

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL29S.246433

Development: Permission sought for four-storey mixed-use building (2,092-sq.m) to include one retail unit (345-sq.m) at ground floor level and 14no. residential units at upper levels (two one-bedroom apartments and 12no. two-bedroom apartments) and all associated development.

Address: 119 Drimnagh Road, Dublin 12

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 2122/16
Applicant: On Track Developments Ltd
Planning Authority Decision: Grant permission subject to 17no. conditions

Planning Appeal

Appellant(s): James Delaney Residents Association; James McDonnell
Type of Appeal: Two third party appeals against decision
Observers: None
Date of Site Inspection: 14/07/16

Inspector: John Desmond

1.0 SITE LOCATION AND DESCRIPTION

The application site is located southwest of Dublin City Council, c.170m west-southwest of Our Lady's Children's Hospital, Crumlin.

The site is situated on the south side of Drimnagh Road, the R110, a heavily trafficked route leading to the Long Mile Road and the Naas Road, and then to the M50 and other national routes.

The application site is a cleared brownfield site of 1,386-sq.m stated gross area. It was formerly the site of a Methodist Church, now removed. The site is flat and level and without structures or any mature vegetation. The site is rectangular in shape with road frontage (to the north) of c.27m to Drimnagh Road and extending c.53m back therefrom. A service access road to neighbouring residences runs along the site's western boundary. To the south the site backs onto the rear garden boundary of a suburban house dating from around the 1960's. To the east the site abuts a recently developed commercial area containing a café (Costa Coffee), a pharmacy (Boots) and a supermarket (Centra).

The area is characterised by extensive local authority low-density suburban housing dating from around the 1960's, but with significant commercial and institutional (medical) uses, focused on this stretch of road. Immediately west of the service road to the west of the site, there is a second-hand car dealership (Drimnagh Motors). The commercial centre of the area (the original village centre) is located c.100m to the west, with a mix of commercial uses, beyond which (c.400m west of the site) there are extensive institutional (education) lands. The more extensive industrial, warehouse commercial type uses associated with the Long Mile Road become apparent thereafter (c.700m west of the site).

Apart from the Children's Hospital and some other medical facilities, the wider lands to the north, east and south are generally characterised by low-density suburban residential.

The nearest Natura 2000 sites, South Dublin Bay and River Tolka SPA (site ref.004024) and South Dublin Bay SAC (site ref.00210) are located c.7.5km to the east.

2.0 PROPOSED DEVELOPMENT

The proposed development comprises the erection of a mixed commercial and residential 4-storey building as follows:

- 2,092-sq.m GFA

- One retail unit 345-sq.m at ground floor level
- 14no. residential apartment units (two one-bed units; 12no. two-bed units)
- 18no. car parking spaces (14no. residential, four retail spaces) accessed via laneway to west
- 16no. bicycle parking spaces

Supporting documentation:

- Planning Report by Tom Phillips & Associates including apartment housing quality assessment table
- Planning Application Services and Traffic Report by Boylan Engineering
- Landscape Report & Outline Landscape Specification by KFLA
- Photomontages by Model Works Media

3.0 RELEVANT PLANNING HISTORY.

On site –

Reg.ref.3436/09: Permission **GRANTED** by the Board (13/10/10) for the development of a community primary care health centre including 6no. G.P. medical suites; 3no. dental suites; associated medical service rooms; offices; 2no. retail units and underground car parking (33no. spaces and 15no. bicycle) within a four storey over basement building at the site of the former Methodist Church. The development will also incorporate access arrangements which feature a ramped access/egress from the basement car park onto the lane to the west of the site opening onto Drimnagh Road; the widening of the lane and the provision of a new 2m wide footpath adjoining it within the site and a paved landscaped area with provision for 2no. bicycle stands (13no. bicycle spaces) to the front of the building on Drimnagh Road.

Condition no.2 amended the third floor roof garden to prevent overlooking of neighbouring property.

Condition no.15 included a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of works arising from the conclusions and any recommendations of the road safety audit required in condition no.4.

Reg.ref.4159/06: Permission **REFUSED** by the Board (14/12/07) overturning the decision of Dublin City Council to grant permission for a six storey building over basement car park community primary care centre, including six GP medical practices and associated paramedical practice rooms, operational

office and retail uses at the site of the former Methodist Church. 119 Drimnagh Road, Dublin 12. The two reasons for refusal related to i) impacts on neighbouring residential amenity from overbearing, overlooking, overshadowing and out of character development by reason of scale, height and layout; and ii) traffic impacts from overdevelopment and inadequate car parking.

In the vicinity –

Reg.ref.2104/15: Permission **GRANTED** by Dublin City Council (29/04/15) Minor amendments to previously granted planning permission Ref.no.: 3598/13 and previous decision to grant planning permission ref.no.: 3707/14, for the development located on a site of 0.2783 hectares at the site of the Former Snooker Hall, land adjacent to 99 Drimnagh Road, Drimnagh, Dublin 12. The proposed amendments will comprise relocation of main entrance pedestrian doors and glass canopy over from the west end of the North/ Front Elevation, to the centre of the North/ Front Elevation facing Drimnagh Road of already approved Unit Number 3.

Reg.ref.3707/14: Permission **GRANTED** by Dublin City Council (20/01/15) Additional ESB Substation and minor amendments to existing previous planning permission reference number 3598/13. The proposed ESB Substation will be located to the south/east rear corner of the site. The proposed amendments will comprise (1) Addition of fire escape pedestrian door to the front/north elevation of Unit 1. (2) Addition of fire escape pedestrian door to the rear/south elevation of Unit 3. (3) The relocation of entrance pedestrian doors to the east elevation to Unit 1 and (4) The addition of a back of house pedestrian door to the west elevation to Unit 1. the total gross internal floor area of the proposed ESB Substation building is 23.50-sqm.

Reg.ref.3598/13: Permission **GRANTED** by Dublin City Council (10/04/14) for mixed use development on a site of 0.2783 hectares at the site of the former Snooker Hall, land adjacent to 99 Drimnagh Road, Drimnagh Road, Dublin 12. The proposed mixed use development will comprise two single storey buildings. Building will accommodate a café to the front with outdoor café seating area fronting onto Drimnagh Road and local convenience store including a small off-licence to the rear unit. Building 2 will accommodate a Convenience Retail Unit including Pharmacy. The total gross internal floor area of the proposed buildings is 928-sq.m. The development will incorporate one vehicular entrance/exit to Drimnagh Road with modifications to the footpath along the site frontage with associated landscaping site and service

works and a totem advertising sign. This will also include a new boundary wall to the east, south and west of the development. The development provides 19 no. car parking spaces with 4 no. bicycle spaces within the site curtilage.

Reg.ref.3115/10: Permission **GRANTED** by the Board (26/01/11), upholding the decision of Dublin City Council, for the development of a four storey, mixed use building which comprises 2no. retail units at ground floor level with 17no. medical consulting rooms, plus offices and ancillary spaces above. Stated GFA of 2935sqm. The development provides 59no. car parking spaces within the site curtilage; 7no. on street parking spaces; 3no. motorcycle spaces and 4no. bicycle stands (32no. bicycle spaces). The site is at the former Snooker Hall, land adjacent to 99 Drimnagh Road, incorporating an area to rear of existing dwellings Nos.87-99 Drimnagh Road, 31-45 St Mary's Park and 1-5 St Mary's Park.

4.0 PLANNING AUTHORITY DECISION

Decision to **GRANT** permission subject to 17no. conditions. Non-standard conditions:

Condition no.4 omitted first floor communal open space, required balconies to be finished in masonry and to not project beyond the building line, to omit louvers from balconies, and to finish upper levels of building in light coloured brick in lieu of proposed render.

Condition no.5 required revised shop front design to comply with Shopfront Design Guide 2000 in addition to specific requirements.

Condition nos.6 & 7 restricted advertising and window display.

Condition no.11 required revised landscaping scheme for public realm to front of building line to be agreed.

Condition no.13 require (a) bicycle parking to front of retail unit for customer use, (c) permanent allocation of one car parking space per residential unit not to be sold or let separately.

4.1 Planning and technical reports

Planning Officer– The report of 22/03/25 is generally consistent with the decision of the Planning Authority to grant permission and does not raise any concerns. Salient points of the report include:

- Appropriate Assessment not required having regard to the conclusion of the conclusion of Openfield Ecological Services Appropriate Assessment screening report.
- The proposed uses are permissible on lands zoned Z4.
- The height, at 13.275m, breaches the 13m threshold for residential buildings in the outer city area. Having regard to the mixed use nature and the allowance for 16m height for commercial buildings in this area, the 12.85m parapet height breached only by roof plant and the generous floor to ceiling height consistent with section 17.6.2 Definition of High Building, and the presence of a number of structures exceeding this height in the vicinity, the proposed height was deemed consistent with the provisions of the Dublin City Development Plan.
- The apartments meet the required internal gross floor areas with reference to the Departmental guidelines.
- The proposed development would exceed the standards for private / communal open space provision under the Departmental guidelines.
- No conclusion is stated regarding public open space.
- The southern communal open space should be omitted to prevent overlooking of neighbouring property at St Mary's Park to the south.
- The design of the corner balconies should be amended omitting louvres for visual reasons to provide strong corners – the design gives the impression that the four corners of the structure are being structurally supported by the louvered frame.
- The proposed balcony on the south-eastern corner, within 11m of the boundary to no.17 St Mary's Park should be enclosed as a winter garden to minimise overlooking.
- Light coloured brick to replace areas of proposed render to provide comprehensive approach to materials with minimum maintenance.
- Notes detail of RTPD report with no objections and considered parking complaint with Dublin City Development Plan standards (Table 17.1 refers).

13no. conditions were recommended by the Planning Officer, which were attached to the decision. Four additional conditions were also attached in respect of compliance with Part V requirements (condition no.14), restricting construction hours (condition no.15), agreement of naming / numbering (condition no.16) and the lodging of a security deposit (condition no.17).

Drainage Division – The report of 29/02/16 raises no objection subject to standard conditions which were attached to the decision as condition no.12.

Roads & Traffic Division – The report of 11/03/16 raised no objection subject to 6no. conditions which were attached to the decision as condition no.13.

Pre-Planning - The Planning Report of Tom Phillips & Associates outlines the pre-planning discussions that took place with the Planning Authority on 06/09/15 and 17/11/15 and has attached copies of the Council's minutes. The key issues in the final meeting related to public open space and active ground floor use.

4.2 Observations

Five observations were received, from i) John Delaney and others, of St Mary's Park and Drimnagh Road (23/02/16), ii) Walkinstown Residents Association c/o Shane Lonergan, Harty Avenue (26/02/16), iii) James McDonnell and others, Drimnagh Road, St Mary's Drive and St Mary's Park (26/02/26), iv) Drimnagh Residents Association c/o Peter Burke, Mourne Road (26/02/16), and V) Patrick Whelan of 34 Hughes Road North. The main grounds of objection are repeated in the grounds of appeal, but the following additional points are also noted.

- Impact of noise from balconies and communal areas.
- No public lighting along access lane.
- Existing parking along access lane may prevent access by emergency vehicles.
- Full extent of development on neighbouring sites not shown,
- Site notice erected on 05/02/16.
- Impact on access rights to service lane by residents in the vicinity.
- Use of the adjoining Castle Shopping Centre for U-turns due to removal of right turn to Balfe Road. Likelihood that proposed site will be used instead – traffic implications.
- The balconies overlook Drimnagh Road and are not private and are shaded, will be used to store refuse and become an eyesore.
- Site should be brought up to non-derelict standard.

5.0 GROUNDS OF APPEAL

James Delaney, Residents Association, St Mary's Park, c/o James McInerney, Planning Consultant (12/04/16) - The grounds of appeal may be summarised as follows:

Height and scale

- Breaches 13m threshold for residential outer city under section 17.6.2 Dublin City Development Plan. It is predominantly residential.
- Effectively a five-storey building due to roof garden use.
- 25.31m separation distance is inadequate.
- The maximum height will not fit all individual sites and the Planning Officer failed to assess height and separation distance with regards to impacts on overshadowing, loss of light and privacy.
- Did not apply best Urban Design principles – *'should have no more than two storey in height except in cases where the distance between opposing rear windows in the existing and new residential building is greater than 35m. New housing facing two storey on the opposite side of a road should be no more than three storey in height.'*
- The Landsdowne Apartment blocks referred to by the Planning Officer rise incrementally where they share the boundary with two-storey houses.
- The Crumlin Children's Hospital site does not share a boundary with two storey houses and is in a different site context.
- The disruption of the streetscape along Drimnagh Road was not fully assessed.
- Section 17.9.5 Dublin City Development Plan requires minimum floor to ceiling height of 2.7m. The proposed 3m height would allow for a reduction in overall height.
- Will not be incorporated into existing grain.
- Will be dominant, incongruous and visually obtrusive when viewed from existing houses at St Mary's Park and depreciate the value of same.

Overlooking from podium

- The podium garden, 2.6m above ground level and within 1.75m of neighbouring gardens, would overlook existing dwellings at St Mary's Park.
- Condition 4a omitted the podium gardens.

Overlooking from rear windows

- The proposed windows are within 25.31m of the rear elevation of no.17 St Mary's Park.

- There is an extant permission for a rear extension to no.17 which would reduce the separation distance between opposing first floor windows to 21.01m.
- There are 6no. windows and balconies.
- The windows are 1.75m high with vertical and horizontal solid panels which are possibly openable and which could be replaced by glazing in future. A condition addressing same would require constant policing by neighbours.

Overlooking from balconies

- Condition 4b and 4c are unclear and open to interpretation and require material changes that should have been subject of a further information request.
- The southwest balconies also result in overlooking and should be enclosed as winter gardens.
- The change to winter gardens incorporates the balconies into floor space and reduces the area of open space provided.
- The design and location of balconies has not been fully considered.

Overshadowing and loss of light

- Overshadowing and loss of light analysis did not form part of the application. The impact on dwellings to the west and north not assessed and may be detrimental to residential amenities.

Communal open space

- The quantitative standards are exceeded but the standards as regards suitability have not been met.
- A communal space must be adaptable for use by all ages groups, but the roof garden is not suitable for older people or by young children.
- The podium garden was conditioned to be omitted.
- The roof garden is not overlooked.

Landscaping

- The proposed 5m high planting to the podium garden, as part of the landscaping plan, would screen most of the building from view, but this has been removed by condition 4a.
- Condition no.11 require landscaping, but only to the front. This is negative for the rear of the building.

Parking

- Map J of Dublin City Development Plan Zone 3 refers to maximum of 1.5 car parking spaces.
- Location of car parking to rear of site, and the dimension of car parking area to the rear resulting in excessive manoeuvres to gain access / egress, will impact on St Mary's Park residents through noise impact.
- From the RTPD report it is apparent that the proposal is premature pending the resolving of parking issues in and adjacent the site, where it is acknowledged that the development on the adjacent site to the east has resulted in parking congestion.
- In view of the congestion it beggars belief that maximum parking was not required.
- Locals will not relinquish their historical parking along the lane to facilitate access to the proposed parking spaces to the retail unit along the lane.
- There are no statistics to back up the averment that there are sufficient parking spaces to cater for the additional number of trips.
- Disputes the 'dual use' of car parking spaces which will be dependent on the retail unit being closed if they are to be used by residential visitors.
- The provision of double yellow lines along the lane is outside the control of the applicant and will be strongly resisted by existing local residents and businesses that use the lane for parking.
- Access and egress will be dependent on the provision of double yellow lines yet the department responsible for same has not indicated that it will provide double yellow lines and may require a vote by Council members. The proposal is therefore premature.

Traffic

- Right hand access or egress movements will impact on traffic movements on Drimnagh Road, blocking the single lane of traffic and divert traffic onto the bus lane.
- Heavy traffic on Drimnagh Road does not allow sufficient breaks for access / egress.
- The RTPD report to reg.ref.3598/13 stated:
It is considered that the number of traffic movements generated by the proposed development will not have a significant impact on the surrounding road network.

In the more recent RTPD report they acknowledge that that development has caused traffic congestion – reduced parking works in theory but not practice. No visitor parking is proposed.

Waste disposal

- Waste disposal located to the rear boundary will give rise to noise disturbance with waste collection.

Traffic flow observations

- 10min one-way traffic flows exiting the city on Thursday 7th April (16.50-18.20 hours)
- 10min one-way traffic flows entering the city on Friday 8th April (09.00-10.10 Hours).

James McDonnell, 97 Drimnagh Road (18/04/16) - The grounds of appeal may be summarised as follows:

Deficiency of on-site car parking and traffic impact.

- The RTPD recognises the parking demand on the adjoining commercial site and that it has resulted in existing parking difficulties in the area.
- Four parking spaces is insufficient for the proposed retail unit for staff and customers.
- 14no. car parking spaces is insufficient for the residential units at one per unit. Residents at some of the units (12no. are two bedroom units) will require parking for more than one car.
- No visitor parking is provided. The RTPD consider the retail spaces can be used by visitors outside of business hours, but the hours are not stated and there are no spaces for visitors during business hours.
- Existing shortfall in parking has resulted in parking on the bus lane and in impermissible parking to the rear of adjacent residential dwellings nos.88 and 89, disrupting access to residents' garages.
- The parking and traffic problems will be exacerbated by the proposed development.

Nature and scale

- Inconsistent with and in stark contrast to the mainly 2-storey residential character of area (see figure 3.1 and 3.2 of TPA Planning Report) including the adjacent commercial development.
- Non-compliant with Dublin City Development Plan 13m limit.
Overlooking
- Windows and balconies overlooking rear and front gardens, resulting in loss of privacy and residential amenity.
- Should be refused or addressed by condition.
Conditions

- Condition no.15 – hours of construction should be limited to between (9.00-18.00 hours).

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

None received.

6.2 First Party response

On Track Developments Ltd c/o Tom Philips & Associates (10/05/16) - The main points of the response submitted by may be summarised as follows:

Height

- The development is mixed use and the exceedance of height is immaterial.
- Para.17.6.2 Dublin City Development Plan – height definition is based on average floor to ceiling height of 3.0m for residential and 4.0m for office. Ground floors should be commercial height for design, use and adaptability reasons.
- The Draft Dublin Dublin City Development Plan 2016-2022 proposes to increase height to 16m in outer city areas regardless of use.
- The proposed height is respectful and in keeping, noting the Landsdowne apartment building and Ronald McDonald House, as accepted by the Planning Authority.
- The site is zoned Z4 in contrast to the Z1 zoning of much of the surrounding land.

Overlooking

- The podium garden was omitted by condition 4(a), which can easily be accommodated by the development without compromising the scheme.
- The proposed development has a setback of 25.31m from the rear wall of 17 St Mary's Park as existing and is 11m from the rear boundary.
- The permitted development at 17 St Mary's does not provide an 11m separation distance from the rear boundary – 11m depth is required between opposing dwellings to achieve the 22m separation distance.
- It is unreasonable to expect the development at no.119 Drimnagh Road to be further setback over 11m, particularly where the 22m is almost achieved (21m).
- A single storey extension is permitted within 4.2m of the site's rear boundary but the 22m separating distance applies only to opposing first floor windows.
- A further setback from the boundary would result in underutilisation of land in the District Centre.
- The amendment of the proposed balconies by condition 4(b) and 4(c) substantially mitigates any possible impact of the balconies and the

rear windows and balconies will not result in unacceptable overlooking of St Mary's Park.

Overshadowing

- No evidence submitted by parties to demonstrate reduction in access to light by surrounding properties.
- Shadow analysis submitted with the appeal response and demonstrates that the proposal will have a negligible impact and none to St Mary's Park.

Communal open space

- A highly liveable, habitable and comfortable residential development for all age groups will be achieved through the proposed combination of hard and soft landscaping, planting and seating.
- Communal spaces form active and safe locations for children and elderly and will benefit from persons passing through on a frequent basis, such as that proposed at the front (north) of the building.
- The applicant would be happy to provide some form of dedicated play equipment in one of the spaces similar to that proposed for the podium space (omitted by condition) in the original landscape plan.

Traffic and parking

- The Council's RTPD report:
 - had no objection subject to conditions.
 - considered sufficient parking had been provided.
 - was satisfied the auto track drawings confirmed that vehicles can access and egress all parking space.
 - Considered the laneway wide enough to allow two-way traffic and is not narrow and noted the proposal to set the boundary back to provide 1m footpath.
- The main points of the Technical Note on Traffic for Response to Third Party appeal, prepared by Stephen Reid Consulting Traffic and Transportation Ltd, may be summarised as follows:
 - The application site is located within parking Zone 3, but at the boundary with parking Zone 2.
 - Para.17.40 of the Dublin City Development Plan provides that where a site falls on the boundary of parking zones the appropriate level of parking will be determined at the discretion of the Planning Authority having regard to site location and its accessibility to existing and proposed public transport facilities. Parking standards in table 17.1 shall be generally regarded as maximum provision.
 - The site is highly accessible, being located on the South Clondalkin Quality Bus and Cycle Corridor, served by six bus routes (617 buses passing per day) and with bus stops in both directions within 2-3m walk of the site. The Redline luas stops

to the north are within 15-20m walk, but is also accessible by bus. The Planning Authority has exercised its discretion on parking standards in a wholly reasonable manner.

- Residential parking - 1.5 parking spaces is more applicable to larger 3 and 4 bed family homes, not 1-2 bedroom apartments, having regard to para.17.40.13 of the Dublin City Development Plan which is paraphrased in condition 13(c) of the decision.
- Retail parking – DCC considered Zone 2 standards to apply. 1 space per 275-sq.m GFA would have been permissible, resulting in requirement for 1no. space, but due to on-street parking restrictions arising from the QBC, DCC required 4 spaces which approaches the maximum parking level required in any event at 1 per 75-sq.m for Zone 3 – 4.6 spaces.
- Separate parking for staff and customers is not required under the Dublin City Development Plan.
- The site is at a distance of c.250m from Niland's Corner within St Mary's Estate, with no direct access to St Mary's Park.
- Dwellings at St Mary's Park typically have frontage parking for at least 1no. car and others have garage access to the laneway, with little need to park on the laneway.
- Development traffic is unlikely to create parking demand in St Mary's Park.
- Existing parking on the lane and on Drimnagh Road is primarily related to Drimnagh Motors Ltd, which is not the correct and proper use of either carriageway and it is wholly reasonable for DCC to recommend double yellow lines on the lane.
- SRC was able to park within the neighbouring commercial centre on 06/05/16 (no time given) and noted only turnover of some spaces.
- The parking regime forming part of the Parking Management Plan submitted for compliance with condition no.11(a) to reg.ref.3598/13, which included pay and display parking, does not appear to have been implemented or visibly enforced on 06/05/16.
- On street parking was evident on the white-hatching area east of the entrance.
- Parking on lands to the rear of 88-99 Drimnagh Road (claimed to be by staff of the Antcon site, i.e. the adjacent commercial site) is not a matter for consideration under this appeal.
- Using the TRICS database and assuming the retail use is not retail supermarket (given proximity to Centra on neighbouring site) the proposed development will result in 8 movements in 8.00-9.00AM peak and 12 movements in 17.00-18.00PM peak, which is not significant, will generate only +2 or +3 right turn movements in either direction during peak which can be accommodated at the proposed junction to Drimnagh Road.

- DCC and the Board have previously accepted a much greater level of traffic impact from the subject site under reg.ref.3436/09 / PL29S.236485, which was predicted at 93 movements in the 8.00-9.00AM peak and 112 movements in the 17.00-18.00PM peak in the TIA submitted with the application.

Waste disposal

- The location of the waste facilities to the rear ensures the visual impact is minimised and its it the most suitable, safe and hygienic location for same.

6.3 Appellant response.

Third party appellant, James Delaney, Residents Association, St Mary's Park, c/o James McInerney, Planning Consultant (25/05/16) - The main points of the response may be summarised as follows:

Height

- 13m is the applicable height limit where the proposed building is predominantly residential.
- The height of roof garden should be taken into account.
- The proposal is not comparable to the Landsdowne apartments or Ronald McDonald House, which are located on corner sites, compared to the subject site being an infill site.
- Notwithstanding the zoning, the proposed development must first properly integrate with the site context of 2-storey dwellings.
- Must comply with para.15.10.4 of the Dublin City Development Plan as it will not enhance the attractiveness of the area due to its height and scale.

Traffic and car parking

- The site is fully within Zone 3 and the parking standards for Zone 3 therefore apply.
- The traffic difficulties of the area should be resolved prior to a grant of permission for development that would exacerbate traffic problems.
- The impact of the proposed development in terms of the exacerbating of the existing parking problems to the rear of 88-99 Drimnagh through deficient parking is a proper planning consideration for the Planning Authority and the Board.
- There is no indication of the actual retail use proposed, only an assumption that it will not be a food convenience store and therefore the traffic predictions are of limited utility.

6.4 Observations on grounds of appeal

None received to date

7.0 POLICY CONTEXT

7.1 PLANS

Dublin City Development Plan 2011-2017

Land use zoning Z4: To provide for and improve mixed services facilities.
 Z1: To protect provide and improve residential amenities.

Section 15.9 Transitional Zone Areas

Section 17.6 Building Height in a Sustainable City

Table 17.6.2 Definition of a High Building

Section 17.9 Standards for Residential Accommodation

Section 17.40 Car Parking Standards

Section 17.40.12 Parking in Mixed Use Developments

Section 17.40.13 Residential Car Parking in
Apartments

Table 17.1 Car Parking Standards for Various Land-uses.

7.2 OTHER REFERENCE DOCUMENTS

8.0 ASSESSMENT

I consider the main issues arising under the appeal can be addressed under the following headings:

1. Policy
2. Design, form and visual impact
3. Overlooking
4. Overshadowing
5. Traffic
6. Other development standards
7. Appropriate Assessment

8.1.0 Policy

8.1.1 The site is zoned Z4 District Centres (incorporating key district centres) where it is the objective '*to provide for and improve mixed services facilities*'. The Dublin City Development Plan provides that higher densities will be permitted in district centres particularly where they are well served by public transport. The proposed retail use and residential uses are permitted in principle on this site.

8.1.2 The site is adjacent lands zoned Objective Z1 to the south where it is the objective to protect, provide and improve residential amenity. Section 15.9 Transitional Zone Areas states:

'In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties.'

8.2.0 Design, form and visual impact

8.2.1 **Streetscape and context – Height:** The immediate area is characterised by low-density suburban house, mainly two-storey, but with some single storey dwellings opposite (north of) the site. The commercial development adjacent the east of the site is effectively two-storey in height, albeit with a single floor level. There are some isolated higher buildings in the vicinity, including a 5-storey apartment block within the district centre, c.215m to the west, and within the Children's hospital c.330m to the east. Development within the non-contiguous district centre to the west is more urban in character and this character has been reinforced by more modern development in recent years, although it is weakened by the high ratio of road space to building height.

8.2.2 The proposed development takes a somewhat more urban approach. It will contrast quite significantly with the existing character along this section of Drimnagh Road, including that of the adjacent commercial development developed since 2013. I consider this acceptable in principle in the particular context of the site and note that the Board, under PL29S.236485, upheld the decision of DCC to grant permission (reg.ref.3436/09) for a primary care health centre medical building of similar scale.

8.2.3 The Planning Officer noted that the proposed height, a 13.25m to parapet, exceeded the 13m limit for residential buildings outer city areas under section 17.6 and table 17.62, but considered the height acceptable given that it was a mixed used building (commercial buildings are permitted at 16m). This is despite the fact that the building height limits under the Dublin City Development Plan actually take account of the of the implementation of a commercial ground floor height (4.0m) as standard for residential buildings (3.0m floor to ceiling height are standard for residential apartments) in order to promote future flexibility of buildings. However, I do not consider the

exceedance of the 13m height by 250mm, arising effectively from the use of a parapet wall design, to be a material breach of the standard in this instance.

- 8.2.4 **Streetscape and context – Building line:** The proposed building is setback c.9.2m from the edge of the carriageway, presumably to match the building line set by the existing buildings to the west and east. A similar setback was permitted on this site under PL29S.236485 / reg.ref.3436/09, and on the adjoining district centre site to the east (PL29S.237542 / reg.ref.3115/10).
- 8.2.5 The standards for and policy context of development has progressed since those decisions were made, with the adoption of the Design Manual for Urban Roads and Streets. In addition to the design of the actual carriageway, inclusive of footpaths and cycle-ways, etc., the design manual recognises the importance of street enclosure through buildings of appropriate scale and the use of reduced building setbacks as a design aid to slow down traffic speeds to appropriate levels for their context to improve safety, particularly for vulnerable users (pedestrians and cyclists) so as to increase sustainable modes of transport. For areas of high context values, such as centres (including district centres), this is particularly important.
- 8.2.6 In my professional opinion it is inappropriate for the building line of the district centre within a city area to be determined by that of the neighbouring 1960's suburban dwellings, particularly in view of the policies and objectives under the Dublin City Development Plan regarding densification of such areas and to the need for an integrated approach to land use and transport planning under DMURS inter alia other relevant design and policy guidance. I consider the suburban setback to be excessive and inappropriate to a district centre. I am, however, conscious that the Dublin City Development Plan only references to building lines concern adhering to the existing and I could find no policy regarding setting new building lines where appropriate.
- 8.2.7 In addition, I consider the utility and amenity value of the public open space proposed at the front of the building adjacent this heavily trafficked road to be near negligible. I note the landscaping to the front of the adjacent commercial development to the east, which, whilst attractive incidental open space, is of little practical use as open space and, combined with the scale of that development, is suburban in character.
- 8.2.8 The unnecessary excessive setting back of the building has implications for the amenities of neighbouring property to the rear, unnecessarily pushing development back towards more sensitive properties which must be protected in accordance with the zoning objective applicable to those lands. The appropriateness of the proposed building line is a **NEW ISSUE**.

- 8.2.9 **Elevation design** - The design of the front elevation of the building is reasonable. I do not share the concerns of the Council regarding the corner balconies but would allow designers some flexibility in this regard. I would agree, however, that the use of a brick finish in lieu of render would be more appropriate to ensure long term maintenance.
- 8.2.10 I have serious concerns about the proposed design of the east elevation and I also have concerns about the setting back of the upper levels of that elevation from the party boundary but only insofar as the design approach would seriously reduce the future development potential of the adjacent District Centre site. The proposed bedroom windows along the full length of that elevation (and corner balconies) within 2m of the party boundary will dictate the form of potential future development on the neighbouring site to the east, imposing the balance of the generally required 22m separation distance between opposing first floor windows, or necessitating a blank wall on any western elevation to same, unfairly stifling its development potential and effectively imposing external costs on that site to the benefit of the application site. Whilst the Board may consider this to be a **NEW ISSUE**, it is a similar situation to that which arises between the proposed development and the existing development to the south concerning the 22m separation distance. In response to the appeal the applicant has made the argument that it is unfair to impose more than an 11m setback from the southern boundary to ensure compliance with the 22m standard where the neighbouring development (at no.17 St Mary's Park) does not provide at least 11m on its side at first floor level. I therefore do not regard it as a new issue.
- 8.2.11 The setback of development from the eastern boundary will prevent the development of a continuous street-frontage to the district centre and constitutes the inefficient use of valuable urban land, is contrary (although not necessarily materially) to the design approach under DMURS for centre sites, and in my professional opinion is contrary to the proper planning and sustainable development of Dublin City. The western side of the building is setback from the boundary with the public road at ground floor by 7.8m and by between c.3.3m and 6m at upper levels. This is a **NEW ISSUE**.
- 8.2.12 In my opinion, the overall layout proposed shows a lack of regard neighbouring sites and site context, and a lack of thorough consideration of the integrated land use transport planning approach required for such district centre sites, particularly having regard to the design approach recommended in the DMURS. I do not consider the design standard of development to be appropriate or acceptable. This is a **NEW ISSUE**.

8.2.13 **Overbearing** – The proposed 4-storey building will be within 9.6m of the party boundary with residential property at St Mary’s Park to the south at the shortest distance (from west balconies) and not more than 10.6m at the greatest point. Given the massing and height of the proposed structure, the visual impact will be significant and imposing, although it will not necessarily to the serious detriment of amenities of the neighbouring residences. The presence of windows and balconies to that elevation will be visually intrusive.

8.2.14 **Conclusion** – I consider the proposed layout and arrangement of development of the proposed development to be less than optimal in terms of building line and provision of continuous frontage development appropriate to centre sites (such as District Centres) into the future in accordance with the design approach recommended under the DMURS, however I would advise the Board that this is a **NEW ISSUE**.

8.2.15 The overall design and layout proposed shows a lack of regard for the impact on the future development potential of the neighbouring District Centre site to the east, contrary to the proper planning and sustainable development of the area.

8.3.0 Overlooking

8.3.1 The proposed development provides windows to the main habitable rooms of the proposed residential apartments above ground-floor level within c.10m of the party boundary with the neighbouring residential property to the south, with balconies (west corner) within 9.6m of same. First Floor Plan (drawing no.1507-P-101) incorrectly shows the separation distance between the east balcony and the said boundary at 11m when it is no greater than 10.4m. In addition, the applicant proposes a podium garden (147-sq.m stated area) within 1.2m of the said party boundary.

8.3.2 The statutory design guidance (the SRDUA Guidelines and Urban Design Manual) does not advise on separation distances from existing residential property other than to note that a 22m separating distance between opposing above ground floor is normally recommended for privacy reasons, but that this may not be practical on infill sites. The Dublin City Development Plan refer to the provision of 22m separation distance between apartments, only mentioning the standard in relation to houses and mews dwellings. However, the standard remains a useful rule of thumb for maintaining privacy amenities within established residential areas. Third party appellant, James Delaney, refers to a 35m standard between opposing windows, however this appears to come from the Residential Density Guidelines (1999) which have long since been superseded by SRDUA.

- 8.3.4 The TPA Planning Report highlights that high level windows (1.5m) are provided to address overlooking. The section drawings show that that bottom fenestration panels to comprise solid panels. Third parties are concerned that such panels may easily be removed in the future to be replaced with glazing and that are not a permanent solution. I would agree that it would be difficult to ensure that the fenestration is maintained with solid panels into the future. Furthermore, the proposed ope design would not resolve the issue of perceived overlooking and visual intrusion resulting from the fenestration opes, which is likely to be significant. I note that the rear elevation to that development permitted under PL29S.236485 / reg.ref.3436/09 was setback slightly further from the southern boundary than that now proposed and incorporated a similar fenestration design approach to avoiding direct overlooking. However, the fenestration served small medical consulting rooms and associated offices from which the risk of overlooking would be lower (confined to business hours) and the risk of replacement opes also lower as the demand for improved light amenity will be greater for residential use.
- 8.3.5 A permanent solution, through the provision of opes with a 1.5m cill height would overcome this concern. I would suggest 1.7m cill height, with obscured glazing would be a more robust solution and may be sufficient to mitigate perceived, in addition to actual overlooking. The windows serve the main living areas to apartments nos.04, 05, 09, 10, 13 and 14, but those areas would also have direct access to light via 3.6m wide glazing to the attached balconies, therefore their amenity should not be compromised.
- 8.3.6 The proposed east corner balconies will be within c.20m of windows in the rear elevation of the neighbouring dwelling to the south, which has been extended by 2-storeys to the rear (retention granted 09/05/16 under reg.ref.2530/16). The landscape masterplan (drawing no.101) indicates hard and soft landscaping to mitigate overlooking of the residential property to the south. I consider the level of mitigation to be inadequate and I would agree with third parties that enforcement of screen planting may prove difficult over time. The Planning Authority omitted the podium due to concerns for overlooking of property to the south. I consider the omission of the podium to be reasonable.
- 8.3.7 The Planning Authority also required the replacement of the east-corner balconies with winter gardens setback flush with the building elevations in order to protect the amenities of the said neighbouring property. I consider this insufficient to protect the amenities of the dwelling concerned to the south as the winter garden will appear as glazing to the residential units. The level

of actual and perceived overlooking from balconies or winter gardens will be excessive.

8.3.8 In my professional opinion the proposed development will seriously injure the amenities of the immediately adjacent residential property to the south, in addition to the other neighbouring residential properties to the south, all located within St Mary's Park, contrary to the zoning objective Z1 for that area 'to protect, provide and improve residential amenity', having regard to the provisions of the Dublin City Development Plan regarding transition zones under section 15.9. In view of the dimensions of the site and its corner location onto two public roads, I do not consider the design approach taken to be anywhere near optimal in terms of protecting the amenities of existing residential properties, or in terms of providing quality long term residential accommodation.

8.4.0 Overshadowing

8.4.1 I have no particular concerns regarding potential for overshadowing of the surrounding properties.

8.5.0 Traffic

8.5.1 **Access arrangements** - Vehicular access to the development is proposed via a public road to the west of the site, providing indirect access to the Drimnagh Road (R110) via an existing junction. The said road is a rear service laneway typical of those constructed in 1960's and 1970's suburban housing and is c.5m in width and may be regarded as a shared surface (there is no footpath). It has a sound surface of macadam.

8.5.2 A new vehicular entrance is proposed to the lane towards the rear of the site, providing access the proposed residential parking area. Perpendicular parking is proposed along the lane towards the front of the site to accommodate retail parking spaces. It is proposed to provide a 1m wide footpath within the site boundary along the eastside of the public road.

8.5.3 The Council's Roads Traffic Planning Division report indicated no objection to the proposed access or parking arrangements, or any other aspect of the proposed development subject to generally standard type conditions. In principle I consider access via the lane to be acceptable.

8.5.4 The existing junction between the service lane and the R110 is via a dished pavement and the applicant's proposals did not include revisions to same. The RTPD raised no concern about the junction. The existing arrangement clearly demonstrates pedestrian priority along the front of the junction and I

consider the retention of same to be consistent with the DMURS and appropriate to the nature of the lane.

- 8.5.5 There is continuous on-street parking along the west side of the lane, extending south of the application site's rear (southern) boundary. It is apparent that this parking is associated with the operation of Drimnagh Motors Ltd. Two-way traffic is not possible with this parking due to the width of the lane and this may present a traffic operational issue, and possibly a traffic safety issue, if the current parking arrangement persists during the operational period of the proposed development. The RTPD report state double yellow lines may be provided if considered necessary to ensure unobstructed access to car parking spaces. As this is a public road, the provision of same is within the power of the Local Authority.
- 8.5.6 **Parking** – 18no. parking spaces are proposed. 14no. spaces are proposed for the residential units, which are accessed separately from those reserved for the retail unit. The RTPD report considered the site to be located within Area 2 (I assume this is a reference to Zone 2) and determined that 1no. space was permissible for the proposed retail unit (1no. per 275-sq.m), but accepted the applicant's proposal to provide 4no. spaces due to the traffic and parking congestion that has allegedly arisen due to the operations of the neighbouring commercial development to the east.
- 8.5.7 The applicant (report of Stephen Reid Consulting) suggests the site is located on the boundary between parking Zone 2 and Zone 3, where (according to section 17.40) the Planning Authority may use its discretion to decide the appropriate level of car parking to serve the development having regard to the location of the site and its accessibility to existing and proposed. Whilst I am satisfied the site subject of appeal is located fully within parking Zone 3 as defined on Map J of the Dublin City Development Plan, the site is near enough to the boundary between zones to allow some discretion, particularly as the Dublin City Development Plan makes clear the parking standards are maximum standards consistent with Government transport policy '*Smarter Travel*'. Within Zone 3 a maximum of 1.5no. spaces are required per residential unit under the Dublin City Development Plan (Table 17.1), reducing to 1 per unit in Zone 2. I consider the provision of 1no. parking space per residential unit acceptable and consistent with Dublin City Development Plan standards and Government Policy, particularly having regard to its siting adjacent a QBC. Whilst the proposed commercial spaces were considered by the RTPD to be dual use spaces that could accommodate residential visitor parking outside of retail opening hours, I would accept the third party submissions that the outside hours may be very limited. Regardless, I

consider the residential parking provision to be sufficient in this location adjacent the QBC.

- 8.5.8 The parking requirement for the proposed retail unit is less clear, both in terms of the nature of the retail use proposed and also in terms of the appropriateness of allowing a reduced rate of parking given the nature of trips and the relatively low proportion of trips generated that would be undertaken by sustainable modes (compared to residential generated trips). According to Table 17.1 of the Dublin City Development Plan, 1no. parking space per 30-sq.m GFA is required for retail supermarket space in Zone 3, reducing to 1no. per 100-sq.m within Zone 2. 1no. space per 75-sq.m GFA is required for other retail within Zone 3, dropping to 1no. per 275-sq.m within Zone 2.
- 8.5.9 The applicant does not define the nature of the retail use proposed in the application and did not clarify the nature of the use in response to the appeal. The report of Stephen Reid Consulting assumes that the proposed retail unit will not be retail supermarket due to the proximity of the Centra supermarket on the adjacent commercial site. I do not accept this to be a reasonable assumption and I consider the ambiguity of the use to be inexcusable in the context. It is clear from the RTPD report that that Division assumed it to be 'other retail'. The Planner's report is silent on the matter.
- 8.5.10 Based on 347-sq.m retail GFA, a parking demand of 11.5no. spaces would arise for retail supermarket in Zone 3 and 3.75-sq.m for Zone 2. For 'other retail' the demand would be 4.6no. and 1no. respectively. In the event of a decision to grant permission, the Board may consider it appropriate to restrict the retail use to retail other than 'retail supermarket', although the lack of parking will itself limit the nature of the retail use.
- 8.5.11 **Other accessibility issues** – The proposed layout provides for a pedestrian access between the front of the site and the apartments and retail parking inside (east of) the line of retail parking. I consider the pavement to be superfluous considering that a separate public footpath is to be provided along the western boundary of the site. The said pathway will be greatly overhung by the apartment units above and will have poor passive surveillance being obscured from view from the main thoroughfare to the front of the site and is therefore likely to be extremely undesirable for use by most people but particularly vulnerable users and is a typical area likely to attract antisocial gatherings, all the more so for being adjacent a retail unit. Omitting the footpath would enable the parking area to be set forward towards the building and facilitate the provision of a wider public pedestrian footpath outside of same to comply with DMURS requirements.

8.5.12 Access to the proposed residential block could be provide via the proposed public footpath via an entrance gate from the lane located immediately west of the lobby entrance would obviate the need for the pavement located south of the retail parking and would make for a more welcoming entrance to the apartment block. This would enable an additional perpendicular parking space to be provided in this location and may alleviate concerns of third parties to some degree. Should the Board decide to grant permission this may be addressed by condition.

8.5.13 **Cycle parking** – 16no. secure residential cycle parking spaces are proposed at ground floor level adjacent the car park area. The RTPD recommended that the applicant be required by condition to submit proposals to provide cycle parking for customers to the front to the proposed retail unit to serve customers. This is reasonable and, in the event of permission being granted, may be addressed by condition.

8.6.0 Other development standards

8.6.1 **Internal space** - The Planning Authority was satisfied that the proposed units complied with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2015) in terms of internal spaces. The one and two-bedroom units far exceed the minimum 45-sq.m and 73-sq.m standards, respectively. However, one-bedroom units Apartment 01 and Apartment 06, which are well below 73-sq.m GFA, clearly have potential for use as 2-bedroom apartments with their additional ‘study’ rooms. This is less so for those units with internal study rooms.

8.6.2 **Private / communal open space** – The applicant proposes private open space in the form of private balconies (one 9.6-sq.m balcony per unit, at c.2.4m X 4m internal dimension) and a total of 472-sq.m (stated area) communal open space at ground (101-sq.m stated area), first floor podium (147-sq.m stated), third floor (78-sq.m stated) and roof level (146-sq.m stated).

8.6.3 The proposed development far exceeds the private open space standards of 5-sq.m and 9-sq.m for one-bedroom and two-bedroom units under the SUHDS for New Apartments. The dimensions of the balconies are of good standard, though the usable dimensions are less than indicated. I note the landscaping proposals detailed on drawings nos.101 and 102 and the Landscape Report and Outline Landscape Specification report submitted by the applicant.

8.6.4 The total communal open space demand under the SUHDS is 94-sq.m (5-sq.m per one-bedroom unit (2no.) and 7-sq.m per two-bedroom unit (12no.)).

The Planning Authority omitted the first floor podium open space by condition. I consider the said podium space to be of limited utility in its not being directly accessible from the proposed apartments or internal circulation areas and its loss does not reduce the communal open space below the required standard, nor does it much affect the quality of the proposed scheme. The ground floor open space is effectively incidental open space and is of limited utility value, although it would add to the overall amenity value of the scheme.

- 8.6.5 The amenity value of the third floor and roof level amenity spaces are of questionable amenity and utility value and appear as stuck on to the apartment scheme rather than actually forming an integrated amenity for the future residents, although the landscape design approach appears reasonable. The third floor roof garden is enclosed on three sides by the proposed building but has no windows of access from the adjoining apartments such as would provide passive surveillance and encourage its being used by residents. The roof garden comprises a section of the roof of the building with a c.1.2m high screen, but otherwise without shelter or passive surveillance. Even were the said roof garden to be landscaped in a high quality manner with hard and soft landscaping, I would question the utility value of the space and its likelihood of being actively used by the future residents, and hence its amenity value within the scheme.
- 8.6.6 In response to the appeal the applicant indicated its willingness to provide a child's play area similar to that proposed at podium level elsewhere within the site. This would be a positive addition and should be addressed by condition in the event that permission is granted.
- 8.6.7 **Public open space** – The applicant proposes an area of 171-sq.m (stated) to the front of the proposed development as public open space. The landscaping plan (Drawing 101) shows the area enclosed by stainless steel bollards, finished mainly with poured concrete ('high quality smooth exposed aggregate finish) and concrete pavements and a small area (c.14-sq.m) of soft landscaping including a tree. No report was received from the Council's Parks and landscape Department. The area between the building and the proposed building, in the context of the site adjacent a heavily trafficked road, given its very restricted size and the fact that it is the means of access route to the retail unit and apartments (four points of access), is not suitable as public open space and would not be recognised by such by the general public.
- 8.6.8 The Dublin City Development Plan allows that (under Section 17.2.3 Public Open Space – All Development) where the site is considered too small or inappropriate (because of site shape and general layout) to fulfil useful

purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and / or enhancement of amenities shall be required. In the event of a grant of permission, I consider the attachment of a financial contribution to be the only reasonable approach in the case of the proposed redevelopment of this site. This is a **NEW ISSUE**.

8.7.0 Appropriate Assessment

8.7.1 Having regard to the scale of the proposed development, comprising a relatively small retail and residential block within the built up area of Dublin, and the separation distance between the site and the nearest Natura 2000 sites (c.7.5km from South Dublin Bay site no.004024 and River Tolka Estuary SPA and South Dublin Bay SAC site no.000210) 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.

9.0 **CONCLUSIONS AND RECOMMENDATION**

It is considered that the proposed development should be **REFUSED** for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

1. The proposed development, by reasons of its arrangement and layout, including the inadequate separation distance between proposed balconies and windows to existing first floor windows in neighbouring residential property to the south would seriously injure the residential amenities of the said neighbouring properties, by way of direct and perceived overlooking and invasion of privacy, for which it is an objective (zoning objective Z1) to protect under the Dublin City Development Plan 2011-2017 having regard to the provisions under Section 15.9 Transitional Zone Areas.
2. The proposed development, by reasons of its arrangement and layout, including the inadequate separation distance between proposed balconies and windows (within 1.6m) from the party boundary with the adjacent commercial site to the east would seriously compromise the future development potential of that District Centre site, and depreciate the relative value of same, by imposing significant constraints to the possible arrangement of development thereon necessary to protect the amenity, in

terms of light, privacy and visual amenity of the proposed residential units (numbers 03, 04, 08, 09, 12, and 13). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

John Desmond
Senior Planning Inspector
15/07/16