side of Pleasants Lane, are a rear access/service yard associated with No. 83 Camden Street Lower; No. 82 Pleasants Lane, which comprises a 2 storey building; and No. 48 Pleasants Street, which comprises a double storey vacant building. To the west, on the opposite side of the laneway known as O'Neills Buildings, is Olympic House, a part 3-part 4 storey mixed use building. To the south of the subject site, on the opposite side of Pleasants Street, are No. 41 Pleasants Street, a recently constructed 4-storey dwelling; No. 41A Pleasants Street, a double storey commercial building; and The Courtyard residential development, a 3-storey apartment development.

7.3.2. With regards to building line/streetscape presentation, the existing buildings featuring at Nos. 49-51 Pleasants Street are set-back from Pleasants Street by between 3.3 and 4.9 metres, the intervening space featuring a footpath and bicycle parking area featuring 4 no. Sheffield bicycle stands. To the east of the site, No. 48 Pleasants Street sits c. 1.4 metres forward of the subject buildings, following the same building line as No. 46 and 47 Pleasants Street to the east. To the west of the site, Olympic House sits c. 5 metres forward of the subject buildings, following the same building line as No. 16 Pleasants Street (its western abuttal). As a consequence of the varying setbacks adopted from Pleasants Street, the building line on this northern section of Pleasants Street is varied. The buildings featuring on the immediately opposite side of Pleasants Street adopt a similarly varied building line. The proposed development matches the building line of the existing buildings featuring along the Pleasants Street frontage slightly recessed from the neighbouring buildings. This is considered appropriate given the existing situation on site the varied building line featuring along this section of Pleasants Street.

7.3.3. The proposed 5 storey building replaces 2-3 storey buildings currently featuring on site. This constitutes a marked increase in height from the existing situation on site. The proposed building adopts setbacks of between 2.75 and 7.1 metres from the western boundary and 2.7 metres from the northern boundary. As the area description included in paragraph 7.3.1 suggests, there is no single consistent height in this section of Pleasants Street. This is further evident in the photographs attached to this

report. The northern part of the building sits comfortably amid the 5 storey Camden Hotel and Olympic House's residential component which is 4 storeys in height. In the context of the building's frontage to Pleasant Street, the southern part of the proposed building steps down/reduces in height/steps back proximate to buildings featuring on the opposite side of O'Neills Buildings and Pleasants Lane. More specifically, the southern part of the building steps down to 2 storeys in part proximate to No. 48 Pleasants Street and adopts a 3.2 metre setback from the southern boundary and 7.1 metres from the western boundary at upper floor level proximate to Olympic House. In my view, the step downs/setbacks adopted, as well as the varying materials/finishes palette proposed and the observation of the established building line along Pleasants, help to reduce the scale/mass of the building, creates visual interest and avoids a monolithic appearance. I think this is best illustrated by the Photomontages and CGIS (more specifically FI Response VVM 6 and FI Response VVM 14), prepared by 3D Design Bureau and submitted as part of the FI request response, which I am satisfied accurately reflect the visual impact of the proposed development. The proposed building will provide for a modern insertion in this streetscape, which is of a scale and design appropriate to the site/neighbouring properties and will not significantly detract from the visual amenity of this area or the Pleasants Street streetscape.

7.3.4. With regards to the proposed development's potential impact on the architectural heritage of the immediately surrounding area. The site is bounded to the north by the Camden Hotel, which is a Protected Structure, further west on Pleasants Street are a no. of Protected Structures and the buildings to the east of the subject site, fronting Camden Street, fall within the Camden Street Conservation Area, as identified in Zoning Map E of the Dublin City Development Plan 2022-2028. Whilst the Building Height Guidelines advocate for additional height to be permitted in areas served by a high frequency multimodal public transport system, Section 2.8 recognises that historic environments can be sensitive to large scale and tall buildings. Therefore, regard must be had to the appropriateness of the proposed building in the context of these Protected Structures/the Conservation Area.

7.3.5. As previously discussed, Photomontages and CGIS prepared by 3D Design Bureau were submitted as part of the FI request response. In the context of the Protected Structures featuring further west on Pleasants Street, as illustrated by the

photomontages (more specifically FI Response VVM 8), there will be limited views of the subject site from the western part of Pleasants Street due to the recessed nature of the subject site and the positioning of Olympic House to the west/forward of the proposed development. Similarly, as illustrated in FI Response VVM 2 and FI Response VVM 3, the proposed development will not be visible further north and south of Camden Street Lower. The proposed development is visible from the intersection of Camden Street and Pleasants Street, as illustrated in FI Response VVM 13, however due to the height of the proposed building and the setbacks adopted Devitts Pub and the other adjacent buildings on Camden Street Lower will maintain prominence in this vista. Turning my attention to the Camden Hotel, although the subject building is developed to the common boundary with/to the same height as this Protected Structure, I do not consider the proposed development will have a negative impact in this regard. The part of the Protected Structure the subject development abuts is a later extension to the rear of the site which is devoid of the architectural detailing/features and lacks the historical/social significance associated with the front part of the building fronting Camden Street Lower. I am satisfied that I consider that the integrity of the nearby Protected Structures and in the Camden Street Conservation Area will remain unchanged and unaffected by the proposal and as such I consider the proposed development to be acceptable in this regard.

7.3.6. As previously discussed, the appeal site is highly accessible and well served by public transport, while also being within walking distance of a range of services. The proposal is in line with National policy guidance in relation to development intensification/density and utilising infill sites to support the growth of cities versus their outward expansion, which must be balanced against the evolving character of an area and the existing community. I consider that this five-storey building can be accommodated without detrimentally impacting to the visual amenity or architectural heritage of the surrounding area. The potential impact of the proposed development on residential amenity of the surrounding area is subsequently considered in Section 7.4.

7.4. Residential Amenity

Both appellants and observers alike contend that the proposed development will have a negative impact on the residential amenities of the nearby properties and the area.

Properties to the West

- 7.4.1. The site is bounded to the west by a c. 4-4.3 metre wide laneway known as O'Neill's Buildings. On the opposite side of this laneway is Olympic House, which comprises a part 3-part 4 storey mixed use building featuring offices to the front of the site and residential units to the rear of the site. More specifically, the front part of the block, comprising offices features 16 no. east-facing windows (across ground, first and second floor levels) and the rear part of the block, comprising residential units, features 10 no. east-facing windows (across first, second and third floor levels) and a rooftop amenity space which warrant assessment in the context of the subject application.
- 7.4.2. With regards to the potential overlooking, the part of the proposed building sitting immediately opposite these windows/this amenity space is devoid of west-facing windows associated with the proposed offices, featuring only windows to the stairwell, so there are no opportunities for overlooking in this regard.
- 7.4.3. Turning my attention to potential overbearing impacts. Due to the irregular shape of the northern part of the subject site, the building steps back from O'Neill's Buildings to the rear of the site. This stepping back occurs in close proximity to the residential units featuring in Olympic House. Further to this, the remaining part of the proposed building flanking O'Neills Buildings adopts a 2.7 metre set back from the western boundary at fourth floor level proximate to the residential units featuring in Olympic House as well as a 7.1 metre set back from the western boundary to the front of the site. It is not considered that the proposed development will have an unreasonable overbearing impact on the neighbouring properties to the west due to the design/layout of the proposed development which adopts setbacks and steps back adjacent to the applicable residential units, as well as the modulated presentation and varying materials/finishes utilised in the building design.
- 7.4.4. On the topic of overshadowing of and daylight/sunlight to neighbouring buildings, both the Building Height Guidelines (2018) and the Dublin City Development Plan 2022-2028 ask that regard be had to the Building Research Establishment's (BRE) 'Site Layout Planning for Daylight and Sunlight' (2nd edition) (which is also referred to as BR 209). In June 2022, these BRE Guidelines were updated to its 3rd edition. Section 3.5 of Appendix 16 to the Dublin City Development Plan 2022-2028 references the anticipated issuance of a revised version of BR 209 and states that the guidance within

this new version will take precedence. The application was accompanied by a Daylight and Sunlight Assessment Report, prepared by 3D Design Bureau, and a subsequent assessment, also prepared by 3D Design Bureau, was submitted by the applicant in response to the further information request in June 2022. These reports have had regard to the 2nd edition of the applicable BRE Guidelines, as opposed to the subsequently adopted 3rd edition. It is considered appropriate to have regard to the information/assessments contained therein when considering the subject proposal as the 3rd edition introduced no significant changes to the methodology or the target criteria for the assessment of the impact of a proposed scheme on neighbouring properties (the updated guidelines primarily featuring changes in relation to the assessment of daylight and sunlight within new developments). In regard to considering potential overshadowing and daylight/sunlight, I also note I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings.

- 7.4.5. The standards described in the BRE guidelines are discretionary and not mandatory policy/criteria, paragraph 1.6 of the same stating the following: - *'although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.'* Further to this, the Building Height Guidelines (2018) outline that An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of daylight/sunlight considerations against the desirability of achieving wider planning objectives, in instances where a proposal may not be able to fully meet all the requirements of the daylight provisions.
- 7.4.6. In terms of potential overshadowing, the aforementioned reports found that there will be an imperceptible level of effect on Olympic House's rooftop amenity space, the applicable amenity spaces receiving 2 hours of sunlight or more on at least 50% of the area which complies with the BRE Guidelines. I am satisfied that the proposed development will not unreasonably overshadow this amenity space area to the west, particularly given its elevated positioning at third floor level.
- 7.4.7. With regards to potential impacts on daylight/sunlight received by the apartments and offices to the west, the aforementioned reports prepared by 3D Design Bureau

assessed the proposed effect on daylight (Vertical Sky Component)¹ and effect on sunlight (Annual Probable Sunlight Hours)², having regard to the BRE Guidelines. Having assessed changes in daylight (VSC) to the apartments resulting from the proposed development, 6 no. of the east-facing windows featuring at first and second floor were found to be slightly impacted upon, 2 no. of the east-facing windows featuring at first and second floor (serving bedrooms) were found to be moderately impacted upon and the remaining 2 no. east-facing windows featuring at third floor level were found to demonstrate BRE compliance. I do not consider that the level of daylight impacts identified at these existing adjacent apartments warrants a refusal of permission on grounds of adverse impacts on daylight. I would be of the view that the built up and urban context of the site and location is a factor in consideration and the area is characterised by an existing dense urban pattern of development. I consider that a level of impact is to be expected of any redevelopment of the site for high density development and that it would not constitute reasonable grounds for refusing planning permission. The assessed impacts are considered acceptable given the nature of the worst affected rooms, the highly accessible urban location of the development site, and the need to balance potential impacts against national planning policy to achieve compact urban development and increased densities, particularly at sites served by public transport.

- 7.4.8. In terms of impacts on daylight received by the offices to the west, the proposed development was found to have potential slight, moderate and significant impacts upon the east-facing windows assessed. This is acceptable given the applicable offices comprise a non-residential use. In general, commercial development is not subject to the same development standards, in terms of level of amenity, as residential development. Requirements are specified in various national policy documents/development plans regarding residential units, however, there is no policy

¹ The BRE guidelines set out a two-stage guide for the vertical sky component (VSC):

1. Where the Vertical Sky component at the centre of the existing window exceeds 27% with the new development in place then enough skylight should still be reached by the existing window.
2. Where the vertical sky component with the new development in place is both less than 27% and less than 0.8 times its former value, then the area lit by the window is likely to appear more gloomy, and electric light will be needed more of the time.

² In the context of Annual Probable Sunlight Hours (APSH), the BRE guidelines states that living room windows facing within 90o of due south may be adversely affected if the centre of the window receives less than 25% of APSH or less than 5% of WPSH (Winter Probable Sunlight Hours); and receives less than 0.8 times its former sunlight hours during either period; and has a reduction in sunlight received over the whole year greater than 4% of APSH.

specific requirement for the application of the BRE Guidelines to offices. Further to this, upon review of aerial imagery/based on the plan excerpts included in 3D Design Bureau's report the applicable offices are dual aspect, with a northerly/westerly aspect available across a generously sized west-facing terrace. I note the owners or tenants of Olympic House made no observations in respect to the planning application.

- 7.4.9. Having assessed changes in APSH resulting from the proposed development, 3D Design Bureau's report concludes that the proposed development's effect on sunlight to applicable neighbouring windows to the west (of which there are 13 no.) are all within the constraints and recommendations of the BRE Guidelines.

Properties to the East

- 7.4.10. The site's eastern boundary is flanked by Pleasants Lane which is c. 3.8-4.7 metres wide. To the immediate east, on the opposite side of this laneway, are the Camden Hotel; a rear access/service yard associated with No. 83 Camden Street Lower; No. 82 Pleasants Lane, which comprises a 2 storey building; and No. 48 Pleasants Street, which comprises a double storey vacant building (former dwelling) with associated rear yard. Further east are Nos. 79, 80 and 81 Camden Street Lower, No. 46A Pleasants Lane and Nos. 46 Pleasants Street which feature west-facing windows with an outlook to the subject site.
- 7.4.11. With regards to potential overlooking of the site's immediate eastern abuttals, the western facades of No. 48 Pleasants Street and No. 82 Pleasants Lane are devoid of windows so there are no opportunities for overlooking in this regard. The walls associated with the Camden Hotel fronting on to Pleasants Lane feature a small no. of windows, however, given their appearance, size and positioning within the building, I would contend that they serve bathrooms or service areas as opposed to hotel rooms. Therefore, the proposed development will not cause unreasonable overlooking in the context of the Camden Hotel. West-facing windows associated with buildings fronting Camden Street Lower and Pleasants Street with an outlook across the subject site are not sufficiently proximate for unreasonable overlooking to occur as a result of the subject proposal in my opinion.
- 7.4.12. With regards to the potential overbearing impact/overshadowing, it is not considered that the proposed development will have an unreasonable overbearing impact on or

cause any unreasonable overshadowing of the neighbouring properties to the east. The majority of the sites featuring to the immediate east have a very narrow easterly frontage and feature service yards/areas of hardstanding or buildings devoid of west-facing windows proximate to their western boundary. No. 48 Pleasants Street has the longest frontage to Pleasants Lane (c. 19 metres) of any of the properties to the immediate east. Having traversed the area around the subject site/upon review of aerial imagery this building was currently found to be vacant/in a state of disrepair. However, were it to be renovated for residential use, I am satisfied that the proposed development would not have an unreasonable overbearing or overshadowing impact on this property, as this building is devoid of west facing windows and the mix of materials & finishes/the presence of Pleasants Lane in the intervening space reduces the visual impact of the building when viewed from its north-facing windows. In the context the properties rear yard, it appears that this space is paved and is enclosed by a tall brick wall to the west and an outbuilding to the north which limits its outlook across neighbouring properties, including the subject site, as well as casts shadows across the applicable space amenity space.

7.4.13. I now turn my attention to potential impacts on daylight/sunlight received by the properties to the east. In terms of potential impacts on daylight received (VSC) by properties to the east resulting from the proposed development, the Daylight and Sunlight Assessment Report, prepared by 3D Design Bureau, concludes that the proposed development's effect on daylight reception to neighbouring windows associated with the Camden Hotel, No. 46A Pleasants Lane and Nos. 79 and 80 Camden Street Lower are all within the constraints and recommendations of the BRE Guidelines. In the context of No. 81 Camden Street Lower, Nos. 46 and 48 Pleasants Street and No. 82 Pleasants Lane, 1 no. of the 11 no. windows assessed were slightly impacted upon and 6 no. were not significantly impacted upon. Having assessed changes in sunlight (APSH) resulting from the proposed development, 3D Design Bureau's report concludes that the proposed development's effect on sunlight to the majority (32 no.) of applicable neighbouring windows to the east (of which there are 35 no. associated with the Camden Hotel, No. 82 Pleasants Lane, Nos. 79, 80 and 81 Camden Street Lower, No. 46 Pleasants Street and No. 46A Pleasants Lane) was within the constraints and recommendations of the BRE Guidelines. 2 no. of the 3 no. non-compliant windows (1 no. featuring in the Camden Hotel and 1 no. featuring in

No. 80 Camden Street Lower) were found to be not significantly impacted upon and the remaining window (associated with No. 46 Pleasants Street) was found to be very significantly impacted upon. I am satisfied that the exceedance of the recommendations of the BRE Guidelines is appropriate in the context of the subject development given the built-up/urban site context and planning policy guidance which encourages intense redevelopment of site's such as this in close proximity to public transport. In the context of the resultant impact on No. 46 Pleasants Street's west-facing window (the worst affected window in terms of APSH), I would contend that the introduction of a building to the rear of this site (No. 46A Pleasants Lane) has limited sunlight access to the original building on site. In light of this, I would consider it inequitable to limit the development potential of the appeal site by requiring a great separation distance/reduction in height be provided.

Properties to the South

7.4.14. To the south of the subject site, on the opposite side of Pleasants Street, are No. 41 Pleasants Street and The Courtyard apartments. Given the height/scale of the proposed development, the orientation of these adjacent dwellings and the separation distance that exist between the proposed development and the dwellings featuring on the opposite side of Pleasants Street, I do not consider the proposed development would result in any negative impacts on the residential amenity of adjacent properties by way of overlooking, overshadowing or overbearing.

7.4.15. In terms of potential impacts on daylight received (VSC) by the Courtyard apartments to the south resulting from the proposed development, the Daylight and Sunlight Assessment Report, prepared by 3D Design Bureau, found that 4 no. of the 16 no. north-facing windows were slightly impacted upon and 3 no. were not significantly impacted upon. The remaining 9 no. windows were found to demonstrate BRE compliance. The degree of non-compliance with BRE Guidelines is quite low and the affected windows are lower level (i.e. ground and first floor level). To achieve compliance with the applicable BRE requirements, a greater setback from the subject site's Pleasants Street frontage would need to be adopted which would have negative implications for the proposed development's streetscape presentation/realising its development potential. I do not consider that the level of daylight impacts identified at these existing adjacent apartments warrants a refusal of permission on grounds of adverse impacts on daylight. I am of the view that in this instance it is appropriate to

exercise the discretion afforded under Section 3.2 of the Building Height Guidelines, regarding the requirements of the daylight provisions, having regard to wider planning objectives including achieving compact urban development and/or effective urban design/streetscape presentation. I note there are no windows requiring a sunlight (APSH) assessment in the context of this southern abuttal.

7.5. Parking and Access

- 7.5.1. The overall development would comprise of 2,030sqm of office space and a 336sqm retail/café/restaurant unit. The site is within Parking Zone 1 as identified within Map J of the Dublin City Development Plan 2022-2028. According to Section 4 of Appendix 5 of the Development Plan, 0 no. car parking spaces would be required to serve the proposed development. The proposed development is devoid of car parking consistent with this guidance. Having regard to the location of the site in close proximity to multiple public transport services; the brownfield/infill nature of the site and the wide range of services available in the surrounding area; I consider that a 'zero-parking' approach is acceptable in this case.
- 7.5.2. Given the location of the site and the absence of car-parking, I consider that vehicular traffic associated with the proposed development would be limited and would have no significant impact on the capacity or safety of the surrounding road network. With regards to deliveries to the proposed café/restaurant and offices – there is a loading bay to the west (30 metres away) outside No. 16 Pleasants Street and one to the east (25 metres away) outside Devitts Pub. These are sufficiently proximate to serve the subject development. I acknowledge that there will be impacts from construction traffic and operational servicing requirements. However, I am satisfied that these will not be significant and can be adequately addressed through the agreement of construction/operational plans by way of condition.
- 7.5.3. In terms of cycle parking, the proposed offices will be served by 38 no. bicycle parking spaces (as well as 7 no. electric scooter parking spaces) provided at basement level, accessible via a bike lift (the entrance to which is off Pleasants Lane). This complies/exceeds the 27 no. long term spaces required pursuant to Section 3.1 of Appendix 5 of the Development Plan. Accordingly, I am satisfied that the quantity of cycle spaces proposed to serve this aspect of the development is acceptable. I also

consider that the applicable cycle storage is appropriately designed, secured, and accessible, and I have no objection in this regard. In the context of the proposed restaurant/café use, no cycle parking spaces are proposed to serve this aspect of the proposed development. However, 8 no. existing public cycle parking spaces (4 no. Sheffield cycle stands) feature to the front of the site on the public footpath on Pleasants Street. They are currently utilised by customers of the existing restaurant and café on site so their utilisation by customers of the proposed café/restaurant is considered appropriate. There is one aspect of this element of the proposal that needs to be looked at in greater detail. The plans/material accompanying the application indicate the existing Sheffield bicycle stands featuring along the Pleasants Street frontage will be retained. However, upon review of the plans submitted and having visited the site, it would appear that the westernmost bicycle stands would conflict with the entrance door to the proposed café/restaurant unit if retained in their current location as suggested. Therefore, to ensure retention of these bicycle stands along the Pleasants Street frontage, it is recommended that, should the Board be inclined to grant permission, a condition be attached requiring that the retention/relocation of the existing Sheffield Bicycle Stands be agreed with the Planning Authority.

7.6. Other Matters

7.6.1. Flooding

One of the third-party observers on the appeal queries the capacity of the area's drainage system and contends that flooding/drainage problems are a regular occurrence. The application is accompanied by an Engineering Infrastructure Report, prepared by MMOS Consulting Civil & Structural Engineers, which identifies the subject site as being located in a Flood Zone C area and concludes that there is no risk of flooding affecting the site from tidal or fluvial sources, the proposed development will not increase stormwater runoff rate when compared to the existing site and any flood events do not cause flooding of the proposed development/the proposed development does not affect the flood storage volume or increase flood risk elsewhere in their view. The Strategic Flood Risk Assessment associated with the Dublin City Development Plan 2022–2028, more specifically the composite flood map included at Appendix 5, confirms the subject site falls within a Flood Zone C area. Having examined the OPW website (www.floodinfo.ie), I find the assessment provided in the aforementioned report regarding potential tidal, fluvial, pluvial or ground water

flooding, to be accurate. I also note, upon review of the OPW website there is no recorded history of flooding on the appeal site. The nearest recorded flood event to the appeal site was flooding at Wexford Street, Dublin 2, on 26th July 2013. I am satisfied that, given its small scale and location within an existing built-up area, the proposed development would not give rise to an increased risk of flooding on the site or other properties in the vicinity.

7.6.2. *Negative Impact on Development Potential*

The third party appeal received from O'Neill Town Planning, on behalf of Philip Elliott of Elliotts Cash and Carry, contends that the proposed development restricts the development potential of their property to the immediate north. The rear facade of the proposed development is developed flush with the neighbouring property's southern boundary for a short distance of 3.9 metres, thereafter the proposed development is positioned between 3.7 and 11.1 metres from the applicable boundary. With regards to north-facing windows, those proposed feature in the westernmost part of the rear façade (the remaining north façade being devoid of windows) and are set back 11.1 metres from the neighbouring property's southern boundary. It is my opinion that the proposed development, including its north-facing windows, has been appropriately designed where proximate to/provides an appropriate separation distance from the appellant's southern property boundary, having regard to the future redevelopment of the appellant's land. The applicant has suggested that a condition, requiring the north-facing windows be obscured, could be attached if the Board is of the view that such a measure is required to limit impact on neighbouring development potential. I am of the view that these windows adopt an appropriate separation distance and the inclusion of such a condition is not warranted in this instance.

7.6.3. *Buildability of the Proposed Development*

Concerns are also raised in the third party appeal received from O'Neill Town Planning, on behalf of Philip Elliott of Elliotts Cash and Carry, regarding the buildability of the proposed development given the proximity of the proposed basement to adjacent buildings to the north. I note that the applicant's appeal response is accompanied by an Outline Constructability Report, prepared by MMOS Consulting

Engineers. This report was informed by site investigations carried out by Ground Investigations Ireland. It outlines that the basement perimeter is to be setback 1.2 metres and the building façade 0.7 metres from the site boundary. It concluded that *'the proposed basement can be built safely, by a contractor with the requisite experience and competence, without causing unacceptable detrimental change to ground or surrounding local hardstanding, to surrounding buildings, to groundwater conditions and to local surface water conditions.'* Phase 2 site investigations are to be carried out on completion of the demolition works to inform the specifics of the proposed basement construction. I note that basement construction is common in city centre situations like this. Ultimately, I consider that structural impacts are largely dependent on construction management practices with details of the approach to be adopted outlined in the report accompanying the appeal response. There is an onus on the developer to protect adjoining properties as a matter of civil law. While these issues are largely outside the scope of the planning process, I am satisfied at this stage that the applicant has demonstrated that adequate space and construction techniques can be employed to ensure that there will be no significant structural impacts. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring that a Construction Management Plan, including details regarding the basement construction, be prepared/agreed with the Planning Authority.

On the topic of basement construction, there is one further matter that requires discussion in this regard. The Dublin City Development Plan 2022-2028 forms the basis for my assessment of the subject proposal. Pursuant to Appendix 9 of the same, it is the policy of Dublin City Council that a Basement Impact Assessment (BIA) shall accompany all planning applications that include a basement. The purpose of the BIA is to identify potential impacts, short and long term; to inform whether a proposed basement is acceptable; and to identify whether appropriate mitigating measures can be incorporated. Table 1.0 included in Section 5.0 of Appendix 9 provides a checklist of items that should be included in the BIA. The subject application was originally assessed against the Dublin City Development Plan 2016-2022 which had no such requirement. Therefore, the subject application was not accompanied by a BIA. Given the time that has elapsed since this appeal was received, I think it fair to exercise discretion in relation to this requirement of the current Development Plan, particularly

given the information accompanying the application – some of which touches on the items outlined in the aforementioned checklist. In this regard, the Outline Constructability Report (prepared by MMOS Consulting Engineers) considered potential risks on neighbouring properties, included indicative foundation details/a programme of works regarding construction of the proposed basement and was informed by site investigations carried out by Ground Investigations Ireland (which noted that ground water was not encountered). In addition, the application was accompanied by an Outline Construction Management Plan, prepared by Vision Contracting, as well as an Engineering Infrastructure Report, prepared by MMOS Consulting Civil & Structural Engineers, the details of which are discussed in the preceding section of this report (as well as the Dublin City Development Plan 2022–2028’s Strategic Flood Risk Assessment). Having regard to the locational context of the subject site and the information excised from the other consultant reports accompanying the application/appeal response, I am satisfied that the basement proposed as part of the subject application is acceptable in this instance. Should the Board consider a BIA necessary to facilitate their assessment of the subject application, I would suggest that one can be requested from the applicant pursuant to Section 132 of the Planning and Development Act, 2000 (as amended).

7.6.4. *Development Contributions*

I refer to the Dublin City Development Contribution Scheme 2020-2023. The proposed development does not fall under any of the categories of exemption listed in the development contribution scheme. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act, 2000 (as amended). In relation to the Section 49 Supplementary Development Contribution Schemes, the subject site is located within the applicable catchment area of the Luas Cross City Section 49 Levy Scheme Area. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 49 Development Contribution in accordance with the Planning and Development Act, 2000 (as amended).

7.6.5. *Archaeology*

Based on Development Plan mapping, the site is located approximately 40m to the south of the Zone of Archaeological Constraint for Recorded Monument DU018-020 (Dublin City), which is listed on the Record of Monuments and Places (RMP). An Archaeological Assessment, prepared by Archaeologist John O'Neill of IAC Ltd., was submitted with the application. The Dublin City's Archaeologist concurs with the recommended mitigation outlined in Section 5.2 of this report and recommended that a condition be attached requiring an Archaeological Assessment, with testing and impact assessment (this was subsequently included at Condition No. 12). I consider the inclusion of such a condition to be reasonable, given the site context. Therefore, should the Board be minded to grant permission, I recommend that a condition requiring preservation, recording and protection of archaeological materials or features that may exist within the site be attached.

7.7. **Appropriate Assessment**

7.7.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 **Recommendation**

8.1. Having regard to the foregoing, it is recommended that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below.

9.0 **Reasons and Considerations**

Having regard to the 'Z4 – Key Urban Villages / Urban Villages' zoning objective pertaining to the site under the Dublin City Development Plan 2022-2028, national/local policy objectives which support the redevelopment of brownfield/infill sites, the subject site's proximity to public transport, the design/layout/scale of the

proposed development and the existing pattern of development in the vicinity, it is considered that subject to compliance with conditions below, the proposed development would be acceptable in terms of design, height, layout and scale of development in this accessible urban location, would not adversely affect the visual amenity/architectural heritage of the area or seriously injure the residential amenities of properties in the vicinity and would comply with the provisions of the Dublin City Development Plan 2022-2028 and the Urban Development and Building Height - Guidelines for Planning Authorities (December 2018). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 24th June 2022 and by the further plans and particulars received by An Bord Pleanála on 12th September 2022, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, details pertaining to the retention/relocation of the existing Sheffield Bicycle Stands, shall be submitted to and agreed in writing by the Planning Authority.</p> <p>Reason: In the interests of orderly development and cyclist/pedestrian safety.</p>
3.	<p>Prior to the commencement of development, details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing by the Planning Authority.</p>

	<p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
4.	<p>Details of all external shopfronts and signage shall be the subject of a separate planning application.</p> <p>Reason: In the interest of the amenities of the area/visual amenity.</p>
5.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <p>(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,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
6.	<p>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.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
7.	<p>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 the proposed basement, inclusive of</p>

	<p>hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
8.	<p>(a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit 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.</p> <p>(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
9.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
10.	<p>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.</p> <p>Reason: In the interest of public health.</p>
11.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition.</p>
12.	<p>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</p>

	<p>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.</p> <p>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.</p>
13.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under Section 49 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under Section 49 of the Act be applied to the permission.</p>
14.	<p>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 provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering</p>

	<p>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.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
15.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
16.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition.</p>

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

Margaret Commane
Planning Inspector

12th July 2023