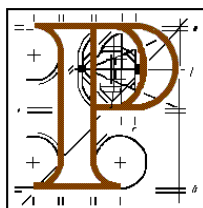


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** PL29N.246320

**Development:** Conversion of a 3-storey building to 9 no. dwellings at No's. 40-41 Sean McDermot Street Lower and Rutland Street Lower, Dublin 1

### Planning Application

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref.: 4294/15  
Applicant: Pim Investments  
Planning Authority Decision: Grant permission

### Planning Appeal

Appellant(s): Pearce Gallagher  
Type of Appeal: Third party  
Observers: None  
Date of Site Inspection: 15<sup>th</sup> June 2016

**Inspector:** Donal Donnelly

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal site is located on Sean McDermott Street Lower to the north-east of Dublin City Centre. Sean McDermott Street Lower commences at a crossroads with Gardiner Street (R802) and continues east for approximately 400m to the crossroads with Buckingham Street/ Killarney Street. The street comprises a mix of residential and civic uses, including a church and swimming pool, together with Georgian dwellings and flats.
- 1.2 The building on the appeal site is a 2-storey over basement structure located at the eastern corner of Sean McDermott Street and Rutland Street. The western frontage onto Rutland Street is approximately 32m in length and the southern frontage measures 12.5m. The building dates from the early 19<sup>th</sup> century and was in use as a technical school but has been vacant for some time. The total site area is 500 sq.m. and the floor area of the building on site is 843 sq.m. There is an open space/ yard area to the rear of the building.
- 1.3 The building has 3 no. pedestrian entrances from the front and there appears to have been a vehicle access to the rear from Bella Place. To the east of the site is a 110kV ESB substation. The building adjoins a terrace of dwellings on Rutland Street.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposed development is for the change of use from educational use to residential use at a vacant building occupying the eastern corner of Sean McDermott Street Lower and Rutland Street Lower. The proposal involves the following main elements:
  - Conversion of a 3-storey (including basement) building extending to 843 sq.m. to use as 9 no. dwelling units comprising:
    - Apartment 1: 1-bed unit of 66.1 sq.m. (basement)
    - Apartment 2: 2-bed unit of 81 sq.m. (basement)
    - Apartment 3: 1-bed unit of 53 sq.m. (basement)
    - Apartment 4: 2-bed unit of 87 sq.m. (ground floor)
    - Apartment 5: 2-bed unit of 81 sq.m. (ground floor)
    - Apartment 6: 1-bed unit of 57.5 sq.m. (ground & first floor)

- Apartment 7: 1-bed unit (plus study) of 68 sq.m. (first floor & mezzanine)
- Apartment 8: 1-bed unit of 65 sq.m. (first floor & mezzanine)
- Apartment 9: 2-bed unit of 72 sq.m. (first floor)
- Works for the construction of a mezzanine level to allow for 2 no. bedrooms within the roof area;
- Creation of 2 no. dormer windows behind parapet;
- Removal of single storey toilet block addition to rear of building and external steel staircase;
- Works to the rear courtyard to create a communal amenity garden open space;
- External alterations limited to repair and reinstatement works, alteration and widening of rear windows and partial horizontal extension of roof at the Sean McDermott Street Lower corner;
- Bicycle and bin storage provided to the rear.

### **3.0 PLANNING HISTORY**

*Dublin City Council Reg. Ref: 3630/09*

- 3.1 Lourdes Youth & Community Services Ltd in association with North City Centre Community Action Project was granted permission on 4<sup>th</sup> November 2009 for the demolition of the existing 3 storey (including basement) end of terrace building and the construction of a new multi-functional community centre of approx 1,585 sq.m. over 5 floors (including basement). The community centre included a creche, a community training centre, a cafe, youth and adult programmes and associated facilities. There was to be a terrace at both second and third floor levels facing onto Rutland Street.

## **4.0 PLANNING AUTHORITY DECISION**

### **4.1 Planning and technical reports**

- 4.1.1 Under the assessment of the application, the development is considered to be mainly positive due to the redevelopment and reuse of an existing vacant building on quite a prominent site.
- 4.1.2 It is noted that all proposed apartment units comply with the minimum overall floor areas set out in Section 17.9.1 of the Development Plan and also the Sustainable Urban Housing: Guidelines for New Apartments (December 2015).
- 4.1.3 The apartments will not have access to private open space and a landscape plan for a communal open space courtyard is deemed by the Planning Authority to be acceptable for such a small number of apartments within an existing city centre building.
- 4.1.4 There are concerns regarding the access arrangements to the basement where it is proposed to reinstate the original external basement staircase off Sean McDermott Street and to provide access to this external space at basement level directly from the communal areas and from Units 2 & 3.
- 4.1.5 The Case Planner, however, considers it more appropriate to separate this open space from the communal areas and to provide access only to the basement level apartments. It is also suggested that opaque glazing separation panels should be provided at the boundary of each unit. Furthermore, it is stated that the applicant should close off the area access off the communal area by replacing the door with a window. In addition, the window off the living space of Unit 1 should be changed to a doorway. It is acknowledged that these private areas are at basement level but would improve amenity, privacy and security levels for future residents.
- 4.1.6 It is concluded that the proposal will utilise a historic structure in a prominent location that has been vacant for some time, and that the sensitive upgrading of fenestration and the overall appearance of the structure will enliven the location and provide passive surveillance.

### **4.2 Planning Authority Decision**

- 4.2.1 Dublin City Council issued notification of decision to grant permission for the proposed change of use subject to 14 conditions.
- 4.2.2 Amendments to the scheme are required under Condition 6 to include use of front open space for basement apartments only; replacement of the access doorway at the northern end of the development with a window;

replacement of living room window within apartment 1 with a door to open space; provision of opaque glass screens to divide the open space between apartments 1 & 2 and 3 & 4; and the making of the external staircase off Sean McDermott Street Lower to basement level accessible to apartment 3 only.

## **5.0 GROUNDS OF APPEAL**

5.1 A third party appeal against the Council's decision has been lodged by a resident of Castleknock, Dublin 15. The grounds of appeal and main points raised in this submission can be summarised as follows:

- Appellant objects to the change of use from educational to residential – building has been in educational use and serving the community since the 1800's.
- Permission Reg. Ref: 3630/09 had been granted for a multi-functional community centre, thus providing an amenity to the local residents.
- Current application is a speculative development and is of little benefit to the current residents of the community.
- Change of use is not sympathetic to a building of historical interest as outlined in the Conservation Report submitted with the planning application.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

6.1.1 The Planning Authority states in response to the third party appeal that it has no further comment to make and considers that the Planner's Report on file adequately deals with the proposal.

### **6.2 First party response**

6.3.1 The applicant's agent responded to the third party appeal with the following comments:

- Proposed residential use is actively encouraged within the Z5 zone where it is listed as a permissible use – such a use is in

line with the established pattern of development in the area and does not have potential for unreasonable adverse amenity impacts.

- Proposal accords with the zoning objective to provide a dynamic mix of uses that interact with each other, create a sense of community and sustain the vitality of the inner city both day and night.
- Conversion will remove a vacant and decaying building from the streetscape and open up blocked windows to allow the building to contribute to passive surveillance.
- Applicant has engaged a conservation architect to provide the best methodology and specification, and to guide the project to follow best practice conservation methods.
- Both plot ratio guidelines could not be feasibly be achieved given the constraints of converting an existing old building with limited footprint available.
- Higher plot ratio could not be achieved without reducing private open space or creating upper level extensions that detract from the character of the building and area – proposed plot ratio is therefore acceptable.
- Apartment floor areas exceed Development Plan minimum requirements. 3-bed units not achievable due to configuration and constraints of the building.
- Proposal incorporates windows in the northern elevation to allow for daylight penetration to the principal living rooms – these alterations will not be visible from the public realm, thereby preserving the heritage of this significant building.
- It is not feasible to provide private open space fully in accordance with Development Plan recommendations – communal open space will be attractively landscaped.
- Proposal will accord with the recommendations of the Development Plan for internal storage.
- Proposal will be sustainable in that it provides for residential development in the city centre close to public transport, services and amenities.

- No on-site car parking is provided and city centre location will appeal to non-car owners.

## **7.0 POLICY CONTEXT**

- 7.1 Within the Dublin City Council Development Plan, 2011-2017, the appeal site is zoned Z5, City Centre, where the objective is “*to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.*”
- 7.2 Standards for residential accommodation are contained in Section 17.9 of the Development Plan.
- 7.3 The southern half of the site is within a Zone of Archaeological Interest.

## **8.0 NATIONAL GUIDELINES**

### *Sustainable Urban Housing: Design Standards for New Apartments, 2015*

- 8.1 These Guidelines provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes for apartment balconies / patios; and room dimensions for certain rooms.

### *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, December 2008*

- 8.2 It is stated in these Guidelines that in order to maximise inner city and town centre population growth, there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site, subject to the following safeguards:
- Compliance with the policies and standards of public and private open space adopted by development plans;
  - Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
  - Good internal space standards of development;

- Conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- Compliance with plot ratio and site coverage standards adopted in development plans.

## 9.0 ASSESSMENT

9.1 Planning permission is sought for the conversion of a former 2-storey over basement school building, which has been vacant since 2007, to 9 no. apartments comprising 5 no. 1-bed units and 4 no. 2-bed units at the corner of Sean McDermott Street Lower and Rutland Street Lower, Dublin 1.

9.2 There was a planning permission on site for the demolition of the existing building and construction of a new 4-storey over basement multi-functional community centre. This permission has now expired. The current proposal will see the existing building and grounds being retained and refurbished.

9.3 Dublin City Council issued notification of decision to grant permission for the proposed change of use and a third party appeal has been lodged on the grounds that the proposal will result in the loss of a building for community use. Having considered the contents of the planning application, grounds of appeal, planning history and site context, I consider that this appeal should be assessed under the following:

- Development principle;
- Impact on residential amenity;
- Impact on the character of the building and streetscape.

### Development principle

9.4 The appeal site is zoned Z5 (City Centre), where the objective is “to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.”



- 9.5 Residential is a permissible use under this zoning category and therefore the proposed development would be acceptable in principle.
- 9.6 The appellant contends that the proposal would result in the loss of a previously existing educational building and previously permitted community centre that would have provided increased amenity to the existing residents of the area.
- 9.7 The primary purpose of the Z5 zoning is to sustain life within the city centre through intensive mixed-use development. It is stated in the Development Plan that a general mix of uses is desirable throughout the area to create a sense of community and to sustain the vitality of the inner city during day and night-time.
- 9.8 The proposal will see increased residential development in a predominantly residential area, as well as the loss of an opportunity to develop the site for community use. The previously permitted development on site would have included a creche, a community training centre, a cafe, youth and adult programmes and associated facilities that would have improved the mix of uses in the area
- 9.9 Notwithstanding, the previous permission has expired without the development taking place and the current proposal should be assessed on its own merits. The proposal will bring the existing building back into use and a structure of some architectural and historic merit will now be retained. I agree that this will help to improve vitality along a strip of Sean McDermott Street that includes the large frontage of an ESB building with little or no street animation. Overall, I am satisfied that the proposal is consistent with one of the main aims of this zoning category, which is to encourage activity in these areas at all times of the day.

*Impact on residential amenity*

- 9.10 The proposed development provides 4 no. 2-bed apartments ranging in floor area from 72 sq.m. to 87 sq.m. and 5 no. 1-bed units with floor areas ranging between 53 sq.m. and 68 sq.m. Three of the units are at basement/ lower ground level and three units are on two levels.
- 9.11 It is noted in the Development Plan that standards for residential accommodation may be relaxed where existing buildings are being refurbished to take account of specific circumstances, subject to the provision of good quality accommodation.

- 9.12 The minimum floor areas outlined in the Development Plan for 1-bed and 2-bed units is 55 sq.m. and 80 sq.m. respectively. Units 3 and 9 would therefore be substandard in terms of floor area as per Development Plan standards. Unit 7 is also presented as a 1-bed unit with study at 68 sq.m. that could be occupied as a 2-bed unit. The "Sustainable Urban Housing: Design Standards for New Apartments (December 2015) recommend lower minimum areas of 45 sq.m. and 73 sq.m. for 1-bed and 2-bed units respectively. In this case, some relaxation of standards may be considered acceptable in view of the fact that the proposal is for the conversion of an existing building.
- 9.13 There are other aspects of the proposed development that would be substandard as per Development Plan standards. In terms of dwelling mix, the proposal does not provide for a maximum 20% 1-bed units and minimum of 15% 3-bed units. Furthermore, no private amenity spaces are proposed to serve each unit. The total area of proposed communal open space, however, at approximately 130 sq.m. would exceed the minimum combined private/ communal open space requirement of 5 sq.m. per bedspace. There are approximately 23 no. bedspaces, which would generate a requirement of 115 sq.m. of private/ communal open space. In addition, the Planning Authority has attached a condition to its grant of permission requiring the areas to the front of basement apartments to be screened off as private amenity space for those units.
- 9.14 In terms of the quality of the communal open space, I note that this area will be largely overshadowed in afternoon/ evening times. There is also a wall with railing that presents an unattractive boundary treatment to the eastern side of this space, and there are potential access and amenity issues with respect to the proposed bin storage area.
- 9.15 It is stated in the Development Plan that the location and design of any refuse storage area should ensure that it is easily accessible; insect, vermin and odour proofed; and will not detract from the amenities of adjacent properties. Detailed proposals have not been submitted with the planning application for refuse storage and removal. A bin storage area is shown on drawings adjacent to Apartment 2 and below the bathroom windows of Apartments 4 & 5. I would have concerns that the bin storage area in such close proximity to these apartments would give rise to problems of odour, insects, noise, etc.
- 9.16 There is also the question of how the bin storage area will be accessed when it appears that the at-grade entrance to the rear of

the site from Bella Place will not be available. It is stated in Appendix 16 of the Development Plan that *“sufficient access and egress must be provided to enable bins to be moved easily from the storage area to an appropriate collection point on the public street nearby. The access and egress area should have no steps and have a minimal incline ramp.”*

- 9.17 A possible solution for providing access to the bin storage area might be to install an outdoor platform lift adjoining the pedestrian access onto Rutland Street. This would require the removal of the low wall to the southern side of the access to allow for installation of a lift to the southern side of the entrance that could be used to manoeuvre 240 litre bins up to street level. The lift could also be used for wheelchairs, buggies and bicycles. In my opinion, it may be preferable to examine the feasibility of installing an outdoor lift by way of a further information request. I would also propose the relocation of the bin storage area to a position along the eastern site boundary away from the rear facing windows of the apartments.
- 9.18 My other main concern regarding impact on amenity for future residents of the scheme relates to daylight access for basement apartments, in particular Apartment 3 which does not have windows facing onto the courtyard to the rear. I note, however, that this apartment will have a total of 5 no. window openings, as well as a door opening to basement level. Furthermore, a daylight analysis submitted with the planning application concludes that the basement apartments satisfy the minimum average daylight factor.
- 9.19 Overall, I consider that the proposed development can provide for a reasonable level of amenity for future occupants of the scheme subject to satisfactory access arrangements to the basement. I agree with the Planning Authority that the open space area at basement level to the front of the apartments should be subdivided and privatised to improve the amenity levels and security of these units. I consider that there are other positive aspects of the proposed development such as the prevalence of dual aspect apartments; provision of a good number of units well above minimum floor area standards; and kitchens with windows that offset the substandard elements of the proposal. I consider that it would be reasonable in this case to relax the Development Plan standards for residential accommodation having regard to the specific circumstances of this building.

*Impact on the character of the building and streetscape*

- 9.20 It is stated in Section 17.10.5 of the Development Plan that *“the re-use of older buildings of significance is a central element in the*

*conservation of the built heritage of the city and important to the achievement of sustainability.”* In this regard, the Planning Authority will actively seek the retention and reuse of older buildings of historic or architectural merit that make a positive contribution to the character and identity of the streetscape.

- 9.21 Although the building was considerably altered in the mid 20<sup>th</sup> century, it retains features of note and is therefore considered in the Conservation Report submitted with the planning application to have some architectural interest.
- 9.22 The proposed development will generally have a positive impact of the existing building through refurbishment and essential repairs to the roof. It is also proposed to reinstate some of the original character of the building through installation of sash windows, replacement of the tie beam to Rutland Street and works to external railings and stairs. Most significantly, the proposed development will bring the building into active use and this will help to secure its future.
- 9.23 I would have some concern regarding the impact on the streetscape of the proposed dormer windows. It may be possible to reposition these windows to the rear roof slopes and the Board may wish to seek further information in this regard. This would likely involve extensive internal reconfiguration and therefore such an amendment may not be achievable by way of condition. I note, however, that the proposed dormers onto Rutland Street are located behind a parapet wall and this will help to conceal the new structures from street level. The chimney stacks may also present problems if the dormers were to be relocated to the rear.
- 9.24 On balance, I agree that the proposed development will make a positive contribution to the streetscape through removal of dereliction, increased animation and passive surveillance, and that the proposed dormers will not be overly obtrusive within the streetscape.

*Appropriate Assessment*

- 9.25 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise

## 10.0 CONCLUSIONS AND RECOMMENDATION

- 10.1 It is considered that permission for the proposed development should be granted for the reasons and considerations hereunder.

### REASONS AND CONSIDERATIONS

Having regard to the “Z5” zoning objective for the site, to the pattern of development in the area and the proposed internal layout, it is considered that, subject to compliance with the conditions set out below, the proposed development would be compatible with the provisions of the Dublin City Development Plan, 2011-2017, would not adversely or materially impact on the character of the building or streetscape, nor would it seriously injure the amenities future occupants or of properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

### CONDITIONS

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

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

- 2 The proposed development shall be amended as follows:
  - (a) The bin storage area shall be relocated to the eastern side of the communal open space;
  - (b) An outdoor platform lift between basement and ground level shall be installed to the south of the communal pedestrian access onto Rutland Street Lower;
  - (c) No access shall be provided from the platform lift to the open space at basement level to the front of the building;
  - (d) The front open space at basement level shall be used for private open space of the basement apartments only;
  - (e) The window to the living room of Apartment 1 shall be replaced with a door to provide access to the open space to the front;

- (f) 1.8m high opaque screens shall be placed at the boundaries between Apartment 2 and adjoining apartments at basement level to the front;
- (g) The external staircase to Apartment 3 from Sean McDermott Street to basement level shall be only accessible to Apartment 3.

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

**Reason:** In the interests of residential amenity.

- 3 The proposed dormer windows on the front roof slope onto Rutland Street shall be clad in slates/ tiles to match the existing roof.

**Reason:** In the interests of visual amenity.

- 4 The windows to all W.C.'s shall be permanently glazed with obscure glass.

**Reason:** In the interests of privacy and amenity.

- 5 Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

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

- 6 Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

- 7 All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the "Architectural Heritage Protection Guidelines for Planning Authorities"

(Department of the Environment, Heritage and Local Government, 2004). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

- 8 A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas, open spaces, landscaping, lighting, cycle parking, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before the accommodation is made available for occupation.

**Reason:** To provide for the future maintenance of this development in the interest of amenity and orderly development.

- 9 Proposals for an apartment naming/ numbering scheme and associated signage shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interests of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

- 10 The landscaping scheme shown on drg no. DRG-015, as submitted to the planning authority on the 12th day of December, 2015 shall be carried out within the first planting season following substantial completion of the proposed development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 3 years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of residential and visual amenity.

- 11 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

- 12 The developer shall pay to the planning authority a financial contribution in respect of the Luas C Line 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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

- 13 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation



provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.

**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.

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Donal Donnelly  
**Planning Inspector**  
**Date: 16<sup>th</sup> June 2016**