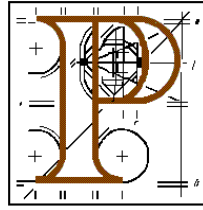


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## An Bord Pleanála



## Inspector's Report

### Development:

The subject site is generally bound to the north by St. Mary's Avenue North and the properties at 13 St. Mary's Avenue North and 13 Paradise Place; to the east by Paradise Place; to the west by Mountjoy Street and the property at 16 Mountjoy Street; and to the south by St. Mary's Place North. The proposed development involves the construction of a residential development comprising 34 no. residential units (with a total Gross Floor Area [GFA] c.3,577sq.m) with three main building elements including; Block A, a 3-4 storey building, containing 7 no. residential units fronting Mountjoy Street, Block B, a 5-6 storey building, containing 25 no. residential units fronting St. Mary's Place North and Block C, a 3-storey building, containing 2 no. townhouses fronting Paradise Place. The proposed development blocks will consist of: - Block A will comprise; 3 no. 1-bedroom units and 4 no. 2-bedroom units with access from street level off Mountjoy Street and from the rear courtyard area. Surface level terraces are provided to the rear of Block A facing eastwards for 2 no. residential units and to the front of Block A fronting Mountjoy Street facing westwards for 1 no. residential unit. A combination of roof terraces and balconies are provided to the upper floor residential units in Block A. Block B will comprise; 4 no. 1-bedroom units, 20 no. 2-bedroom units and 1 no. 3-bedroom unit with access from street level off St. Mary's Place North and Paradise Place. Surface level terraces are provided to the front of Block B facing southwards onto St. Mary's Place North and facing eastwards onto Paradise Place. A combination of roof terraces and balconies are provided to the upper floor residential units in Block B. Block C will comprise; 2 no. 3-bedroom townhouses with access from street level off Paradise Place. Surface level private gardens are provided to the rear (west) of Block C. Proposed provision is made for private amenity space for each residential unit, 12 no. car parking spaces, bicycle parking spaces, and bin storage area at surface level within the rear courtyard. The proposed development includes vehicular access to serve the development via a new entrance of Paradise Place at the eastern end of the site under proposed Block B; provision of open space in the form of a surface-level landscaped courtyard (in total c.176 sq.m) site clearance works; all landscaping, boundary treatments and site development works; all on a site measuring c.0.135 ha.

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**File Reference**

PL 29N.244627

**Planning Application**

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref.: 3929/14  
Applicant: Brian M. Durkan & Co. Ltd.  
Type of Application: Permission  
Planning Authority Decision: Refuse Permission

**Planning Appeal**

Type of Appeal: First Party – V - Refusal  
Appellant: Brian M. Durkan & Co. Ltd.  
Observer: (i) RPA  
(ii) Blend Residents' Association  
Date of Site Inspection: 19<sup>th</sup> June 2015

**Inspector**

Tom Rabbette

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## 1.0 SITE LOCATION AND DESCRIPTION

The appeal site is located in the north inner city in Dublin. It is bounded to the west by Mountjoy Street, to the south by St. Mary's Place North, to the east by Paradise Place and to the north by a housing development. There is a landmark church, known as the Black Church or St. Mary's of Chapel-of-Ease, located to the south of the site. There is a vacant 3-storey corner building located at the junction of Mountjoy Street and St. Mary's Place North, the appeal site bounds this structure to its north and east. There is a 4-storey primary school located immediately across Paradise Place from the appeal site.

## 2.0 THE PROPOSED DEVELOPMENT

The applicant is seeking permission for a residential development. It is proposed to provide 34 residential units in 3 blocks on the site. The site has frontage onto 3 streets. Block A will have access off Mountjoy Street to the west, Block B will have access off both St. Mary's Place North to the south and Paradise Place to the east, and Block C will be located off Paradise Place to the east. Off-street surface car parking for 12 cars is proposed on the site, this will be accessed off Paradise Place. Communal open space is also provided at ground level to the west and north of the proposed surface car parking.

## 3.0 THE DEVELOPMENT PLAN

The subject site is zoned 'Z1 – *To protect, provide and improve residential amenities*' as indicated on Map E of the Dublin City Development Plan 2011-2017. That map also indicates that the church to the south of the site is a protected structure as is the building located to the south-east of the site at the corner of St. Mary's Place North and Paradise Place. The former is listed as 'St. Mary's Chapel-of-Ease (The Black Church)' ref: 5456 in the RPS and the latter is listed as 'Former Christian Brothers School' re: 7718 in the RPS. Of direct relevance to this appeal is section 17.9.1 of the written statement which relates to 'Residential Quality Standards'. Also of relevance is section 17.40 and Table 17.1 relating to car parking standards. Section 16.1 'The Public Realm, Urban Form and Architecture' in Chapter 16 of the written statement is relevant too.

## 4.0 PLANNING HISTORY

3692/05: Planning permission was granted subject to conditions for the following development on the subject site:

*'Planning permission is sought for mixed commercial / residential development in two blocks including demolition of 2 No. unoccupied dilapidated dwellings at 7 & 8 St. Mary's Place North and the construction of 8 No. one bedroom, 4 No. two bedroom and 1 No. three bedroom apartments with balconies, in a 4/5 storey block between No.s' 13 & 16 Mountjoy Street and 1 No. 1 bedroom live /work unit, 2 No. 2 bedroom live /work units, 1 No. commercial / office unit, 24 No. 2 bedroom and 5 No. 1 bedroom apartments*

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*in a 4 to 6 storey block fronting St. Mary's Place North and Paradise Place with a roof garden at 5th floor level all over basement car park with 22 spaces, bin and bicycle storage and ancillary accommodation accessed from Paradise Place for Brian Durkan & Co. Ltd.'*

## **5.0 PLANNING AUTHORITY'S REPORTS**

### Planner's Report dated 17/02/15:

- Refusal recommended for 5 reasons.

### Conservation Officer's Report dated 10/02/15:

- CO notes the importance of development at this site given its proximity to adjacent protected structures, in particular, the Black Church opposite and its location within the wider context.
- The proposal given its height, form and bulk will impact negatively on the historic setting and character of the area.

### Roads & Traffic Planning Division Report dated 11/02/15:

- The Division has a number of concerns.
- FI recommended.

### Engineering Department - Drainage Division Report dated 30/01/15:

- No objection subject to conditions.

### RPA Report dated 21/01/15:

- If the application is successful a s.49 Metro North Levy condition should be applied.

PAC 0224/14 Pre-Application Consultations dated 04/06/14: Issues discussed included: planning history; design and height as previously approved; Flood Risk Assessment; AA Screening; too high; out of character with area; may impact on setting of the church, a protected structure; advised to inform 'Roads'; parking; Urban Design Statement Required; open space provision; commercial use will be restricted by residential zoning; bins, and bikes.

Objections/observation: Objections/observations addressed to the planning authority make reference to the following matters: extremely sensitive site; proximity to the protected structure – Black Church; church is a landmark building; vista around church is important; narrowness of lanes surrounding the site; 6 storeys excessively high; building heights; out of proportion; proposed development higher than main roof of church; development will compromise church in a number of ways; inconsistent with local character; inconsistent with streetscape; adjacent properties cast in shadow; alter street line; building alignment on Mountjoy Street; impact on modest Georgian house at corner; inadequate car parking; access arrangements to car parking; building articulation; street level treatment, and inadequacy of application documentation.

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## 6.0 THE PLANNING AUTHORITY'S DECISION

By Order dated 20/02/15 the planning authority decided to refuse permission for 5 reasons.

## 7.0 GROUNDS OF APPEAL

### The Applicant

The contents of the first party's grounds of appeal can be summarised as follows:

- There is a precedent for development on this vacant brownfield site under 3692/05.
- The p.a. decision to refuse is riddled with inaccuracies, selective interpretations of the development plan, completely ignores planning precedent and is in fact a flimsy and indefensible decision.
- The rationale of the decision is entirely unreasonable and irrational.
- The decision flies in the face of the Council's policy to reinvigorate the inner city, and its initiatives to address vacancy and incentivise brownfield development.
- The Council is sustaining brownfield vacancy and dereliction.
- This is a carefully considered scheme with a high standard of residential accommodation both in terms of size and quality.
- The scheme has been designed to the highest living standards, providing significant storage, dual and triple aspect units and generous private amenity space.
- The design is mindful of the need to respect the amenities of neighbouring properties and to allow for the future development potential of corner property at 16 Mountjoy Street.
- The current proposal is smaller in scale than the previously permitted scheme under 3692/05 for 42 apartments, 3 live-work units and a commercial unit/office.
- The proposed development complements, supports and reinvigorates the existing neighbourhood, as the site is currently vacant.
- The development supports regeneration of the area and provides for an appropriate use of the site.
- The site location and the context of the proposal are particularly pertinent issues.
- Supplementary high-quality new CGI images are submitted to assist the Board.
- The appeal is accompanied by an opinion by a Conservation Architect on the impact of the proposal on the Black Church.
- If the Board is minded to consider any reduction in the scale and massing of development, the applicant has prepared drawings and additional CGIs of minor amendments to the scheme that could be accommodated by condition without reducing the number of dwellings proposed.
- The size, quality and mix of the apartments are fully in accordance with policy 17.9.1.

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- The plot ratio of 2.65 is wholly appropriate to this city centre site, is allowable under s.17.4 of the CDP and there are extensive precedents where plot ratios in excess of this figure have been permitted.
  - Private open space is provided through both balconies and shared communal space, this is normal practice and entirely logical on restricted inner-city sites.
  - It is wholly appropriate to provide ground floor residential units in this location, as evidenced by the fact that most of the development in this inner-city area comprises dwellings onto the street.
  - The applicant took professional advice on the feasibility of a commercial unit at ground floor and was advised it could not be let, and therefore would remain vacant.
  - As per the previously permitted scheme on the site, the proposed development would not have a serious negative impact on St. Mary's Church (the Black Church).
  - The materials employed in the scheme are wholly appropriate and sensitive to the site's location.
  - The development was designed on the grounds of a legitimate expectation that the massing envelope of this scheme was acceptable (with reference to the precedent set by 3692/05).
  - In pre-application discussions with DCC Roads & Traffic Planning Division it was accepted that a reduced level of parking is acceptable in this highly accessible central location.
  - A fundamental premise of this scheme is that underground parking does not make sense in this city centre location, where the value of the property is marginal relative to the construction costs.
  - This is an important residential infill inner-city site, whose development is urgently required to address a housing crisis which is recognised by Government in its Construction Strategy 2020 and widespread vacancy and dereliction in the city centre.
  - According to the DoECLG Residential Land Availability survey, this site needs to be developed within the next 5 years.
  - The p.a. decision would sustain vacancy at this site, and set a worrying precedent for brownfield redevelopment in the city centre.
  - All of the amenities and services of the city centre are situated within walking distance, the site is also within walking distance of Grangegorman.
  - The subject site is highly-accessible for public transport, walking and cycling.
  - According to the NTA figures show that levels of car ownership in Dublin city are much lower than in any other part of the country, the proposed development will provide 12 car parking spaces for 34 residential units.
  - The applicant refers to, *inter alia*, the Dublin City Council Economic Unit Vacant Land Levy Initiative and the housing crisis in relation to the need for development on the site.
  - Existing residential parking volumes are low in the area and are decreasing with improvements in public transport, conscious lifestyle

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choices and the convenient city centre location of the proposed development.

- It must be noted that all houses in this locality have residential at ground floor and it is therefore entirely normal.
- The scheme provides floor areas well in excess of CDP minimum standards.
- All units have dual aspect, whilst a number of units have triple aspect.
- A well-balanced scheme has been achieved with 20% 1-bed, 71% 2-bed and 9% 3-bed units.
- The total shortfall of private open space, for the 27 units that fall short, amounts to 124.7 sq.m., this could potentially be absorbed in the 176 sq.m. communal open space.
- Residents of the development will have ample access to a range of neighbouring open spaces including Blessington Park, Canal Bank, Phoenix Park, Mountjoy Square, Garden of Remembrance, Grangegorman and local pocket parks.
- The design of the scheme is modern and would represent a significant improvement to the architectural character of the surrounding area.
- The impact of the proposal on the setting of St. Mary's Church will be much less than if the original 2005 permission was constructed.
- Building heights proposed are generally consistent with those approved under the previous planning permission for the site (3692/05).
- Considering the previously permitted car parking provision in the context of that quantum of development, and also considering the expansion of public transport and other options in this city centre area, the quantity of parking would appear more than sufficient to serve the proposed development.
- The subject site is located in a city centre location where the priority is to develop sites to their potential to provide for sustainable use of the site.
- The applicant refers to a number of decisions that highlight instances where the Council and the Board have found it wholly acceptable to encourage low parking standards in suitable locations.
- Were the Board to concur with the p.a.'s view that the development is inappropriate in terms of scale and massing, a modified scheme submitted with the appeal addresses these issues.
- The Board is invited to overturn the p.a. decision and grant permission for the scheme.

## **8.0 OBSERVER**

### **8.1 RPA**

The contents of the observer submission from the above dated 09/04/15 can be summarised as follows:

- Should the appeal be successful a s.49 Levy as condition should be applied relating to the Metro North.

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## 8.2 Blend Residents' Association

The contents of the observer submission from the above dated 12/04/15 can be summarised as follows:

- Residents' Association covering Blessington St., Eccles St., Nelson St. and Dorset St. area.
- The observer supports the p.a. decision.
- The p.a. decision highlights the main points, such as the lack of public open space, compromised by car parking.
- The applicant has failed to address the issue of height in relation to both the Black Church and the Dublin City Council housing estate fronting onto Mountjoy Street.
- The problem of the streetscape, setting and context, adjacent to the St. Mary's Church has been ignored.
- The applicant's submission concentrates instead on detailing the size of the proposed units.
- The 2005 permission for the site only serves to emphasise the mistake made by untoward and inappropriate planning decisions during the boom years.
- The plot ratio proposed does not comply with the CDP standards.
- The proposal is an over-development.
- The proposed development is significantly higher than the main roof of St. Mary's Church which would compromise a notable landmark.
- The 'Architectural Heritage Protection Guidelines for Planning Authorities' are not being complied with in the subject proposal.
- The proposed development is of such a scale, mass and bulk that it overwhelms the protected structure.
- It is evident that rather than being granted a position of deference as is its due, the church is overwhelmed by the proposed development.
- The development will alter the existing historic street line at Mountjoy Street by intrusion.
- Defects in the proposed development cannot be rectified by imposing conditions.
- The number of points of the CDP that this proposal breaches is significant.

## 9.0 **RESPONSE TO GROUNDS OF APPEAL**

### Planning Authority

The contents of the planning authority's response to the grounds of appeal can be summarised as follows:

- The applicant has not satisfactorily addressed the reasons for refusal.
- The p.a. decision was based on a rigorous, thorough and objective assessment of the proposed development.
- The standard of development being provided by the applicant in the subject application did not meet minimum development standards across a number of fronts and such was the scale of deficiencies that a request for additional information was not deemed appropriate.



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- The p.a. notes the applicant's appeal in relation to the 5 reasons for refusal, but the p.a. maintains its position on all 5.

## 10.0 ASSESSMENT

10.1 I have read all the file documentation and have had regard to the statutory plan for the area and relevant guidelines in relation to residential developments. I have also carried out a site inspection. In my opinion the substantive matters to be addressed in this assessment are as indicated hereunder.

### Impact on the 'Black Church'

10.2 To the south of the site there is a landmark church located in the centre of the street. This is a protected structure and is listed as St. Mary's Chapel-of-Ease in the RPS but is better known as the 'Black Church'. It appears that it is no longer used as a place of worship, it is now used for commercial purposes (offices). It dates from the 1830s and was designed by architect John Semple. The church occupies a position of prominence in the centre of St. Mary's Place, it addresses Western Way to the front across Mountjoy Street and Granby Row to the rear across Dorset Street.

10.3 The proposed development is in close proximity to this church, in particular, Block B of the proposal is located some 14 m to the north of the church. Reason No. 2 of the p.a. decision cited concerns relating to the scale, massing, design and materials of the proposal which would have a seriously negative impact on the existing streetscape and on the setting and context of the Black Church according to the p.a. I share the concerns in relation to the impact on this landmark structure.

10.4 These concerns are also raised in observations to the p.a. at the time of the application and in an observer submission to the Board on the appeal. In relation to the latter, the observation, by '*Blend Residents' Association*', raises the concern that the development will overwhelm this landmark protected structure, they hold that the setting of the church would be severely compromised by the scale and proximity of Block B. This concern is not unfounded, in my opinion. Likewise, I concur with the observer submission by *MPM Residents' Association* to the p.a. at the time of the application, where concerns are raised about the impact on the landmark church. In that submission it is stated that any structure on the application site must be required to enhance the framing of this protected structure, or at a minimum, not detract from it. It further states that the proposal to erect a six storey building that exceeds by two storeys the height of the eaves of the church would undoubtedly detract from the setting and overwhelm it. The eight signatories to that observer submission by *MPM Residents' Association* are all members of the RIAI. In a report dated 10/02/15 the p.a. Conservation Architect states, *inter alia*, the following: "*The CO notes the importance of development at this site given its proximity to*

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*adjacent protected structures, in particular the Black Church and its location within the wider context...The proposal given its height, form and bulk will impact negatively on the historic setting and character of the area...".*

- 10.5 While I acknowledge that the scale and height of Block B is not wholly dissimilar to that granted under 3692/05, and while I also have had regard to the applicant's Conservation Architect Report on file, I am concerned that the proposed development will impact negatively on the character and setting of the landmark Black Church. The dwellings that were previously on this site and faced across St. Mary's Place towards the church were single-storey cottages (demolished c. 2005) and the dwellings on the southern side of the church that face across St. Mary's Place to the church are small-scale two-storey dwellings. In urban design terms whatever is proposed for the application site should defer to the prominence of the landmark church, what the applicant is proposing here competes with, and challenges, the landmark status of the church (I am not suggesting that heights should be limited to one or two storeys, it is a matter for the applicant to propose an appropriate response). It further sets up the corner of St. Mary's Place North and the back lane that is Paradise Place, as a major urban node, in urban design terms, this is unjustified and unwarranted in my opinion. The opening chapter of the '*Urban Design Manual – A best practice guide*' (DoECLG May 2009) that is a companion document to the '*Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*' is most relevant here where it states, *inter alia*, the following: "Any new development should improve on the existing situation, and at the same time be sensitive to its context. How well a site's context is understood by the designers of a scheme will perhaps be the most important determination of how successful the scheme will ultimately be...The starting point for the design of any residential development is an assessment of its surroundings. This covers existing landscape and buildings, as well as the social and economic needs of the existing communities...". I am not convinced that this proposal is sensitive to its context. In my opinion the applicant puts considerable emphasis on what was granted on the site in 2005 to justify the current proposal, that is understandable, however, that permission is now withered, it was never appealed to the Board, there is a new statutory development plan in place and there are new national guidelines in place which emphasise quality of place making (and the new development plan specifically mentions the *Urban Design Manual* mentioned above).
- 10.6 I consider that given its proximity to the landmark church to the south, the proposed development, resulting from its excessive scale, massing and height, will undermine and diminish the landmark status of the church. It will adversely impact on the character and setting of that church and I would thus recommend refusal on this issue. I have considered the applicant's proposed amendments submitted with the appeal but consider that these do not adequately address this matter.

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### Building line along Mountjoy Street

- 10.7 Block A fronts onto Mountjoy Street that is located to the west of the site, the block has access off Mountjoy Street as well as off the communal area and car park to the rear at ground level.
- 10.8 In the Dublin City Development Plan 2011-2017 under s.16.1 '*The Public Realm, Urban Form and Architecture*', and specifically s.16.1.3 '*Making Successful Streets*', it states, *inter alia*, the following: "*Building frontages should provide appropriate enclosure to streets. They should have consistent heights relative to existing buildings and their plan form should prioritise the provision of a consistent building line, given enclosure to street or space.*"
- 10.9 I consider that the proposed frontage onto Mountjoy Street fails to adhere to the above. There is a gaping hole in the urban frontage along Mountjoy Street created by the vacancy on the application site. It needs to be closed. However, I consider that the proposed Block A frontage fails to appropriately respond to the established building line and lacks consistency in how it addresses height along the streetscape.
- 10.10 There is a terrace of 3-storey dwellings fronting onto Mountjoy Street immediately to the north of the site, while these dwellings have ground floor protrusions the actual building line is formed by the upper two floors of this terrace. This building line, more or less, corresponds with the building line of the few remaining two-storey Edwardian dwellings that remain in the terrace further north along the street. Similarly, the vacant, boarded-up three-storey, No. 16 Mountjoy Street immediately to the south of the site, aligns with this established building line. However, on its northern end the front façade of Block A aligns with ground floor protruding bays of the terrace to the north, this results in the upper floors breaking the building line of this terrace, they protrude out by c. 1 m. Then approximately half way along the proposed façade of Block A it steps further out again when, in fact, it should step back to align with the front façade of the existing No. 16 Mountjoy Street, in my opinion. There is also a simplicity and consistency in the street elevation all along Mountjoy Street north and south of the application site. This simplicity and consistency is not repeated at the proposed Block A façade where, not only does it not respect the established building line, it also jumps from 3-storey to 4-storey along its length. The simplicity and control in design terms of the terraces on the eastern side of Mountjoy Street north and south of the Black Church form part of the setpiece that is the landmark church. The proposed facade to Block A detracts from the visual amenity of the streetscape, it will also interfere with the views of the Black Church. Like the façade of Block B onto St. Mary's Place North, it competes with the prominence of the landmark church. I again refer the Board to the observer submission to the p.a. by *MPM Residents' Association* where it states, in relation to building alignment along Mountjoy Street, the

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following: “*The alignment of the proposed building on Mountjoy Street is both confused and unacceptable...the result would be urbanistically incoherent and cannot be permitted...This poor judgement is exacerbated by the decision to further step out the building as it approaches the corner building. This is hugely detrimental to the setting of the Chapel as it sets up a meaningless formal jumble that calls attention to itself and distracts attention from the building that merits it...*” The observer submission directly to the Board by *Blend Residents’ Association* also raises this issue and specifically cites section 16.1.3 of the CDP. The concerns of the observers to the p.a. and the Board are not unfounded in my opinion. The record of the pre-application consultation with the p.a. dated 04/06/14 also refers to ‘building lines’ as an issue raised.

- 10.11 The proposed Block A onto Mountjoy Street fails to respect the established building line and fails to provide a consistent height relative to its neighbouring buildings, it conflicts with the guidance given in s.16.1.3 of the CDP, it detracts from this streetscape and adversely impacts on the visual amenity of the area. I would recommend a refusal in relation to this issue also.

#### Car Parking Provision

- 10.12 The p.a. refusal Reason No. 5 related to inadequate car parking provision. The scheme proposes 34 residential units, there are 12 no. on-site surface car parking spaces proposed, vehicular access off Paradise Place to the east of the site.
- 10.13 There is a report on file from the *Roads & Traffic Planning Division* of the p.a. (dated 11/02/15) raising a number of concerns, in particular, the deficiency in car parking. That reports notes that there is very little scope for on-street car parking in the area. It goes to recommend additional information stating, *inter alia*, that the car parking provision is “seriously inadequate” and would result in overspill parking in the area where there is little capacity for on-street parking.
- 10.14 Section 17.40.13 ‘*Residential Car Parking in Apartments*’ and Table 17.1 indicate 1 car parking space per residential unit as a development standard. In addition Policy SI16 states: *To provide for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards (section 17.40) so as to promote apartment living for all age groups and family types.* While it is acknowledged here that this is an inner city site and there may be some scope for relaxation of the development plan standards, 12 spaces for a 34 unit development is not an insignificant shortfall, in my opinion. It is possibly indicative of the over-development of the site. I recommend refusal in relation to this matter.

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### Open Space Provision

- 10.15 The p.a. applied two reasons for refusal relating to open space provision. Reason No. 1 related to minimum private open space standards and Reason No. 4 related to public open space on site.
- 10.16 All of the floor areas of the proposed apartments meet the CDP standards and significantly exceed the '*Sustainable Urban Housing: Design Standards for New Apartments*' issued by the DoECLG in 2007. While I accept that some of the proposed floor areas of the balconies fall short of the CDP standards they generally meet, or exceed, the DoECLG standards. Furthermore, the CDP does state that the minimum 'combined private/communal open space' requirements for apartments should be 5-8 sq.m. per bedspace. i.e. the open space provision does not have to be applied as private open space in the form of balconies/terraces for each unit separately. In that regard the applicant is proposing communal open space in the open courtyard at ground floor level and in the appeal submission additional communal open space is proposed at roof level for both Block A and B. While I share some of the concerns of the p.a. relating to aspects from some of the apartments, in quantitative terms, given the wording of the CDP, I would not recommend a refusal in relation to private open space provision.
- 10.17 In relation to Reason No. 4 of the p.a. decision, s.17.9.1 does state that in new residential developments 10% of the site area shall be reserved as public open space. The applicant is indicating 176 sq.m. of open space in the courtyard and it does not include the car parking area, the stated site area is 1,348 sq.m., so, in quantitative terms, the applicant does exceed the 10% requirement. I would not therefore recommend that Reason No. 4 be upheld.

### Appropriate Assessment

- 10.18 There is an Appropriate Assessment Screening Report on file dated 19/08/14.
- 10.19 Having regard to the nature and scale of the proposed development and the nature of the receiving environment and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### Other issues:

- 10.20 The interface between ground floor residential units and the public domain can be challenging in design terms, trying to provide for privacy on one hand and presenting an appropriate frontage to the street on the other. I would accept that there is some validity in the applicant's

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arguments relating to the viability of commercial units at the site. I also share the concerns of the p.a. relating to some of the proposed ground floor residential units. I note the comments of the *MPM Residents' Association* observation to the p.a. (dated 01/02/15) under 'Street Level Treatment' on this issue and would generally concur in relation to possible solutions. I am of the opinion that the ground floor units may need further design consideration, but it is not an issue for refusal at this stage in light of other recommendations.

10.21 The changes to the materials proposed in the appeal submission are an improvement i.e. curtain walling replaced with increased brick finish.

10.22 If the Board is disposed to a grant of permission I draw their attention to the observer submission from the RPA requesting that a s.49 levy condition should be applied relating to Metro North.

## **11.0 CONCLUSION AND RECOMMENDATION**

11.1 The scale, massing and height of Block B in close proximity to the Black Church are of concern. It will undermine and diminish the landmark status of this protected structure adversely impacting on its character and setting.

11.2 The Mountjoy Street frontage proposed is also of concern. It fails to adhere to the established building line in plan form and it fails to provide a consistent height relative to the neighbouring buildings. It will adversely impact on the streetscape and the visual amenities of the area.

11.3 The proposed car parking provision of 12 spaces for 34 units fails to meet CDP standards.

11.4 I recommend permission be refused for reasons relating to the above as outlined hereunder.

## **DECISION**

REFUSE permission for the proposed development based on reasons and considerations set out below.

## **REASONS AND CONSIDERATIONS**

1. Having regard to the scale, massing and height of the proposed Block B in close proximity to the landmark protected structure that is St. Mary's Chapel-of-Ease (The Black Church), it is considered that the proposed development will undermine and diminish the landmark status of the former church and will adversely impact on the character and setting of this protected structure. The proposed development

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would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is a requirement of the planning authority that building frontages should have consistent heights relative to existing buildings and their plan form should prioritise the provision of a consistent building line as indicated in section 16.1.3 of the Dublin City Development Plan 2011-2017, this requirement is considered reasonable. The plan form of proposed Block A fails to adhere to the building line as established by the existing structures to its north and south fronting onto Mountjoy Street and fails to provide a consistent height relative to these neighbouring buildings. The proposed development thus fails to comply with the above mentioned section, it would detract from the integrity and consistency of the streetscape along the eastern side of Mountjoy Street and would adversely impact on the visual amenity of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. It is the policy of the planning authority to require the provision for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards so as to promote apartment living for all age groups and family types, this policy is considered reasonable. The proposal to provide 12 car parking spaces for a development accommodating 34 residential units fails to meet the car parking standards as outlined in section 17.40 and Table 17.1 of the Dublin City Development Plan 2011-2017 and would thus be contrary to the above mentioned policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Tom Rabbette  
Senior Planning Inspector  
19<sup>th</sup> June 2015