



An  
Bord  
Pleanála

## Inspector's Report PL29N.249356

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<b>Development</b>	45 no. apartments in a 5-storey building over semi-basement car park with access off Ballygall Road West
<b>Location</b>	Former Site of Parochial House, Ballygall Road West, Finglas, Dublin 11
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3415/17
<b>Applicant(s)</b>	Simba Holdings Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First-Party
<b>Appellant(s)</b>	Simba Holdings Limited
<b>Observer(s)</b>	Patrick Giles
<b>Date of Site Inspection</b>	10 <sup>th</sup> January 2018
<b>Inspector</b>	Colm McLoughlin

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## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.21ha and is located on the northwestern side of Ballygall Road West, to the east of Finglas village in north Dublin city. It is irregular in shape and comprises approximately 57m frontage onto Ballygall Road West, an unmarked road flanked on both sides by footpaths. The site is undeveloped and extensively overgrown, with mature Cypress trees along the front, rear and southwest side boundaries, and Wild Cherry trees along the northeast side boundary. A two-storey Parochial House associated with the adjoining St. Canice's Roman Catholic (RC) Church, previously occupied the site. A vehicular access gate to the site is located along Ballygall Road West, approximately 80m northeast of the junction with Main Street, Finglas.
- 1.2. Bounding the site to the northwest and northeast are the grounds and car park to St. Canice's RC Church, a Protected Structure dating from 1920-22. Ballygall Road West bounds the site to the southeast, and sits below the green space serving two-storey terraced housing in Ballygall Crescent and Finglas Place, to the east of the appeal site. Adjoining to the southwest of the site are undeveloped lands that historically would have contained a school and church. The rear of properties along 41 to 50 Main Street bound the site to the west, including a rear service car park and duplex housing at 44 to 49 Main Street. A stone wall forms the boundary between the appeal site and St. Canice's Church grounds, a 2 to 2.5m-high wall topped by a palisade fence forms the boundary along Ballygall Road West, and the side boundary onto the rear of properties along Main Street is formed by a concrete retaining wall and stone wall of varying height, supplemented by palisade fencing.
- 1.3. Ground levels within the site initially drop gradually towards the southeast, before dropping sharply by approximately 4.5m along the boundary with Ballygall Road West. Grounds levels in the wider area drop steadily moving south along the Finglas Road (R135), following the Finglas river.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise the following elements:

- Site clearance works and removal of boundary walls along Ballygall Road West and to the rear of the site;
- Erection of a five-storey residential apartment block, containing 45 no. apartments, including 13 no. one-bedroom apartments, 24 no. two-bedroom apartments and 8 no. three-bedroom apartments, each served by balconies, all over a partially submerged basement level car park with provision for 45 no. car parking spaces, 46 no. bicycle spaces and a refuse collection area;
- Provision of vehicular entrance and egress off Ballygall Road West, to and from a partially-submerged basement car park, three separate pedestrian accesses off Ballygall Road West and a possible pedestrian access from St. Canice's RC Church grounds;
- Landscaping works throughout, with communal open space including a children's play area along the southwest side boundary. Revised boundary treatments, including replacement low wall and railing along the northwestern boundary with St. Canice's RC Church;
- Attenuation tank below basement level and connections to all local services;
- 'Part V' social housing is proposed (means of complying are not specified).

**2.2.** The application was accompanied by various technical reports and drawings, including the following:

- Design Statement with a Shadow Sunlight Analysis Study;
- Schedule of Accommodation;
- Conservation Method Statement/Conservation Assessment;
- Flood Risk Analysis;
- Arboricultural Impact Assessment;
- Tree Survey Report;
- Environmental Services Report and Sightlines;
- Part V Validation Letter;
- Letter of consent to submit the application from the legal owner of the property.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The Planning Authority decided to refuse permission for the following three reasons:

- Reason No.1 – Visual Amenities – visually obtrusive overbearing design impacting on the setting of St. Canice’s RC Church, a Protected Structure;
- Reason No.2 – Neighbouring Residential Amenities – overbearing impact on the adjacent residential properties to the south west;
- Reason No.3 – Design & Layout - inadequate natural lighting of apartments and associated private open space, substandard bedroom sizes, and poor quality communal entrance and circulation space.

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

3.2.1. Planning Reports

The report of the Planning Officer reflects the decision of the Planning Authority, with the following comments of note:

- No objection to the apartment floor areas, the overall unit mix, the plot ratio (2.47) or the site coverage (53%);
- Bedroom sizes for numerous apartments would fall below the minimum standards, with no additional wardrobe/storage space provided, and it is unclear whether or not dedicated internal storage is provided for each apartment;
- The proposed building would read as a six-storey or 18m-high structure when viewed from Ballygall Road West, which would exceed maximum Development Plan standards (16m);
- Materials proposed (render, brick and fibre-cement panels) are not considered acceptable;
- Insufficient information regarding the new boundary treatment with St. Canice’s RC Church has been submitted;

- Proposed building, with an unrelieved length of c.80m, would form a discordant feature when viewed from Main Street, would have a detrimental impact on the setting of St. Canice's RC Church, would result in overlooking of neighbouring properties to the southwest and would also have an overbearing impact on these adjacent residential properties;
- Windows serving a number of double-bedrooms are not of sufficient size;
- Concerns regarding sunlight and daylight penetration to apartments, given the positioning of balconies and the siting of rooms relative to the side boundaries;
- Entrance foyer area is poorly designed with insufficient space for deliveries, including furniture, and with minimal scope for natural light given the position at semi-basement level;
- A management and maintenance plan has not been submitted with the application;
- Proposed communal open space, including play area, along the southwestern boundary is acceptable, but clarity is sought regarding the positioning of vents and landscaping along the northeastern boundary and apartment balcony balustrade details (for child safety);
- Evidence of an agreement to provide a pedestrian access into St. Canice's RC Church has not been submitted with the application;
- Details regarding energy efficiency or materials source is not provided;
- Parking provision is acceptable, but access to the site is difficult and measures to avoid sightlines being impeded would be necessary.

### 3.2.2. Other Technical Reports

Responses were received from the following:

- Roads & Traffic Planning Division – recommends further information;
- Engineering Department (Drainage Division) - no objection subject to conditions;
- Conservation Officer - recommends conditions or further information.

### **3.3. Prescribed Bodies**

3.3.1. Consultation was carried out by the Planning Authority with the following:

- Minister for Arts, Heritage, Regional, Rural & Gaeltacht Affairs (Development Applications Unit) – no response;
- The Heritage Council – no response;
- An Taisce – no response.

### **3.4. Third-Party Submissions**

3.4.1. Two third-party submissions were received by the Planning Authority during consideration of the application, with the following issues raised:

Resident of No.120 Ballygall Crescent

- concerns raised regarding building height, as it would result in an unsightly view and overshadowing.

St. Canice's RC Church, Main Street, Finglas

- proposals contravene the Development Plan by reason of the inappropriate design;
- the proposed building height is too high;
- the design and massing of the building is at odds with Finglas Village;
- the proposal would adversely affect the historic character of St. Canice's RC Church, a Protected Structure;
- the proposed development would result in overlooking and overshadowing of neighbouring properties.

## **4.0 Planning History**

### **4.1. Appeal Site**

4.1.1. In June 2017, pre-planning consultation regarding a residential scheme for 45 apartments was undertaken between representatives of the applicant and the Planning Authority under Ref. PAC0307/17. The Planning Authority advised the applicant's representatives that tree felling details, quality communal open space, a

link with St. Canice's RC Church grounds, building height and materials would be key planning issues.

4.1.2. The appeal site has been subject of the following recent planning applications:

- DCC Ref. 2138/17 - permission **refused** (March 2017) for a residential development consisting of 48 apartments in a six-storey building over partially submerged basement with parking for 48 cars and with vehicular and pedestrian access from Ballygall Road West. Note: this was subject to an appeal, which was withdrawn (ABP Ref. PL29N.248337 refers):

Reason No.1 – Visual Amenities – visually obtrusive overbearing design impacting on the setting of St. Canice's RC Church, a Protected Structure;

Reason No.2 – Neighbouring Residential Amenities – overbearing impact on adjacent residential properties to the southwest;

Reason No.3 – Height – building height (six storeys / 19m), as read from Ballygall Road West, exceeds Development Plan standards.

- DCC Ref. 4400/08 - permission **granted** (December 2008) for modifications to previously permitted development (DCC Ref. 5391/06), omitting level -2 car park and a revised layout to level -1 basement parking, to provide 48 car park spaces;
- DCC Ref. 5391/06 - permission **granted** (July 2007) for a residential development consisting of 46 apartments in a three to six-storey building over two levels of basement parking, providing 61 car park spaces and with vehicular and pedestrian access from Ballygall Road West;
- DCC Ref. 4731/04 - permission **granted** (January 2005) for a residential development consisting of 25 apartments in a three to five storey building over basement parking, providing 32 car park spaces.

## 4.2. Surrounding Area

4.2.1. Planning permissions in the area are generally reflective of the urban character and the mix of uses, including several permissions for minor development within the curtilage of St. Canice's RC Church. Planning permission to widen a pedestrian



access to allow vehicular access onto the undeveloped land adjoining the appeal site to the south was permitted in February 2013 under DCC Ref. 3469/12.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The majority of the appeal site has a land-use zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022 with a stated objective 'to protect, provide and improve residential amenities'. A small portion of the site, along the southwest frontage is zoned 'Z9 - Amenity/Open Space Lands/Green Network' with a stated objective 'to preserve, provide and improve recreational amenity and open space and green networks'.
- 5.1.2. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to the Ministerial Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes, Sustaining Communities' (2007); 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015)<sup>1</sup> and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009). The following policies are also considered relevant:
- Policy QH3 – 10% social housing allocation;
  - Policy QH5 – addressing housing shortfall through active land management;
  - Policy QH6 – sustainable neighbourhoods with variety of housing;
  - Policy QH7 – promotion of sustainable urban densities;
  - Policy QH8 – promotion of development of vacant and under-utilised sites;
  - Policy QH9 - phasing programmes for larger housing schemes;
  - Policy QH10 – support the creation of permeability and connectivity;
  - Policy QH11 – promotion of safety and security in new developments;
  - Policy QH13 – new housing should be adaptable and flexible;

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<sup>1</sup> Currently the subject of Draft Guidelines 2018

- Policy QH18 – support provision of high-quality apartments;
- Policy QH19 – promote the optimum quality and supply of apartments.

5.1.3. Section 16.7.2 of the Development Plan sets out building height limits for development, including a 16m restriction in the outer city.

5.1.4. Other relevant sections of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 – Urban Form & Architecture;

Policy SC13: promotes sustainable densities with due consideration for surrounding amenities.

- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Chapter 11 - Guidance on development comprising or in the curtilage of Protected Structures;

Policy CHC2 seeks to safeguard the special interest of Protected Structures.

- Section 11.1.5.13 - Preservation of Zones of Archaeological Interest and Industrial Heritage;
- Section 11.1.5.14 - Monument Protection;
- Section 16.2 – Design, Principles & Standards;
- Section 16.10 - Standards for Residential Accommodation;
- Section 16.38 – Car Parking Standards.

## **5.2. National Guidelines**

5.2.1. The following Guidelines are also relevant:

- Architectural Heritage Protection Guidelines for Planning Authorities (2004);
- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013);
- Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report 2<sup>nd</sup> Edition, 2011).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A first-party appeal was submitted on behalf of the applicant, against the decision of the Planning Authority. Appended to the grounds of appeal is a set of photomontages of the proposed development. The first-party appeal raised the following:

- The Planning Authority decision is not consistent with the planning history of the site and the discussions that arose at pre-planning stage, and the decision is arbitrary, as the reasons for refusal are subjective and could have been addressed by the applicant within the application;
- Proposed development is a measured response to a challenging site, meeting all requisite Development Plan standards, providing a suitable level of amenity on site and off site, taking advantage of views over the adjacent green space and the church grounds, while maximising use of the site;

#### Scale and Height

- The proposed development would be of considerably less scale than that previously permitted under DCC Planning Refs. 5391/06 and 4400/08;
- Proposed structure would be articulated into three distinct blocks, which would allow views of the neighbouring Protected Structure;
- The topography of the area would ensure that the rear elements of the proposed building would read as lower structures, when viewed alongside the Protected Structure, which is on higher ground;
- Plot ratio for the proposed development has been miscalculated by the Planning Officer, as the basement car park was included in their calculation;
- Height of the proposed building is within the Development Plan maximum standards when measuring the height of the building from the immediate ground level, and as the penthouse level would not be visible along Ballygall Road West;
- Applicant could deal further with matters relating to materials and other design aspects via conditions attached to a grant of planning permission;

### Local Amenities

- Proposals would have much less impact on the housing to the southwest than the previous permission due to the reduced building height. The neighbouring units to the southwest are duplex units featuring raised patio areas, approximately 14.5m to 27.5m from the proposed building;
- Views from the neighbouring houses to the southwest would be enhanced by the proposed development;

### Design

- The wall along the northeastern boundary with the car park can be lowered and a railing inserted in order to increase natural light to ground-floor apartments along this boundary. These apartments would be sufficient distance from the boundary to ensure that they receive adequate levels of light;
- Window sizes below the Development Plan minimum requirement (20% of their respective bedroom floor areas) can be readily increased in size;
- Bedroom sizes are compliant with Development Plan standards, which do not specifically require extra storage space to be provided in bedrooms;
- Materials proposed were chosen to be in keeping with the residential character of the area and in order to not conflict with the limestone used in St. Canice's RC Church;

### Pedestrian Access

- Pedestrian access would be provided from two levels; from an external stairs off Ballygall Road West and, subject to agreement, from St. Canice's RC Church grounds;
- The pedestrian entrance off Ballygall Road West would not be the primary entrance and various design features would make it a pleasant space. Features such as rooflights and an increased hall width can be incorporated into the design to improve this space.

## **6.2. Observations**

An observation was received from a resident at No.120 Ballygall Crescent, 100m to the east of the appeal site, and this reaffirms the concerns raised within their third-party submission on the planning application, regarding the height of the proposed development.

## **6.3. Planning Authority Response**

The Planning Authority responded by stating that they consider that the Planning Officer's report for the application, comprehensively deals with the issues raised in the first-party appeal and also justifies their decision to refuse permission.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Principle of the Development;
- Layout, Design & Amenities;
- Impact on Local Amenities;
- Access, Traffic & Parking;
- Impact on Protected Structure.

### **7.2. Principle of the Development**

7.2.1. Planning applications for residential development on the appeal site, none of which were decided by An Bord Pleanála, have been both permitted and refused permission in recent times. Planning permission was initially granted in January 2005 for a residential scheme comprising 25 apartments in a three to five-storey building over basement car park (DCC Ref. 4731/04). Subsequently, permission was granted in July 2007 for a residential development consisting of 46 apartments in a three to six-storey building over two levels of basement car park (DCC Ref. 5391/06). The permitted building footprint was similar to that proposed in the

development that is subject of this appeal. This development was subsequently revised by a permission granted in December 2008, which allowed for a reduction in car parking from 61 to 48 spaces, with the omission of level -2 to the basement car park and a revised layout to level -1 of the basement car park (DCC Ref. 4400/08). This development was not constructed and the permission lapsed. In March 2017, the Planning Authority refused planning permission for a residential development consisting of 48 apartments in a six-storey building over a partially submerged basement with parking for 48 cars and with vehicular and pedestrian access from Ballygall Road West (DCC Ref. 2138/17). The Planning Authority's reasons for refusing to grant permission for the proposed development related to the visual impact of the development, particularly on St. Canice's RC Church, the overbearing impact on adjoining residential properties to the southwest and the building height (six storeys / 19m) along Ballygall Road West, exceeding Development Plan standards. The subject proposed development primarily differs from the previously refused development through a reduction in the number of proposed apartments from 48 to 45 units, with consequential revisions to the building height and footprint. The proposed building would be slightly further set back from Ballygall Road West and would feature a reduced height towards the rear of the site.

7.2.2. The grounds of appeal assert that the proposed development addresses the reasons for refusal of permission under DCC Ref. 2138/17 and that the proposed development is of considerably less scale than that previously permitted under DCC Planning Refs. 5391/06 and 4400/08. While I note the Planning Authority's previous decision to grant permission for a substantial residential development on the appeal site, the current proposals must be assessed on their merits within the context of the current Dublin City Development Plan 2016-2022 and current National Guidelines, which have been revised and supplemented since adjudication and decision by the Planning Authority on the previously permitted developments on site.

7.2.3. The majority of the site has the benefit of a 'Z1' zoning, the objective for which is to provide for sustainable residential neighbourhoods and 'to protect, provide and improve residential amenities'. A portion of the site along the southeast boundary with Ballygall Road West, is zoned 'Z9 - Amenity/Open Space Lands/Green Network' with a stated objective 'to preserve, provide and improve recreational amenity and open space and green networks'. This area would not include any proposed

buildings for the proposed development and, as such, the proposals would comply, in principle, with the land-use zoning objectives for the site.

7.2.4. Given the existing pattern of development in the immediate vicinity, the appeal site is considered to constitute an infill site. The proposal for 45 no. apartments on this site, with a stated area of 0.21ha, would therefore equate to a residential density of 214 units per hectare. I note that there are some examples of apartment buildings within Finglas village and further south along Finglas Road of similar densities to that proposed, while a mature housing area to the east off Ballygall Road West is characterised by much lower housing densities. There is no upper limit for densities set within the Development Plan and I consider that the proposed density would be reasonable having regard to the site's location adjoining the village centre and a Quality Bus Corridor (QBC). Notwithstanding this, and as per the relevant Guidelines for Sustainable Residential Development and Policies QH7, QH8 and SC13 of the Development Plan, the acceptability or otherwise of the proposed development requires proposals to respect and integrate with the surrounding character and to have due consideration for the protection of surrounding residents, households and communities in providing for additional residential development, which I will address in Section 7.4 below. Proposals also need to provide an appropriate level of amenity for future occupants and I propose to address such matters in Section 7.3 below. The proposed development would also need to respect the character and setting of St. Canice's RC Church, a Protected Structure and I propose to address such matters in Section 7.6 below.

7.2.5. In conclusion, cognisant of the planning history, the context and land-use zoning objectives for the site, I consider that the principle of developing the appeal site for residential development at the density proposed is acceptable. However, the proposed development must be assessed in relation to a host of planning and environmental considerations, as addressed below.

### **7.3. Layout, Design & Amenities**

7.3.1. The proposed layout of the residential apartment block would largely appear to follow on the approach set out within previously permitted planning applications on site (DCC Planning Refs. 5391/06 and 4400/08), with the building footprint extending almost the entire depth of the site. Layouts proposed would appear to be largely

dictated by the configuration and orientation of the site, the setting of the Protected Structure, topography and the need to create sightlines for vehicular exit along the Ballygall Road West. All existing trees on site would be removed to facilitate the development.

- 7.3.2. Section 16.2.1 of the Development Plan relating to 'Design Principles' seeks to ensure that development responds to the established character of an area, including building lines, and the public realm. Part of the Planning Authority reason for refusal no.1, raised concerns with the relationship of the proposed development to Ballygall Road West and its resultant impact on the visual amenities of the area. Ballygall Road West consists of an unmarked roadway approximately 7m in width, served by speed ramps and flanked on both sides by footpaths. There is no consistent building line along Ballygall Road West, although the commercial properties close to the junction with Main Street are set back from the roadside by approximately 5m. While I am cognisant of the planning history of the site, including the 2007 permission (DCC Ref. 5391/06) for a six-storey building over basement, and to be sited onto the back edge of the footpath, I am not satisfied that the current proposed treatment of the building, particularly at street level, would provide an appropriate design response onto the street. I consider that there is significant rationale for setting the front of the building back from the roadside and I provide my reasons for same below.
- 7.3.3. There would be no apartments at street level overlooking Ballygall Road West, and the building would feature a stone clad wall with openings to accommodate two pedestrian entrances, a vehicular entrance/exit to the partially submerged basement and three high-level windows to a refuse collection area. Section 16.2.1.4 of the Development Plan requires new development to incorporate active frontages to provide for natural surveillance of the public realm and large areas of blank walls in street façades should be avoided. I accept that the site context outside the main retail core of Finglas village, the site topography and the need to provide a vehicular access do restrict the potential for creating an active front along Ballygall Road West, however, the current proposals do not provide any scope for natural (or active) surveillance and would not address Ballygall Road West in a meaningful manner at street level. Some intervention is required to address this, and I consider that at a



minimum the design and layout of the proposed foyer area represents a missed opportunity in this regard, as addressed directly below.

- 7.3.4. Pedestrian access is proposed from two levels; from the northwest boundary with the church grounds and from the southeast off Ballygall Road West. While it would be desirable in terms of pedestrian permeability and convenience to provide level and convenient access from the church grounds, there is no agreement in place to form an access. Consequently, access would only be available from Ballygall Road West, via an external stairs and via two entrances to the basement level of the building, to two service cores on either end of the building.
- 7.3.5. Section 16.10.1 of the Development Plan requires entrances and lobbies to buildings to be spacious and welcoming, illuminated and covered, having good natural light and ventilation, and level access. In addition, the lobby and associated circulation spaces should be generous enough to allow for furniture deliveries. Part of reason for refusal No. 1 of the Planning Authority decision was based on the poor design of the entrance lobby and associated circulation space, which would be narrow and lacking natural light, and would not facilitate furniture deliveries. In response to this, the grounds of appeal assert that the pedestrian entrance off Ballygall Road West would be a secondary entrance with the primary entrance from the church grounds. The grounds of appeal also assert that various design features, including rooflights, would make this a pleasant space and that an increased width can be incorporated into the design to improve this space. I note that no agreement is in place regarding an entrance from the church grounds, therefore, the foyer off Ballygall Road West would be the 'primary entrance'. Retrofitting design features into the proposals, such as rooflights, as suggested by the appellant, would not overcome my concerns regarding the attractiveness, spaciousness or illumination of this area. Accordingly, this would result in a substandard level of amenity for future residents, which would fail to comply with Policy QH18 of the Development Plan, which requires suitable levels of amenity within apartment developments and Policy QH11, which promotes safety and security in new developments.
- 7.3.6. The Roads & Traffic Planning Division of Dublin City Council have highlighted concerns with regards to sightlines when vehicles are exiting the site. In section 7.5.1 below, I also note that a set down area for the provision of service and emergency vehicles would not be provided. By pulling back the proposed building

from Ballygall Road West this would improve sight visibility and would offer the opportunity for a set down area. Low-level landscaping could be incorporated into this area to define the public and private realm.

7.3.7. Reasons for refusal Nos.1 and 2 of the Planning Authority decision highlighted concerns in relation to the height of the proposed building. Surface levels drop gradually south-eastwards Ballygall Road West, before rapidly dropping by c.4.5m onto Ballygall Road West. The surrounding area is dominated by buildings of two-storeys or lower, although there are higher buildings in the vicinity, including St. Canice's RC Church (c.14.5m high to ridge level), the Fuel Yard apartments, Raven House, adjoining Finglas Shopping Centre and Rosehill House. The appeal site is set below the Church grounds, above properties along Main Street and on the same level as the mature low-rise residential areas to the east. Elevation drawings submitted with the application identify that only the penthouse level to the front of the building would be above the roof ridge height to St. Canice's RC Church. The proposed building on site would vary in height, with the rear of the structure comprising a single-storey, a three-storey and a four-storey element with a maximum height of 11.6m. This would be separated from the front of the structure by a two-storey middle section. The front section to the building comprises five-storeys over basement level with the top penthouse level set back by c.6m from the front of the building. The front section of the building would be 14.2m high when viewed from St. Canice's RC Church grounds and would be 15.9m when measured from Ballygall Road West. In areas such as this, the Development Plan sets out that the maximum building height allowable would be 16m.

7.3.8. The Planning Authority considers that the proposed building height would not strictly conform to building height restrictions, as it would read as a 6 storey / 18m-high structure when viewed from Ballygall Road West. The grounds of appeal assert that the stepped approach to the height of the proposed building complies with Development Plan standards, when measured from the immediate ground levels and as the set-back penthouse level would not be visible from Ballygall Road West. I note that penthouse level would not be visible from the immediate public realm along Ballygall Road West. More distant views of the proposed building along Ballygall Road West and from the housing areas to the east would be obstructed by mature trees within St. Canice's RC Church grounds and changes in ground level, which

would obstruct views of the ground level. The Development Plan applies the maximum height restrictions in metres rather than storeys. I consider it reasonable to measure the building height based on the immediate ground level and in doing so I would accept that the building height would not exceed the 16m restriction. Views of the entire southeast front elevation to the building would be very limited and I consider that it is this area of the site that has greatest potential to absorb higher elements of the proposed building, set away from the Protected Structure and overlooking the adjacent green area. In conclusion I consider that the building height would accord with Development Plan policy and standards.

7.3.9. The scale of the proposed development was raised by the Planning Authority as forming part of their reasons for refusal Nos.1 and 2. Within reason for refusal No.1, the Planning Authority considered that the scale of the proposed building would be excessive when viewed from the church car park, given the proximity of the building to the car park boundary and given the 'unrelieved' length of the proposed building at over 80m. The grounds of appeal assert that the scale of the building would be significantly reduced from that previously permitted in 2007 (DCC Ref. 5391/06) and the two-storey middle section to the building would break up the building. The grounds of appeal include a number of photomontages to illustrate this. While trees would be planted between the two-storey element and the car park, I would have concerns regarding the overall scale of the proposed building, as it would be visually incongruous when viewed from the church grounds and properties along Main Street, extending for over 80m almost the entire depth of the site. Should the Board be minded to grant planning permission, I consider that it would be appropriate to omit the two-storey middle section of the proposed building, in order to adequately break up the scale of the building when viewed from the car park.

7.3.10. Reason for refusal No.1 of the Planning Authority decision highlighted concerns in relation to the materials proposed to be used in the building elevations. The proposed building would primarily feature render and brick, with fibre-cement panels at the upper level. The Planning Officer's report specifically identifies that the applicant has not provided any justification or rationale for the proposed materials, and the materials would not successfully integrate with the character of the area. The grounds of appeal assert that the materials proposed were chosen to be in keeping with the residential character of the area, to avoid conflicting with the

limestone used in St. Canice's RC Church. I note the extensive use of render as an elevational treatment and I would have concerns regarding the extent of its use and the attractiveness of this type of finish in the medium to long term. The proposed materials would fail to integrate with the character of the surrounding area.

7.3.11. A lack of adequate sunlight and daylight levels for apartments in the proposed development formed part of reason for refusal No.3 of the Planning Authority decision. Policy QH18 of the Development Plan requires suitable levels of amenity within individual apartments. The Planning Officer's report outlines that the proposed layout would result in an unsatisfactory level of sunlight and daylight for future occupants of the ground-floor apartments G01, G06, G07, G08, G09 and G12, due to the siting of these apartments proximate and with windows onto the northeast boundary. The finished-floor level to the proposed ground floor, as stated on the drawings, would be 1.75m below the adjoining car park level at the northeastern end of the site, based on Section B-B (see Drawing No. 16052 05 Rev P). Based on the spot levels the difference in levels would reduce by c.1m moving towards Ballygall Road West. While I note that some rooms to apartments G01, G08, G09 and G12 would be positioned close to the boundary wall and this is not ideal, these units would also be served by windows onto the open space within the site or onto Ballygall Road West. The proposed living areas and terraces serving apartments G06 and G07 are all positioned very close to the boundary, which is stated would be formed by the existing stone wall, which would be repaired, where required. A detailed section along this part of the boundary was not submitted with the planning application, but the northeast elevation drawing does provide some indication of the levels difference along this boundary relative to proposed window locations (see Drawing No. 16052 05 Rev P).

7.3.12. While the easterly aspect to the subject apartments would normally suggest a reasonable level of sunlight and daylight to apartments in this position, their context directly adjacent and overlooking a stone wall serving the car park on a higher level, would severely hamper natural lighting of apartments G06 and G07 and habitable rooms to apartments G01, G08, G09 and G12. To address concerns raised regarding apartments G06 and G07, the grounds of appeal suggest that wall on the boundary could be lowered and low-level railings could be used as the boundary treatment. Given the difference in levels between the car park and proposed ground

floor and the fact that cars would invariably park proximate to this boundary, I do not consider that the proposed boundary treatment alterations would serve to address my concerns relating to natural lighting of apartments. In conclusion, I would have serious concerns regarding the adequacy of sunlight and daylight levels to apartments G06 and G07, and I consider that the proposed layout would result in an unsatisfactory standard of residential amenity for future occupants of these apartments.

- 7.3.13. Proposals provide for 13 no. one-bedroom apartments (29%), 24 no. two-bedroom apartments (53%) and 8 no. three-bedroom apartments (18%), and I consider that this would contribute to the overall dwelling mix in the locality and accords with the apartment mix provisions set out in Section 16.10.1 of the Development Plan. A total of 7 no. apartments would be single aspect (16%), and these are south-facing one and two-bedroom units. The minimum size of apartments proposed, range between 47sq.m for a one-bedroom unit, 74sq.m for a two-bedroom unit and 90sq.m for a three-bedroom unit, and in addition to the 10% additional floorspace required for residential schemes of between 10 and 99 units, all apartment sizes exceed the minimum space requirements of both the Design Standards for New Apartments and the Development Plan (Section 16.10.1). Floor to ceiling heights and the number of apartments per core meet minimum requirements.
- 7.3.14. There are some concerns with regards to the internal design, layout and configuration of the apartments. Many of the balconies are positioned directly above balconies serving lower level units and, as such, they would restrict natural lighting of balconies on lower levels, as well as rooms opening onto these balconies. Each of the bedrooms to units G02, 102 and 202 are only served by a door onto a balcony space, which would be further undermined by their position directly below the balcony of the unit above. The Development Plan requires glazing to all habitable rooms to be not less than 20% of the floor area of the room, but the windows serving double-bedrooms to units G03, G04, 103, 104, 111, 203, 204, 303 and 304 fall below this standard and this would restrict natural light penetrating the respective rooms and would provide a substandard level of amenity for future occupants. As referenced in the Planning Officer's report on the application, a large number of bedrooms to apartments are not provided with storage space, and as a result they would not meet minimum bedroom floor areas required in the Development Plan.

There are some discrepancies in the drawings and I note that an entrance to apartments G06, 106, 206, 207, 306 and 307 is not shown on the drawings (see Drawing No. 16052 03 Rev P). Should the Board be minded to grant planning permission for the proposed development, these matters should be addressed by means of revised drawings.

- 7.3.15. Private amenity space for three one-bedroom units fall marginally short of the minimum requirements (5sq.m) based on the floor plans, which do not align with figures stated in the schedule of accommodation (see unit G02, 102 and 302). I would have some reservations regarding the design and layout of a number of the proposed private amenity spaces, a number of which are located on the north-facing elevations of the proposed building. The balcony serving unit G07 would be overlooked directly by a bedroom window to the adjoining apartment, G08. The depth of the balconies serving units 103, 203 and 303 is shown as 2m on the floor plans (see Drawing No. 16052 03 Rev P), while they are 1.5m deep on the southwest elevation drawing (see Drawing No. 16052 05 Rev P). The amenity space to apartment G06 would be set below the adjoining car park and would be positioned directly below the balcony serving the first-floor apartment 106. This context would mean that there would be minimal natural lighting of this space and this would significantly undermine the attractiveness of this space to serve as private amenity space for future occupants.
- 7.3.16. Consequent to the site constraints and the scale of development, scope for providing extensive communal and public open space on site is limited. With regards to the absence of public open space in the proposed development, the applicant has stated that in light of the presence of neighbouring parks, payment of a contribution in lieu of the shortfall would not be warranted. I would not consider this a reasonable solution and a contribution should be requested to address the shortfall, as allowed for in Section 16.3.4 of the Development Plan, should permission for the development be granted. Standards contained in the Development Plan would require the provision of 305 sq.m communal open space to serve the development. This would be provided for along the southwestern boundary and would include an 85sq.m children's play area. I consider that the proposed allocation of communal open space, including the children's playground, would be adequate to serve the development, and would meet the requirements of the Design Standards for New

Apartments Guidelines and the Development Plan and Section 16.10.1 of the Development Plan.

- 7.3.17. I note that all trees on site would be removed as part of the subject development. Trees along the front and rear boundaries of the site offer some screening of the site from the adjoining areas. The landscape plan submitted indicates that some tree planting would be undertaken within open areas of the site (see Drawing No.16052 01 Rev P), although extensive tree growth would be restricted over the basement level, within sight visibility splays and along the northeastern boundary where light penetration would be restricted. To facilitate safe access and egress to and from the site, I accept that trees along Ballygall Road West would need to be removed to facilitate the development. However, trees to the rear of the site along the boundary with St. Canice's RC Church would offer some screening of the site from the neighbouring areas, particularly from Main Street, and they would not need to be removed to facilitate the basement car park. Section 16.3.3 of the Development Plan outlines an objective to maximise protection of good quality trees in new developments. The Tree Survey Report notes that at least three of these trees are in 'good' condition. Given the lack of opportunity to provide significant tree planting elsewhere within the site, I consider that there would be merit in maintaining the trees along the northwestern boundary that are stated in the Tree Survey Report to be in 'good' condition and should the Board be minded to grant planning permission for the proposed development, a condition to address this should be attached. The screening mechanism formed by trees along the northwestern boundary is discussed further under Section 7.6 below. Sufficient details regarding boundary treatments on site have not been provided and these would be required via condition.
- 7.3.18. In conclusion, the proposed layout does not provide an appropriate level of amenity for future occupants, on the basis of the inadequate levels of sunlight and daylight to apartments and private amenity space, poor design and layout to the lobby space and as a result of minimum bedroom sizes not being achieved. In this regard the proposed development would not meet the standards outlined in the Development Plan or the New Apartments Guidelines. Furthermore, there are concerns in relation to the proximity and treatment of the proposed building to Ballygall Road West, the excessive scale of the proposed building when viewed from the adjoining car park

area, the loss of trees to the northwest boundary, the proposed materials and the absence of a set down area for service and emergency vehicles.

#### **7.4. Impact on Local Amenities**

- 7.4.1. Overlooking of properties did not form part of the Planning Authority's decision to refuse to grant planning permission. Within the Planning Officer's report it is asserted that the proposed development would result in overlooking of the rear of properties on Main Street, including the townhouses at 44-49 Main Street. The grounds of appeal assert that undue overlooking would not occur between the proposed development and neighbouring properties, based on elevational differences, window and balcony orientation and separation distances. The closest balconies or windows in the proposed development would be approximately 15.5m to 21m from the rear elevation of the nearest neighbouring dwelling at 44-49 Main Street, and approximately 12m to 15.5m from the nearest rear patio area. Given the elevation differences overlooking from the proposed ground level apartments would not arise. Scope for screen planting would not be possible by virtue of the basement car park extending up to the boundary with Main Street properties. I consider that the potential for excessive overlooking between the upper floors of the proposed development and the nearest neighbouring properties would not arise, by virtue of the separation distances achieved and I consider that in an inner-urban context such as this, the relationship between the proposed and existing structures would be quite typical. I note that the landscape and roof plan drawing (No. 16052 01 Rev P) refers to blank gables on the side elevations overlooking the undeveloped land to the south of the site along Ballygall Road West. However, the photomontages submitted with the grounds of appeal and the elevations drawings include numerous windows along this façade, and this should be addressed by condition if the Board are minded to grant permission.
- 7.4.2. Reason for refusal No.2 of the Planning Authority decision highlighted concerns in relation to the overbearing impact of the proposed development on properties to the southwest. The four-storey section of the building would be approximately 12.5m to 26.5m from the rear elevations of the nearest residential properties to the rear of 44 to 49 Main Street. The three-storey rear section of the proposed building would be approximately 6m to 10.5m from the rear elevations of the nearest residential



properties. I consider that the four-storey element of the proposed building would be sufficient distance from the nearest residential properties to ensure that the development would not be excessively overbearing, however, I have concerns regarding the proximity of the three-storey element to the rear of these properties to the southwest. While I recognise that there are some differences in levels between the site and the nearest dwellings, and that the proposed three-storey element would not be directly overlooked from the existing dwellings, the separation distances between the proposed development and neighbouring properties, including rear patio areas, would not be sufficient to ensure that the proposed development would not have a significantly overbearing impact when viewed from these neighbouring properties. With regard to the impact of the proposals from the public realm, I have previously noted above my concerns regarding the proximity of the proposed apartment block to the back edge of Ballygall Road West. I consider that the current siting of the 5-storey building directly onto the back edge of Ballygall Road West would have an overbearing impact when viewed from the street. Setting the proposed building back into the site would alleviate the impact of the proposals along Ballygall Road West. Accordingly, I consider that the proposals would have a significantly overbearing impact from neighbouring properties to the southwest and from the public realm along Ballygall Road West.

7.4.3. Given the orientation and positioning of the proposed building to the east of the nearest residential properties and the existing tree cover on the appeal site, I am satisfied that the proposed development would not result in excessive overshadowing or loss of light to neighbouring properties.

7.4.4. In conclusion, the proposed development would not result in excessive overshadowing or overlooking of neighbouring properties, but would have an overbearing impact when viewed from the rear of properties along 44 to 49 Main Street and from along Ballygall Road West, and accordingly, the proposed development would be contrary to Policy SC13 of the Development Plan, which promotes sustainable densities, with due consideration for surrounding amenities.

## **7.5. Access, Traffic & Parking**

7.5.1. The proposed development would be served by a partially-submerged basement car park with vehicular access off Ballygall Road West. A total of 45 car parking spaces

are proposed to serve the 45 apartments. Visitor car parking spaces are not specifically allocated, while a total of three accessible spaces are proposed. A total of 46 bicycle spaces are proposed, split between two areas. I note that the Roads & Traffic Planning Division of the Planning Authority did not object to the quantum of parking and requested further details with respect to sightlines for vehicles exiting the site. As discussed above, setting back the building and providing low-level landscaping, defining the private and public realm would provide greater scope to achieve sight visibility for vehicles exiting the site. This would also allow vehicles awaiting access to the gated basement car park to stand off the carriageway and footpath, thereby reducing potential for queuing to occur on the carriageway. There is no service lay-by proposed as part of the proposals and I note that section 16.38.2 of the Development Plan requires 'service areas to be provided within the curtilage of the site' and that 'these areas are to be used exclusively for service and delivery vehicles'. Failure to provide a service area would encourage parking of service and delivery vehicles along Ballygall Road West, which includes an unmarked 7m-wide carriageway flanked by footpaths on both sides. Parking along Ballygall Road West would lead to restricted movement on the carriageway and footpath, to the detriment of pedestrians, cyclists and other road users. This is not a matter that can be addressed by way of a planning condition.

7.5.2. Applicable car parking standards for the proposed development are outlined in Table 16.1 of the City Development Plan, which allows for maximum, as opposed to minimum parking allowances. The appeal site is located in zone 3 for parking purposes, where there is a maximum requirement for 1.5 spaces per dwelling. In the subject case a car parking provision of 60 no. spaces or less is required. A total of 45 no. spaces are to be provided, which complies with the Development Plan standards. Considering the urban context of the site along a public transport corridor, including a QBC, I consider this to be a reasonable provision. The allocation of spaces to the respective apartments should be ensured via condition. A total of 46 designated cycle parking spaces are proposed at basement level and these should be of the 'Sheffield' stand type to accord with Development Plan standards.

7.5.3. In the absence of a service and emergency set down to serve the proposed development, I am not satisfied that the proposed development can be

accommodated without giving rise to concerns regarding the safety of pedestrians, motorists and other road users along Ballygall Road West. Therefore, the proposed development has the potential to lead to traffic hazard and would not provide safe and convenient set down for future occupants and visitors.

## **7.6. Impact on Protected Structure**

- 7.6.1. Reason for refusal No.1 of the Planning Authority decision stated that the excessive scale and form of the proposed development would have a negative impact upon the character and setting of St. Canice's RC Church, a Protected Structure (RPS Ref. 4851). The Protected Structure has been laid out in a crucifix form fronting onto Main Street and I consider that it is this view that is most sensitive to development. Policy CHC2 of the Development Plan requires the design, form, scale, height, proportions, siting and materials of new development to relate to and complement the special character of neighbouring Protected Structures.
- 7.6.2. The proposed building would be closer to the Protected Structure than the building that was previously refused planning permission by the Planning Authority in March 2017 (DCC Ref. 2138/17), but the height of the building has been reduced. As mentioned above, trees along the northwestern boundary with St. Canice's RC Church would be removed as part of the proposals. As illustrated in the photomontages submitted with the grounds of appeal, the rear element of the proposed building would be highly visible from Main Street fronting St. Canice's RC Church and given the proximity of the building to the Protected Structure and concerns raised regarding the scale and materials in the proposed development, this would have an adverse impact on the setting and character of the Protected Structure. This is compounded by the proposals to remove screen planting from the northwestern boundary of the proposed development.
- 7.6.3. The stone wall along the northern boundary of the appeal site forms part of the curtilage to this adjoining Protected Structure. The proposed development would involve some works to this stone wall and the grounds of appeal also suggest removal of part of the wall to allow natural lighting of apartments. A palisade fence has been positioned parallel with the stone wall inside the church grounds. This significantly undermines the appearance and status of the stone wall boundary. The Conservation Officer for the Planning Authority requires further information or

attachment of conditions to consider the proposed alterations to the boundary wall. Policy CHC2 of the Development Plan also requires that new development does not cause harm to the curtilage of the structure, therefore, I would suggest that further information would be required, via condition, in respect of the proposed works to the stone wall.

- 7.6.4. In summary, I consider that the proposed siting of buildings, in close proximity to the northwestern boundary and St. Canice's RC Church, combined with the scale and materials of the proposed building and the removal of screen planting, would have an adverse impact on the character and setting of St. Canice's RC Church, a Protected Structure.

## **8.0 Appropriate Assessment**

- 8.1.1. A report Screening for Appropriate Assessment was not submitted as part of the planning application or appeal.
- 8.1.2. The closest Natura 2000 sites to the appeal site are the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024) located approximately 5.5km to the southeast at Clontarf, and the North Bull Island SPA (Site Code: 004006) and the North Dublin Special Area of Conservation (SAC) (Site Code: 000206), both located approximately 8.3km to the east at Dollymount strand. Other Natura 2000 sites within 15km of the appeal site include; Malahide Estuary SAC (000205), Malahide Estuary SPA (004025), Ireland's Eye SAC (002193), Ireland's Eye SPA (004117), Rockabill to Dalkey Islands SAC (003000), South Dublin Bay SAC (000210), Rogerstown Estuary SAC (000208), Rogerstown Estuary SPA (004015); Howth Head SAC (000202), Howth Head Coast SPA (004113), Lambay Island SAC (000204) and Lambay Island SPA (004069).
- 8.1.3. The nearest pathway to the aforementioned designated sites from the appeal site is the Finglas river, which enters the Tolka River 1.4km to the south of the appeal site and flows in an easterly direction towards Dublin Bay. With the exception of the South Dublin Bay and River Tolka Estuary SPA, the North Bull Island SPA and the North Dublin SAC, I am satisfied that the other sites within 15km of the appeal site can be 'screened out' on the basis that significant impacts on these European sites could be ruled out, as a result of the separation distance from the appeal site, the

extent of marine waters and given the absence of any hydrological or other pathway to the appeal site.

- 8.1.4. I note the location of the Finglas River, which largely flows underground south of the site into the Tolka River, which drains to the South Dublin Bay and River Tolka Estuary SPA, the North Bull Island SPA and the North Dublin SAC. The conservation objectives for the South Dublin Bay and River Tolka Estuary SPA and the North Bull Island SPA seek to maintain the favourable conservation condition of various estuarine and coastal bird species and wetland habitats. The Conservation objectives for North Dublin SAC seek to maintain the favourable conservation condition of petalwort and the following habitats: mudflats and sandflats, annual vegetation of drift lines, salicornia and other annuals colonizing mud and sand, Atlantic salt meadows, Mediterranean salt meadows, embryonic shifting dunes, shifting dunes along the shoreline with *ammophila arenaria* ('white dunes'), fixed coastal dunes with herbaceous vegetation ('grey dunes') and humid dune slacks.
- 8.1.5. The subject proposals would not have the potential for loss or fragmentation of protected habitats. Having regard to the 'Source-Pathway-Receptor' model, there will not be a direct pathway between the proposed development and the Natura 2000 sites. I note that significant surface water attenuation is proposed within the site by way of an underground attenuation tank with connections to existing piped services. In addition, given the distance from the Natura 2000 sites across built-up urban lands and the proposed connection to the existing foul network, I am satisfied that the proposals would not result in a reduction in the quality of the SPA wetland habitats or the SAC habitats or the status of protected birds or plant (petalwort) species, and subsequently would not have a significant effect on the conservation objectives of the designated sites.
- 8.1.6. The proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects on South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the North Bull Island SPA (Site Code: 004006) and the North Dublin SAC (Site Code: 000206) in light of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a Natura Impact Statement is not therefore required.

## 9.0 Recommendation

9.1. I recommend that planning permission should be **refused** for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. Having regard to the site's location adjoining St. Canice's Roman Catholic Church, a Protected Structure, to the character of the area and to Policy CHC2 and the Design Principles outlined in the Dublin City Development Plan 2016-2022, it is considered that the proposed development, by reason of scale, siting, materials and layout, including the elevational treatment at street level, the siting of the building onto Ballygall Road West and the loss of trees along the northwest boundary, would not comprise an appropriate design response and would relate poorly to its receiving environment; seriously detracting from the area in terms of visual amenity and having an adverse impact on the character and setting of the adjoining Protected Structure. The proposed development would, therefore, seriously injure the visual amenity of the area, would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and Policy CHC2, which requires new development to relate to and complement the special character of Protected Structures, and therefore, would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the scale, layout and design of the proposed development, the existing pattern of development in the area, the site topography and the provisions of Dublin City Development Plan 2016-2022, it is considered that the proposed development would fail to provide adequate levels of sunlight and daylight to apartments and their private amenity spaces and would fail to provide an appropriate means of servicing and accessing the apartments, by reason of the siting of apartments overlooking and proximate to a boundary below the adjoining church grounds, together with the design elements which do not meet the minimum standards set out in the Development Plan and the absence of a set down and turning area for emergency and service vehicles. The

proposed development would, therefore, constitute a substandard form of residential development with an unsatisfactory standard of residential amenity for future occupants of the development contrary to the development standards of Dublin City Development Plan 2016-2022, and furthermore it would result in traffic hazard along Ballygall Road West by failing to provide safe and convenient set down. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the scale of the proposed development and to its proximity to adjoining residential properties to the south west and proximity to the northeast boundary with the church grounds, it is considered that the proposed development would be visually incongruous, would give rise to overbearing effects and would adversely impact on the residential amenities of properties to the rear of Main Street. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Colm McLoughlin  
Planning Inspector

17<sup>th</sup> January 2018