



An  
Bord  
Pleanála

## Inspector's Report PL 29S 247515

### Development

Demolition of existing house and construction of a three storey block with three apartments on the upper floors and a commercial unit on the ground floor, vehicular access from Walkinstown Avenue four car spaces at rear, cycle and bin storage and associated service and landscaping works.

### Location

138 Walkinstown Avenue,  
Walkinstown, Dublin 12.

### Planning Authority

Dublin City Council.

### P. A. Reg. Ref.

3286/16

### Applicant

Michael and Charlotte Joyce

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission.

### Type of Appeal

Third Party

### Appellant

John O'Brien and Gerard Fitzpatrick,

### Observers

- (1) Rose O'Reilly,
- (2) Bridget Boyd,
- (3) Catharine Byrne, T.D.
- (4) Declan and Celine Looby,
- (5) Susan and Harry Parkinson

### Date of Inspection

12<sup>th</sup> January, 2017.

### Inspector

Jane Dennehy.

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## **1.0 Site Location and Description**

- 1.1. The site has a stated area of 581 square metres is that of a detached bungalow with front and rear curtilages which is at the south western end of Walkinstown Avenue adjacent to the roundabout at Walkinstown Cross. It incorporates a small space which is separated by a dwarf wall at the eastern end on the road frontage which is overgrown with trees and vegetation. Terraced cottages facing onto Ballymount Road Lower are to the south side and the rear gardens of which adjoin the rear boundary of the appeal site. On the southern side of Ballymount Road Lower there is a terrace of two storey buildings in retail and commercial use with parking to the front and two storey houses are on the opposite side of Walkinstown Avenue and mix of retail and commercial buildings at the north eastern end at Walkinstown Cross. Bungalows and two storey houses are located to the north west side of the appeal site. Walkinstown Avenue and Walkinstown Cross (where five roads intersect at a roundabout) is part of a very heavily trafficked regional, orbital route linking the west with the east in the south suburbs.

## **2.0 Proposed Development**

- 2.1. The application lodged with the planning authority on, 7<sup>th</sup> July, 2016 indicates proposals for:

Demolition of the existing bungalow and out buildings,

Construction of a three storey block with a stated floor area of ..... providing for

Ground floor: a commercial unit at ground floor level, (121 square metres)

At First Floor: one two bed apartment (87 square metres) and one three apartments, (145 square metres)

At Second floor; One two bed apartment (103 square metres)

Vehicular access (five metres in width) from Walkinstown Avenue and Four on site car parking spaces at rear of the block.

Cycle parking and bin storage and associated drainage, boundary treatment, landscaping and site development works.

Additional information was requested on 31<sup>st</sup> August, 2016 to which a response was received by the planning authority on 9<sup>th</sup> September 2016 which included revisions to the second floor elevations, an extended light study and plans showing contiguous development on Ballymount Road, Lower and Walkinstown Avenue and confirmation that a former laneway has been incorporated into the back gardens of the properties on Ballymount Road Lower.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

By order dated, 6<sup>th</sup> October, 2017 the planning authority decided to grant permission subject to sixteen conditions which are of a standard nature which include a requirement for a construction and demolition waste management plan, restrictions on hours of construction, specified standards for storage and disposal of waste at operational stage, flood risk assessment and a management company agreement for those areas not being taken in charge. No modifications are required.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The comprehensive reports of the planning officer on the original and further information submissions indicates assessment and determination of the application with reference to the Dublin City Development Plan, 2011-2017 which has now been superseded and satisfaction with the proposed development, further to review of the further information submission is confirmed.

##### **3.2.2. Other Technical Reports**

The Roads and Traffic Division Report notes the heavily trafficked major route and traffic and parking congestion in the vicinity of the site, the location of the entrance to the north west of the existing access, and it is stated that traffic hazard from the additional turning movements to access the limited on-site parking provision would not occur. It also notes some deficiencies with access to cycle storage for cyclists. Conditions of a standard and minor nature are recommended.

The Drainage Division indicates no objection subject to conditions.

The Waste Management Division indicates no objection subject to conditions.

### **3.3. Prescribed Bodies**

Irish Water indicates no objection subject to conditions relating to connection agreements which it is advised are subject to constraints of the Irish Water Capital Investment Programme.

### **3.4. Third Party Observations**

Several third party objections were received by the planning authority, prior to issue of the request for additional information. Some of these parties have lodged Observer submissions in connection with the appeal. The issues of concern raised primarily comprise:

Adverse impact on existing serious traffic congestion, safety and demand for of parking particularly in view of the proximity to the roundabout.

Inappropriate scale and design and breach of the front building line.

Overlooking and Overshadowing.

Social behaviour issues and,

Deficiencies and inaccuracies in the planning application drawings.

## **4.0 Planning History**

**P. A. Reg. Ref: 0244/14:** Permission was refused for demolition of the house and construction of three two bed two storey town houses and a single storey medical unit for three reasons on grounds of:

Construction over a Wayleave

Conflict with the provisions of section 15.10 3 of the City Development Plan, 2011-2017 on Neighbourhood Centres in Z3 zones and undesirable precedent.

Adverse impact, due to close proximity, on the residential amenities of the single storey dwellings on Ballymount Road Lower.

## **5.0 Policy Context**

### **5.1. Development Plan**

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective: Z1: *“Sustainable residential neighbourhoods”*, with the objective, *“To protect, provide and improve residential amenities.”*

Chapter 17 provides for policies, objectives and standards for residential development; infill in Section 17.9.7 and minimum standards for internal accommodation and private open space provision in 17.9.1.

### **5.2. Strategic Guidance.**

The apartment development would also be guided by the recommendations and minimum standards in, “Sustainable Designs for New Apartments: Guidelines for Planning Authorities: 2015, (DOECLG)

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

An appeal was received from, John O’Brien and Gerard Fitzpatrick on behalf of themselves and fifteen residents of Ballymount Road on 2<sup>nd</sup> November, 2016. Attached are some photos and a copy of a plan indicating the locations of mature trees on the site. According to the appeal in which it is contended that the reasons

for the prior refusal of permission under P. A. Reg. Ref: 0244/14 are not addressed in the current proposal. It is submitted that:

- The structure is too tall for the location at the rear of the single storey cottages. The development is closer to the back boundary of the Ballymount Road properties because the former lane became part of the gardens of these properties.
- The three storey structure would set precedent for similar development overlooking single storey houses. It would cause an unacceptable degree of overlooking. It would be seriously injurious to the residential amenities of these properties due to overlooking and aspect.
- The way leave issues were not addressed. The area was subject to a CPO from the residents. It is not apparent that ownership was transferred to the developers without offer for sale on the open market.
- The proposed development is in conflict with the Z3 zoning objective and would set undesirable precedent for other neighbourhood centres.
- It appears that the three storey building on the opposite side of Walkinstown avenue is being used as precedent. That building is not intrusive, it adjoins commercial development and faces onto the roundabout. It is not adjacent to residential development. It has curved frontage that does not have detrimental visual impact. (Photographs are attached.)
- No loading bays for parking for customers of the commercial unit are shown in the application. It is a single width carriage way and this would have detrimental impact on traffic exiting Walkinstown Roundabout.
- The proposal is an overdevelopment and it is at odds with adjoining development.
- The two car spaces adjacent to the commercial unit are not viable or accessible due to the position of the support columns for the upper floors.

- Mature trees are part of the character of Walkinstown Avenue and possible removal of three of the trees are opposed. It is believed the trees are in public ownership.
- There is concern as to the nature of use for the “commercial unit as it could be used as a methadone centre which would be unsuitable in an established residential area. A commercial unit is not required as the area is well served by commercial development.
- The habitability of the bungalow has not been addressed in the application. It was built by the Council in the late 1960s to house one of the residents of cottages who had refused to move and allow the development of Walkinstown Roundabout to proceed. and facilitate the development of Walkinstown Roundabout. The house should serve as monument to this individual as he fought for years to gain freehold interest of the bungalow.
- Four generations of the same families have occupied the first four cottages on Ballymount Road directly behind the development. They do not want their established local community to be broken up.

## 6.2. Applicant Response

- A submission was received from the applicant’s agent, Clonliffe Architects on 17<sup>th</sup> November, 2016 which includes a copy of folio reference documents and a plan showing the proposals for access to the on-site car spaces.  
According to the submission:
- The applicant proposes to re-route the foul sewer onto the footpath outside the site boundary eliminating the Wayleave to achieve the right angle bend in agreement with the Council’s Drainage department. A copy of the Deed of Transfer in which the Wayleaves are indicated is attached. (Folio17478F – part refers).
- The current proposal, (in contrast to the prior unsuccessful proposal) is a mixed use scheme with commercial space and a residential element and it is in accordance with the Z3 (‘Neighbourhood Centre) zoning objective.



- The impact on the single storey cottages at the rear is minimised by the setback at ground and first floor levels and the increased setback at the second floor level the balconies are screened and no windows are in the elevations that could impact adjoining properties by overlooking. It is not closer to the rear boundaries of these properties than indicated on the plans. (16101/P104 and P106 refer.) Survey and measurements were professionally undertaken.
- The Council's Roads Department when consulted prior to lodgement the applicant did not request provision of loading bays on Walkinstown Avenue.
- The two car spaces at the rear of the development are accessible. The measurements: 2.5 x 5.0 and a carriageway at 5.6 metres are shown in drawing included with the appeal. (Drawing No.16101/P107)
- The proposed vehicular entrance is positioned as far as possible (fifty metres) from the roundabout. It will not affect the existing pedestrian crossing.
- One tree on the footpath will be removed from the footpath. A further two trees within the site are also to be removed. Landscaping includes planting of five trees and soft landscaping. (Drawing 16101/P104 refers)
- The bungalow is occupied by a tenant.

### **6.3. Planning Authority Response**

In a letter received on 22<sup>nd</sup> December, 2016 from the planning authority it is stated that the planning authority has not comments to make on the appeal.

### **6.4. Observer Submissions.**

6.4.1. The submissions of the five Observer Parties are referred to below.

#### **6.4.2. Ms. Rose Reilly, 136A Walkinstown Avenue.**

Ms Reilly has lodged a copy of the appeal which they submit represents their objections to the proposed development

**6.4.3. Bridget Boyd, 549 Lower Ballymount Road Lower.**

Ms Boyd has lodged a copy of the appeal which they submit represents their objections to the proposed development.

**6.4.4. Catherine Byrne TD.**

According to the submission from Deputy Byrne, the current proposal would have the same detrimental impact as the development for which permission was refused under P.A. 3261/14. It is requested that permission be refused and it is submitted that:

- The proposed development is contrary to Policy QH18 with regard to quality standards for satisfactory levels of residential amenity. Private open space provision. does not meet the required standards.
- The proposed development is contrary to Policy H19 because it does not reflect the character and scape of the existing residential area.
- The proposed development does not confirm to the promotion neighbourhood development building on unique local character “NC2” and it is overdevelopment in terms of massing, scale and height.
- The proposed development does not meet BS standards for light. It overshadows residential housing and infringes legal rights to light access. The separation distance between the dwellings is beyond reasonable.
- The proposed development would introduce a new traffic hazard exacerbating the dangerous situation with the roundabout and parking and will cause parking chaos.

**6.4.5. Declan and Celine Looby, 174 Walkinstown Avenue.**

Mr, and Ms Looby have lodged a copy of the appeal which they submit represents their objections to the proposed development

**6.4.6. Susan and Harry Parkinson, 544 Lower Ballymount Road Lower.**

A submission Mr and Ms Parkinson reside at the end cottage on Ballymount Road Lower. They have lodged a copy of the appeal which they submit represents their objections to the proposed development.

## **6.5. Further Submission of the Appellant.**

6.5.1. A submission was received from the Mr. O'Brien and Mr. Fitzpatrick on 19<sup>th</sup> January, 2017 according to which:

- The concerns about the Wayleave and diversion of the public foul sewer to the area under the footpath are reiterated. There is a long history of sewage problems and interference will exacerbate the problem.
- The sale of public owned land (shown on an attached map to a third party without consultation with the residents is a great concern (The land was subject to CPO from the residents in the 1950s.) It should be developed as a much needed parking area.
- The area into which the sewer is to be diverted (the former lane at the end of the gardens of the properties on Ballymount Road Lower) has been in the ownership of the residents of Ballymount Road Lower since the 1980s when Dublin City Council abandoned it. Diversion of the sewer and necessary access to carry out the works will adversely affect the Ballymount Road properties and their occupants.
- Residents fail to see the distinction between the previous mixed use proposal for which permission was refused and the current proposal in which the commercial unit does not appear to differ from a medical centre. Within five hundred metres, a kilometre and 1.5 kilometres there is a very wide range of neighbourhood facilities available. (A list is provided.)
- The objections on grounds of the three storeys, overlooking and obscuring the aspect of the Ballymount Road properties and as to lack of assurance about screening of the balconies are reiterated. A blank wall on the rear elevation would also be unacceptable. The developers were not sufficiently acquainted or familiar with the area and were unaware of the lane at the rear of the site.
- The proposed development is closer to the rear property boundaries of the Ballymount Road properties due to the incorporation of the lane into those properties. There is a seven metre distance from the living accommodation in the Ballymount Road properties.

- The claim that existing congested traffic exiting the roundabout onto Walkinstown Avenue will be obstructed by vehicles parked on the road way for deliveries to the commercial unit as no loading bay on is proposed is reiterated resulting in inconvenience and safety concerns for pedestrians, especially the disabled and traffic.
- The claim that the car spaces on site are inoperable for most drivers is reiterated. It will lead to demand for parking elsewhere.
- The applicant has not addressed the removal of the mature tree to facilitate the entrance. It is unnecessary. The street light and junction boxes can be removed to allow for sufficient distance between the tree and pedestrian crossing.
- The objection to the deliberate removal of the trees on the public footpath to facilitate the diversion of the sewer is not acceptable. And it exposes the commercial unit and encourages parking on the footpath.
- The appellants remain concern about the ambiguity of the term “Commercial unit”
- He habitability of the existing bungalow was not addressed and the historical nature of the bungalow was not addressed in the response to the appeal. And any change should the existing structure should be in on a similar level to existing development.
- There is also no response to the point made as to habitation by four generations of the same families of the first four cottages on Ballymount Road the breakup of which should be avoided.

Condition No 2 in which amendments to be made and no compliance is necessary is not acceptable. The appellants are concerned about non-compliance.

## **7.0 Assessment**

7.1. The issues considered central to the determination of a decision and considered under separate subheadings below are:

- Nature of Use

- Encroachment on a Wayleave
- Traffic safety and convenience.
- Parking and Loading.
- Footprint, scale, mass and height – visual impact.
- Footprint, scale, mass and height – Impact on adjoining properties.
- Trees and landscaping.
- Appropriate Assessment.

## 7.2. Nature of Use

- 7.2.1. It is noted that the zoning objective according to the Dublin City Development Plan, 2016-2022, brought into effect, on 24<sup>th</sup> October, 2016 following adoption. Is Z1: *“Sustainable Residential Neighbourhoods”*, with the objective *“To protect, provide and improve residential amenities.”*<sup>1</sup> *Sustainable Urban Housing, Design Standards for New Apartments: Guidelines for Planning Authorities* (DOE, C & LG, 2015) This differs from the Z3 (Neighbourhood centre) zoning objective that applied to the site location according to the now superseded Dublin City Development Plan, 2011-2016, which was in effect at the time of the planning authority assessment of the proposed development. Accordingly, the Z3: zoning objective is recorded in the planning officer report.
- 7.2.2. The proposed “commercial unit” may come within the scope of land-uses that are “Permissible” and / or “Open for Consideration”. The application does not include details as to the precise use proposed and this is a reasonable concern of the appellant and objector parties. For the purposes of clarity, a condition can be included should permission be granted whereby any proposals for the future use of the unit is subject to further planning review through a separate planning application. This precludes any potential scope for resort to exempt development provisions with regard to a future occupancy. There is no objection in principle to commercial use but it should be borne in mind that there is a wide ranging extent of such diverse

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<sup>1</sup> As shown on Map G -no zoning amendments to draft noted.

uses each of which would warrant review given in particular the zoning objective for the appeal site lands. There is no objection in principle to the proposed residential element and in this regard it is noted that there are no specific limits on density, intensity or household type and size or dwelling type within the development plan.

7.2.3. It is agreed with the planning officer that the proposed development can be regarded as infill which is provided for in 16.2.2.2 of the current development plan. Infill is required to respect and complement prevailing scale, architectural, quality and uniformity and a positive response to context and with sufficient independence of form and design to create new compositions and points of interest while having regard to adjoining buildings and positively contributing to an area where there is a low quality varied townscape. as provided for in the development plan. These aspects of the proposal are considered under Para 7.5.1 below.

7.2.4. The internal accommodation and private open space provision, both quantitatively and qualitatively and correspondingly, the standard of attainable residential amenity at each of the residential units is consistent with the recommendations in statutory guidance: *Sustainable Urban Housing, Design Standards for New Apartments: Guidelines for Planning Authorities* (DOE, C & LG, 2015) and within the Dublin City Development Plan, 2016-2020. The planning officer's acceptance of the proposal in this regard and the absence of remarks in the appeal and observer submissions are noted in this regard.

### **7.3. Encroachment on a Wayleave.**

7.3.1. The applicant proposes to divert the sewer over which there is a current Wayleave in favour of the City Council at his own expense, to space beneath the public path outside of the site are clearly shown on the drainage layout drawing (13093-200) submitted with the application. It is noted from the Drainage Department's report on file that there are no specific references to this matter. These arrangements facilitate the development and there is no objection by the Drainage Division of Dublin City Council, or Irish Water subject to compliance with the necessary requirements for connections. Dublin City Council and address the would enable the applicant to proceed with the development.

- 7.3.2. The background set out in the submissions of the appellant party with regard to Title, encroachment outside land in ownership of the applicant and as to the preferred use of the smaller space incorporated into the site, (for public car parking) is noted.

There is no evidence available in the documentation in connection with the application and the appeal to demonstrate that the applicant does not have sufficient legal interest to enable the development if permitted to be implemented. It would be necessary for this matter, (the nature of which lies outside the remit of An Bord Pleanála) to be pursued and resolved through the legal system. Furthermore, a grant of planning permission precludes entitlement to carry out development, as is provided for in section 37 (13) of the Planning and Development Acts as amended.

#### **7.4. Traffic safety and convenience**

- 7.4.1. As is fully acknowledged in the report of the Roads and Transportation Department, there are high volumes of traffic at Walkinstown Roundabout which is at an intersection of five important south city suburban routes where there is also considerable retail, commercial and services development. However, it is agreed that the proposed intensification of use is proposed for on the site on which there is at present one single dwelling unit is not excessive in terms of trip generation. This trip generation having regard to traffic safety and convenience has the benefit of the location at the north western end of the frontage of the site entrance at some distance from the roundabout. The proximity to the pedestrian crossing, should not lead to significant exacerbation of hazardous conditions and delays attributable to the somewhat limited trip generation and additional turning movements.
- 7.4.2. However, in terms of traffic and parking considerations some uses at the commercial unit may be more feasible than others at the site location. As previously stated, on site provision is consistent with the development plan but there is ambiguity about the nature of the use of the commercial use and some uses as opposed to others generate more traffic, turning movements, deliveries and services trips and, potential unauthorised parking. Off street parking by commercial deliveries vehicles is likely to obstruct circulation within the site and, as contended in the appeal, could occur illegally outside the site resulting in some obstruction at the entrance.

- 7.4.3. It would be unreasonable to preclude the commercial unit in close proximity to the commercial and retail facilities at a transitional location at Walkinstown Cross in principle notwithstanding the zoning objective but there is insufficient information to facilitate comprehensive assessment. It may be advisable for the Board to request further information from the applicant with regard to the nature of use of the unit and traffic impact to facilitate comprehensive assessment of traffic, parking and loading matters. Alternatively, the matter could be addressed and considered in connection with a future planning application for the use of the commercial unit in view of the variation in trip generation, including commercial traffic.
- 7.4.4. It should be borne in mind that the application provides for a high standard, the five-metre-wide entrance, (subject to the interventions proposed in the application such as the removal of the tree) and on-site parking provision. The application is consistent with development plan standards for “Zone 2” parking standards in providing for one space per dwelling. It is also consistent with standards for retail supermarket at one space per 100- square metres, retail units on main streets and financial offices at one space per 275 square metres, and other uses such as enterprise at one space per 200 square metres, and restaurants at one space per 150 square metres seating area according to Table 16.1 on the Dublin City Development Plan, 2016-2022.
- 7.4.5. It is agreed that illegal parking, including illegal on street parking for deliveries may be generated as contended in the appeal and effective management of this situation is heavily reliant on enforcement of the traffic and parking laws unless the applicant is required provide for preventative measure but this may not be feasible. Notwithstanding the existing situation of heavy traffic volumes and potential for illegal parking effective control of which is essential in the area, the additional trip generation by the current proposal would be marginal and rejection on such grounds would be in conflict with the sustainable development interests of an established, serviced suburban area.
- 7.4.6. In view of the argument in the appeal as to a substandard on-site parking layout, the applicant could be requested to provide a swept path analysis, prior to determination of a decision so that it can be demonstrated as to whether satisfactory provision has been made to facilitate manoeuvring in and out of designated on-site parking spaces can be achieved.



**7.5. Footprint, scale, mass and height – Visual impact on Public Realm.**

- 7.5.1. The site location is transitional being located at the edge of established residential development of one and two storey dwellings adjacent to the structures, some of which are relatively recently constructed, in a mix of commercial, retail, light industrial and restaurant/bar use prevalent at Walkinstown Cross. The footprint of the proposed structure which, at ground floor level is stepped infills most of the front curtilage of the existing dwelling which is at the of dwellings facing onto Walkinstown Avenue which have single continuous unbroken front building being front curtilages and boundaries with the public footpath.
- 7.5.2. Owing to the location at the extreme end of Walkinstown Avenue and the footprints and layout of the buildings at Walkinstown Cross the footprint is an acceptable integration into the location. There is no objection to the form and heights which incorporate setbacks taking the footprints into account in views from all vantage points from Walkinstown Cross and Walkinstown Avenue.

**7.6. Footprint, scale, mass and height – Impact on adjoining properties.**

- 7.6.1. The contentions of the appellant and observer parties that the incorporation of the laneway adjacent to the rear boundary into the gardens of the properties on Ballymount Road Lower has been taken into consideration in reviewing the proposed site layout and building size, form and layout.
- 7.6.2. Some of the dwellings at the rear of the appeal site which face onto Ballymount Road Lower have been extended. From the separation distance between the rear wall of the original dwellings and the original rear garden boundary (exclusive of the laneway incorporated into the site) is 8.5 metres and it increase to circa 10.5 metres with the width of the laneway included.
- 7.6.3. There are no windows in first and second floor level accommodation in space within the building that faces directly towards the rear of the properties on Ballymount Road Lower. The rear aspect from No 548 Ballymount Avenue would be significantly changed in that across the width of the plot it would overlook a blank elevation at 8.3 metres in height, (with a setback level above) on the adjoining site. This blank elevation extends partially across the width of the plots at No 547 and 549 Ballymount Road Lower. However, the four metre distance between the footprint

from the boundary is considered sufficient to ensure that the proposed development would not have an overbearing impact on No 548 Ballymount Road Lower or the adjoining properties and that the standard of attainable residential amenity at these properties would not be diminished. However, for the purposes of clarity, finalisation regarding materials, colours and finishes can be subject to compliance by condition should permission be granted. There is no potential for undue overlooking from this element of the proposed development due to the back of fenestration and the position of the block to the north east.

- 7.6.4. The configuration of the footprint of the south west elevation which accommodates one apartment at first floor level is such that the orientation is at an angle and an increasing distance from the dwellings further along to the south west on Ballymount Road Lower. As a result, there is no potential for overlooking of the adjoining properties from windows and balconies the design of which includes provision for louvered screens. Similarly, as is demonstrated in the shadow study provided in the further information submission, the properties on Ballymount Road Lower would not be subject to undue overshadowing by the proposed development.

## **7.7. Trees and landscaping**

- 7.7.1. The appellant and observer parties strongly object to the proposed removal of three trees to facilitate the development, including diversion of the sewer and the proposed entrance. It is agreed that existing trees and soft landscaping are a visual and natural amenity and that interference with such features should generally be discouraged unless there is a sufficient case for removal or alteration. The removal of the three trees, inclusive of the tree on the public footpath is justifiable in order to facilitate the development and in particular, safety at the entrance and in the vicinity of the pedestrian footpath. Landscaping proposals which include new trees provide for amelioration and should be implemented within the first planting season and an appropriate condition can be attached. The proposed development, inclusive of the landscaping if permitted and implemented would also address the existing somewhat unsightly condition of the space at the end of the site adjacent to Walkinstown Cross.

## **7.8. Appropriate Assessment.**

- 7.8.1. Having regard to the location of the proposed development which entails development of a block containing three apartments and a commercial unit on a brownfield serviced site within an established suburban area, notwithstanding the intensification of use involved, it is considered that no appropriate assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation.**

- 8.1. With Some reservations about the potential impact of the development on the safe and free flow of vehicular traffic and consequently on pedestrian and traffic safety and convenience having regard to the nature of future use of the proposed commercial unit as discussed in Para 7.4.5 above, the proposed development is acceptable and a grant of permission is recommended. Draft reasons and considerations and conditions follow:

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the transitional the site location adjacent to Walkinstown Cross, on Walkinstown Avenue, the provisions of the Dublin City Development Plan, 2016-2017 on infill development as provided for in Section 16.2.2.2 and on parking provision in Table 16.1, the configuration of the site the footprint, orientation, design, form and heights of the proposed building it is considered that subject to compliance with the conditions set out below, the proposed development would not be seriously to the visual and residential amenities of adjoining properties and the amenities of future occupants, would be acceptable in terms of traffic safety and convenience, and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars lodged with the planning authority on 9<sup>th</sup> September, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

- 5 No additional development shall be erected above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment including the satellite dish shown on the roof plan unless authorized by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

- 6 One car parking space and one cycle space shall be allocated, to each residential unit. The car spaces shall not be sold, sublet or leased to third parties. Prior to the commencement of the development the applicant shall submit to and agree details in writing with the planning authority.

**Reason:** In the interests of clarity, convenience and, a satisfactory standard of development.

7. The construction stage shall be managed in accordance with a construction management and construction traffic management plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of noise management measures, dust control measures, arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**Reason:** In the interests of orderly development, amenity, safety and sustainable development.

- 8 Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. No surface water shall be allowed to discharge onto the public road or adjoining properties.

**Reason:** In the interest of orderly development and public health.

- 9 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interests of sustainable waste management.

- 10 Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In the interest or residential amenity.

- 11 Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration.

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

- 12 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, to include use screen planting along the boundaries details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall be implemented within the first planting season following construction.

**Reason:** In the interest of visual and residential amenity

- 13 The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity

14. Proposals for a name and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No marketing signage shall be erected unless the developer has obtained prior written agreement from the planning authority

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

- 15 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, water mains, drains, 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 of any part of the development. Details 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 of the development.

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

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

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**Jane Dennehy**  
**Senior Planning Inspector**  
**6th February, 2017.**