



An
Bord
Pleanála

Inspector's Report ABP-300031-17

Development

Modifications to previously permitted development under P. A. Reg. Ref. 2186/15 (PL 245164) providing for increase in units and reconfiguration and elevational amendments at Blocks E, F, and G and reconfiguration of basement carpark providing for increase in parking spaces and associated site works.

Location

St. Clare's Convent and Nos. 115-119 Harold's Cross Road, Dublin 6. (Protected Structure.)

Planning Authority

Dublin City Council

P. A. Reg. Ref.

2825/17

Applicant

Kavcre St Clare's Limited.

Type of Application

Permission

Decision

Grant Permission

Type of Appeal

Third Party

Appellant

Regina Kelly.

Observer

Harold's Cross Village Community Council.

5th and 17th January, 2017.

Inspector

Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The site has a stated area of 1.7 hectares and is that of the buildings and grounds of the former St Clare's Convent complex which includes a Chapel and the former Bethany Orphanage and grounds which has the benefit of a permitted residential development of one hundred and fifty-six units in three and four storey blocks and redevelopment of St. Clare's Convent permitted under P.A. Reg. Ref. 2085/15. (PL 29S 245164). The existing buildings which are vacant are in the west and north west of the site. Site clearance and preparatory works were well advanced at the time of inspection.
- 1.2. The location is on the east side of Harold's Cross Road opposite the north-east corner of Harold's Cross Park and is adjoined to the north side by street frontage dwellings and to the north east by St. Clare's National School. Established residential development at Mount Drummond Square is to the east and at Leinster Park is to the south. An apartment block, Parkview Mansions is to the south west and the south of the entrance. The area is otherwise characterised by residential, commercial, retail and institutional developments.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for three replacement apartment blocks for the three previously permitted blocks (E, F and G) (P.A. Reg. Ref. 2085/15 /PL 29S 245164 refers.) These three permitted blocks within the site subject of the application are four storey apartment blocks located in the north east, east and southern areas the existing buildings being in clustered in the west and north west within the site. If the proposed development is permitted the total number of dwelling units within the permitted development would increase from 156 to 172 units in total resulting in density of 101 units per hectare and 360 bed spaces per hectare according to the application. The dwelling mix is 26% one bed, 56%two bed and 17% three bed units. In addition, an increase in on-site parking spaces to a total of 160 is proposed along with some reconfiguration of the basement carpark. (It should be borne in mind that the total number of units and

dwelling mix and parking spaces would be altered by proposals within some other recent and concurrent applications, if successful. Details are set out under Planning History in Section 4 below.)

- 2.2. Block E is a large four storey block which has an irregular footprint and which is to contain four additional units to the permitted forty-eight increasing the total to fifty-two. It is to be positioned in the north-east corner of the site.
- 2.3. Block F is a four storey rectangular shaped block which is to contain five additional units to the permitted thirty-eight increasing the total to forty-three. It is to be positioned adjacent to the eastern boundary of the site.
- 2.4. Block G is a large rectangular shaped block which is to contain five additional units to the permitted thirty-nine increasing the total to fifty-four units. It is to be positioned at the western end of the site to the south of the public courtyard enclosed at the eastern end by Blocks G, F and E within the development.
- 2.5. Blocks E, F and G are reconfigured with the cores reduced to two from four in each block and in addition elevational changes are proposed which it is contended in the applicant can be addressed under sections 34 (3A) and (3B) of the *Planning and Development Acts, 2000 as amended*.
- 2.6. The permitted basement carpark is to be modified to provide for an increase from 155 spaces by five additional spaces to 166 spaces in total and for an increase in cycle parking spaces from 155 by an additional seventy-one spaces to 226 spaces in total along with internal reconfiguration.

3.0 Planning Authority Decision

3.1 Decision

- 3.1.1. By order dated, 28th September, 2017 the planning authority decided to grant permission for the proposed development subject to conditions of a standard nature. Condition No 6 contains a requirement for compliance with the conditions attached to the grant of permission under P. A. Reg. Ref. 2185/15 (PL 29S 245164) unless modified in the current application.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Following a request for, and, receipt of an additional information submission in which the permitted and proposed developments are shown in detail within the plans and particulars. The planning officer, having noted the details of the proposed replacement blocks and other additions and changes to the permitted development indicated satisfaction with the proposed development and satisfaction that the proposed amendments to the permitted development would not adversely affect the residential amenities of properties on adjoining sites and, the standard of attainable amenity for the occupants.

3.2.2. The planning officer also considers that the proposed development would not come within the meaning of section 34 (3B) of the Planning and Development, Act, 2000 as amended due to potential for conflict with Condition No 1 of the original grant of permission, and the changes in the three proposed replacement blocks and in the overall in intensity / density.

3.2.3. Other Technical Reports

3.2.4. The internal technical reports of the Conservation Officer, Roads and Transportation Department, Engineering Drainage Department and Waste Management Department indicate no objection to the proposed development, the prior, original grant of permission to which the amendments are proposed being noted. (P.A. Reg. Ref. 2085/15 /PL 29S 245164 refers.)

3.3. Third Party Observations

3.3.1. Issues raised in the observer submissions received by the planning authority include concerns as to oversized development, close proximity to boundaries and adjoining existing residential development, overlooking and overshadowing, obstruction of traffic on the congested road network, exacerbation of negative impacts of an over densely populated neighbourhood and adverse visual impact on the area.

4.0 Planning History

4.1. The St Clare's Convent complex and grounds has the following planning history according to information available:

- 4.1.1. P.A. Reg. Ref. 2085/15 / PL 29S 245164: This was an application for 209 apartment units on the overall site in respect of which the planning authority issued a split decision. Following third party appeals, Permission was granted for one hundred and fifty-six residential units in six blocks (Blocks A to G) Blocks, A, B, E, F and G are new build blocks of four storeys. Block C comprises change of use of the former Bethany Orphanage building into six residential units and Block D comprises change of use of the convent to thirteen units. The nun's chapel is changed into a residential unit and the main chapel is changed to an office building. A basement carpark with one hundred and fifty-five car spaces is also include in grant of permission. This is the parent permission regarding the current application and appeal.

Condition No 4 contains a requirement for a compliance submission for the Chapel to be allocated to a community related use and for a proposed omission mezzanine level to be excluded.

The permitted development according to the application submission has a density of 92 units per hectare. The current application comprises proposals for changes to part of the permitted development

- 4.1.2. P. A. Reg. Ref. 2826/17/ PL 29S 248916: The planning authority decided to grant permission for a concurrent proposal for amendment to the previously permitted development entailing replacement of three residential units with a residential amenity facility comprising concierge, residents lounge, multi-function room, meeting room and co working space, gym with a revised terrace and associated facilities and manager's office. Block D would contain ten instead of the permitted thirteen units resulting in a decrease in total units of one hundred and fifty-three from the one hundred and fifty-six permitted under P.A. Reg. Ref. 2085/15 / PL 29S 245164. An appeal against the decision was withdrawn prior to determination of the decision.
- 4.1.3. P. A. Reg. Ref. 3781/17: This a concurrent application before the planning authority for permission for amendments to the prior grants of permission under P. A. Reg. Ref. 2186/15. It provides for demolition of the houses at Nos 115-119 on Harold's

Cross Road and associated development and for construction of a part four storey part five storey block (Block J1) and a four storey block at the rear (Block J2) providing for a total of twenty-three residential units. The basement level is to be extended to provide for access to Block J2. The total number of units would increase to one hundred and seventy-nine from the one hundred and fifty-six permitted under P.A. Reg. Ref. 2085/15 / PL 29S 245164.

A further information request regarding traffic and parking was issued to which a response had not been received to date according to the planning authority's electronic records. The conservation officer recommended refusal of permission in her report.

- 4.1.4. P. A. Reg. Ref. 4040/17: This a concurrent application before the planning authority for permission for amendments to the prior grants of permission under P. A. Reg. Ref. 2186/15 and 2825/17 providing for an additional storey on Blocks E, F and G which increase the height from four to five storeys. It is facilitated by the change in height policy within the Dublin City Development Plan, 2016-2017. Two units would be omitted to facilitate a crèche development and thirty new residential units. The total number of units would be increased to two hundred and twenty apartments from the one hundred and fifty-six permitted under P.A. Reg. Ref. 2085/15 / PL 29S 245164.

5.0 Policy Context

- 5.1.1. The operative development is the Dublin City Development Plan, 2016-2022 according to which part of the site is within an area subject to the zoning objective Z12: *to ensure existing environmental amenities are protected in the predominantly residential future use of the lands* and the other part comes within an area subject to zoning objective Z1: *to protect, provided for and improve residential amenities*. St. Clare's Convent is included on the record of protected structures. (Ref No 3583.)
- 5.1.2. Draft Guidelines "*Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities*". (Department Housing, Planning, Community and Local Government, 2017) were subject to public consultation at the time of writing.

Circular PL 11/2016 Department Housing Planning, Community and Local Government, a copy of which is available on file updates the Section 28 Guidance: “*Sustainable Urban Housing: Design Standards for New Apartments*” (DOECLG, 2015) to make provision for Build to Rent (“B2R”) schemes provided for in “*Rebuilding Ireland: Action Plan for Housing and Homelessness*”.

6.0 The Appeal

Grounds of Third Party Appeal

6.1.1. An appeal was received from Regina Kelly of Leinster Park on her own behalf on 25th October, 2017 according to which:

- There has been an incremental increase in density and consequent deterioration of residential amenity within the development and, at adjoining developments. The permitted development has a density of 92 units per hectare, the proposed development has a density of 101 units per hectare and a concurrent proposal has a density of 115 units per hectare. (P.A. Reg. Refs 2825/17, and 3781/17 refer.) There is a piecemeal and fragmented design approach. It is an incremental approach to increases in density is inappropriate and piecemeal. An overall strategy should be prepared to address the interrelated issues of residential amenity, parking and communal amenity spaces required for apartment developments for rent.
- The development is proposed as a Build to Rent Scheme (“B2R”) which is used as justification for the density and is subject to Circular PL 11/2016 which updates the Section 28 Guidance: “*Sustainable Urban Housing: Design Standards for New Apartments*” (DOECLG, 2015) The circular provides for on-site amenities’ provision but they are subject of a separation application for modifications to Block D for which the planning authority has decided to grant permission. (P. A. Reg. Ref. 2826/17 refers.) The applicant is required to include mezzanine space as part of the communal amenity space by condition in the current proposal (which the applicant has appealed) was considered to be minimal in the context of the overall number of bed spaces. There is inadequate communal amenity space having regard to the provisions of Circular PL 11.2016.

- According to Circular PL 11.2016 the development should be centrally managed on a fifteen to twenty-year period with units confined exclusively for the rental market over a specified period. No condition to this effect is attached to the planning authority decision.
- The proposed development is premature pending the availability of new statutory guidelines for B2R schemes announced by the Minister in October, 2017 providing a development model for B2R schemes. The scheme has been designed in the absence of these guidelines and permission should be refused.
- The road network is inadequate to cater for additional traffic additional car parking in the basement being proposed. B2R schemes according to the Circular should rely on minimisation of car parking provision and on car clubs and other sustainable modes of transport.
- The increase in residents, windows and balconies and change in the relationship between the blocks and with adjoining development is noted. There will be:
 - Increased overlooking and overbearing impact on Mount Drummond Square dwellings from Block E's east elevation and Block F's east elevation, where part of the block is to be infilled
 - Block G has a gable elevation at 8.58 metres from the gable end of Park View Mansions which will be overlooked by the proposed balconies at Block G.
 - Block G will have closer separation distances from the boundary with Leinster Park providing for separation distance of 13.9 to 23.6 metres. The increase in the number of windows on the façade from four to ten will significantly increase the perception of overlooking and the loss of residential amenity at Leinster Park properties.
 - Blocks F and G are positioned closer to each other and the increase in the number of windows in the eastern gable of Block G will generate overlooking of the east facing units in Block F. The

gable end of Block G will overlook and have overbearing impact on the apartments at Parkview Mansions.

6.2. Applicant Response

A submission comprising a response to the Third Party Appeal was received from John Spain Associates on behalf of the applicant on 27th November, 2017.

Attached is a daylight sunlight study, revised landscaping plan, revised plans and elevations, and a revised architectural statement. According to the submission:

- The applicant had originally hoped that the application would have benefitted from the provisions of section 34 (3A) and (3B) allowing for the implementation of the changes without being subject to Appeal.
- Notwithstanding concurrent applications it is requested that the subject application the extent of which provides for reconfiguration of Blocks E, F and G be considered as presented and is acceptable in density, separation distances and design. The application is fully compliant with development plan standards and *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities. (DOECLG. 2015)*
- The current application involves an increase of sixteen units, an increase from 156 to 172 units previously permitted involving an increase in density from 92 units per hectare to 101 units per hectare. The proposals are a response to the issue of the Section 20 Apartment Guidelines in 2015 in which the number of units per core and apartment sizes are changed. The total number of units, inclusive of the proposals in the applications under P. A. Reg. Ref. 2825/17, 3781/17, 4040/17 and the omission of three units in the withdrawn application under P. A. Reg. Ref. 2826/17 is 220 units. Therefore, the overall density would be 129 units per hectare.
- The density and number of units is highly appropriate having regard to:
 - the proximity to the city centre, the pattern of development for similar projects in the area (St Ann's Milltown, Mount Argus and Marianella, Rathgar). which have close proximity to transport corridors and other developments which are close to public

transport corridors which have higher densities. (Cook Street, Carrig and Lansdowne Road on Naas Road)

- the draft National Planning Framework, in particular Policy Objective 5 which provides for emphasis on carefully managed of smart and high quality consolidated urban development utilising quality public transport counteracting outward sprawl and enabling infrastructure and amenity to realise high potential.
 - the revised apartment guidelines to be issued by the Government that allows for increased high and density in appropriate urban locations.
- The application is not a B2R proposal, is not reliant on Circular 11/2016 but, it is in accordance with the standards in, “*Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.*” (DOECLG. 2015) A single investor who is setting a joint management company up to cover four sites and 1200 apartments, (Mount Argus, New Carnlough Gardens and Carriglea) requires flexibility on future ownership structures. It is to be professionally managed as a private rental development with facilities in The Chapel Building, (Block D) that include meeting rooms concierge, gym and residents lounge. The application for these facilities was withdrawn but a revised application is to be lodged.
 - The concerns about piecemeal, incremental or fragmented development are acknowledged but the approach was unavoidable. The relevant conditions in the parent permission have necessitated separated planning applications. The subject application for amendments to Blocks E, F and G enables the permitted development to accord with change in policy framework in the apartment standards as provided for in The Planning and Development (Amendment Act) 2015 to address the 2015 Apartment Guidelines.
 - As the development is not a B2R development it is not premature pending the delivery statutory guidelines for B2R developments, reliant on Circular 11/2016 or any lowered standards.
 - The level of car parking is appropriate. It is agreed that parking should be minimised for the proposed development. Car sharing is part of the mobility

management plan. At 160 spaces there is provision at approximately 1.7 spaces per unit the development plan requirement for Parking Zone 3 being 1.5 spaces per unit. The traffic analysis included in the traffic and transport justification in the application indicated a low demand for parking. The draft National Planning Framework indicates that universal standards for parking may not be applicable to all circumstances in urban areas and that no parking requirement should be applied for development in or near centres of the cities and reduced in the inner suburbs.

- A detailed daylight / sunlight analysis is submitted with the appeal to demonstrate no significant increase in impact on levels of light to rear gardens and amenity areas at surrounding properties relative to existing conditions.
- Minor amendments to the apartment block design is provided for in the appeal submission to address concerns about overlooking. (Revised drawings are attached.) Window sizes are reduced and obscure glazing (to balconies) introduced in some instances to increase levels of privacy at adjoining properties. A description of the proposed amendments is included in the revised Architectural statement and drawings.
- For Block E, the minimum separation distances to houses on Mount Drummond Square is 36.5 metres and the window size is to be reduced. Layered landscaped screening on the perimeter of the block mitigates overlooking issues.
- For Block F the width of the block is increased bringing it 450 mm closer to Mount Drummond. The proposed landscape plan which includes semi mature trees screens the view of this Block from Mount Drummond Square and an additional layer of oak trees will be provided as additional screening at the north east corner. Window sizes are slightly reduced but there is a slight increase in fenestration on the east façade to improve morning sunlight at the north east corner to single aspect one bed units and replaces a blank façade.
- There is no increase in windows in the east elevation of Block G but balconies are introduced and all east elevation windows and balconies will have obscure glazing to protect amenity at Block F. Hedging at ground level will be provided at Block G and shrub planting around the perimeter of Block F.

- The permitted separation distance between Block G's eastern elevation and Parkview Mansions of 8.58 metres is retained. The Parkview Mansions elevation is secondary being for bedrooms, bathrooms and escape stairs. The balustrades on the west elevation are to be obscure glazed.
- The separation distance between the Leinster Park houses and Block G ranges from 16.9 metres to 29.5 metres. The solid to void ratio on the southern façade is reduced and extensive planting and retention of existing trees on the boundary are proposed and will screen the block from Leinster Park properties.
- The separation distances in adjoining developments are well in excess of the standard twenty-two metres required between opposite first floor windows provided for in the 2015 Apartment Guidelines.

6.3. Planning Authority Response

- 6.3.1. In a letter received on, 8th November, 2017 it is confirmed that the planning authority has no comments to make on the appeal.

6.4. Observations

- 6.4.1. A submission was received from Sheridan Woods on behalf of the Harold's Cross Village Community Council which represents several Residential Associations on 21st November, 2017. It is confirmed that the appeal by Regina Kelly is supported. According to the submission:

- There is a serious deficiency in communal residential amenity space within the overall scheme and for this reason the increase in number of unit should be rejected. The requirement for omission of the required mezzanine space sought in the appeal by the applicant would be a further deterioration. The application is premature as there is no provision for additional residential amenity facilities, concurrent applications having been withdrawn.
- There has been an incremental approach to increases in the density and this is inappropriate and also results in fragmented design approach. An overall strategy should be prepared to address all interrelated issues and residential

communal amenity spaces which are a key component of the B2R schemes. Circular PL 11.2017 refers)

- The application appears to reflect a B2R scheme. A condition should have been included with a requirement for rental over a specified period as provided for in Circular PL 11.2017.
- There is an increase in car parking for the proposed development and a reduction in concurrent applications resulting in a net reduction of spaces. (P. A. Reg. Ref. 3781/17 and 4040/17 refer.) The roads department considers less than one space per unit to be deficient in the report on P. A. Reg. Ref. 3781/17. Issues arising which have not been addressed are whether the road network is inadequate to cater for the traffic generated, and, if minimisation of car parking and use of sustainable transport including an on-site car club as suggested in Circular PL 11.2016 to reduce access and egress from the site should have been examined. The application is premature.
- The Community Council concurs with the concerns indicated in the appeal regarding the design detail changes and negative impact by way of overlooking and overbearing impact on adjoining properties and on the standard of residential amenity of the development itself.

Observations on First Party Appeal by Observer Party (Harold's Cross Community Council).

A further submission comprising observation on the applicant's response to the third party appeal was received from Sheridan Woods on behalf of the Harold's Cross Village Community Council on 16th January, 2018. According to the submission in which the planning history and current undetermined applications are outlined:

- Any increase in residential density should be accompanied by an increase in the extent and quality of communal facilities and that when considered on its own merit the proposed development does not accord with the 2015 Guidelines.
- The claim that the proposed development is premature on grounds that it should not be considered separately from other concurrent applications is

reiterated in that appropriate conditions can be attached regarding the delivery of the phasing of the delivery of the amenities.

- The piecemeal approach is inappropriate, is resulting in fragmented design and a suboptimal outcome. Reductions in window size is not an appropriate design mitigation for overlooking and will have negative impact on the quality of the residential unit itself. The increase in windows in the southern elevation of Block G from four to ten increase the sense of overlooking of Leinster Park.
- Further justification is required for the car parking provision which is under one space per dwelling unit.

7.0 Assessment

7.1. The issues central to the determination of the decision are that of:

National policy and legislative framework;

Multiple amendment applications – incremental changes.

Density and intensity of development.

Communal facilities

Residential amenities of adjoining properties

Residential amenity standards within the development

Traffic and Parking.

Appropriate Assessment

7.2. National policy and legislative framework

7.2.1. The applicant has the benefit of a grant of permission for the development proposal which was prepared prior to the publication and bringing into effect, “*Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.*” Issued by DOECLG. in 2015. (2015 Guidelines) which replaced the prior section 28 statutory guidelines, “*Sustainable Residential Development in Urban Areas*” issued in 2009. A total of 209 units were proposed but a total of 155 were permitted. The 2015 Guidelines provide for changes to the various minimum standards including dwelling size and number of units per core in apartment blocks as referred to in the applicant submissions among other considerations. The

application provides for modifications to the permitted development enabling the developer to propose an increased density overall in a new application for amendments to the permitted development with the benefit of the new standards in the 2015 guidelines. According to section 5.5 of the 2015 Guidelines, “*proposals to change current planning permissions, in full or in part, shall comply with the requirements of these (2015) guidelines.*”

- 7.2.2. The development is characteristic of the emerging, ‘Built to Let/Rent’ schemes, (‘B2R’) provided for in Circular PL 11/2016 which further updates the 2015 Guidelines to facilitate the provided for under Pillar 4 of *Rebuilding Ireland: Action Plan for Housing and Homelessness*” that provides for a commitment to a strategy for a viable and sustainable rental sector. The proposed development is part of an institutional investor’s portfolio and it provides for central management and for a communal facilities and amenities to facilitate ‘shared living’ among residents as envisaged in the Circular. However, the third parties claim that the extent and range of such facilities proposed are deficient.
- 7.2.3. The applicant clearly states in the response to the appeal that that proposed development is not a B2R scheme as provided for under the Circular. This enables the applicant to be precluded from a requirement by condition, to enter into a covenant with an undertaking to retain the dwellings as rental units for a period of fifteen to twenty years as provided for under the planning acts for a B2R schemes. On the other hand, the application enables to applicant to submit amending proposals to take advantage of some of the relaxations in the standards provided for under the 2015 guidelines and the Dublin City Development Plan, 2016-2022.

7.3. **Multiple amendment applications – incremental changes**

- 7.3.1. It is agreed with the appellant and observer parties that the applicant’s proposals for amendments to the scheme separation into a number of applications to take advantage of the standards within the 2015 guidelines is undesirable. However, as the current application and other applications referred to in the submissions made in connection with the appeal are amendment applications, the division of the amendment proposals into separate applications to correspond with some of the specific conditions attached to the original grant of permission although undesirable,

is understandable. There is sufficient information available in connection with the current application and appeal to facilitate assessment.

7.4. Density and intensity of development.

- 7.4.1. Given the foregoing, it is reasonable for the current amendment application to be assessed on the basis of consistency with the policies, objective and standards within the current, 2016-2022 Dublin City Development and the 2015 guidelines. Subject to qualitative standards being satisfactory, the increase in density at the inner urban location on a transport corridor which is marginally increased at approx. 100 units per hectare in the current proposal is acceptable. As pointed out in the submission made on behalf of the applicant some other permitted and constructed schemes, at Mount Argus, Marianella, (Rathgar) and St. Anne's, (Milltown) in established inner urban areas have similar or higher densities.
- 7.4.2. While the St. Clare's Convent scheme is characteristic of the B2R schemes the development of which are provided for and encouraged in Circular 11/2016, attachment of the condition for retention of the development exclusively to rental properties, to a grant of permission for an amendment to the previously permitted development, appears not to be appropriate in that it would be outside the scope of the current proposal for amendments to the prior original grant of permission. Correspondingly, the claim as to the proposed development being premature pending the delivery of the bringing into effect of section 28 guidelines (further to Circular 11.2016) could not be justified. The effect of the proposed density and residential amenities is considered under sub sections and 7.6 and 7.7 below.

7.5. Communal facilities and amenities.

- 7.5.1. There is some uncertainty, owing to the division of the proposals for amendment to the original grant of permission into separate applications. However, the development is, at minimum subject to the requirements of Condition No 4 attached to the original grant of permission. The withdrawal of the application for permission for concierge, communal facilities and amenities in Block D with a reduction in residential units under P. A. Reg. Ref. 2826/17 (which was subject to appeal by the applicant against a number of conditions under PL 248916) and, the statement that the applicant intends to submit a new application is noted. An incremental increase in units is involved in the current proposal which involves a relatively

marginal increase in units. Should permission be granted, consideration could be given attaching a condition with regard to finalisation on the requirements of Condition 4 attached to the original grant of permission under P. A. Reg. Ref. 2186/15 regarding provision for, “a community related purpose” in the former chapel building by a compliance agreement or a further grant of permission for communal facilities and amenities and occupation of the units but this may not be feasible. The guidance against imposing requirements by a planning authority in the absence of proposals provided by a developer having regard to implications for maintenance costs for residents in section 4.6 of the 2015 Guidelines should be borne in mind.

7.6. Residential amenities of adjoining properties

- 7.6.1. Further to close examination of the plans, including the landscaping plans, and the written submissions, particularly those lodged with the appeal it has been concluded that the proposed development would not give rise to an undue degree of overbearing impact, overlooking or overshadowing of existing established residential development on lands adjoining the site boundaries. The changes in this regard relative to the previously permitted development under P. A. Reg. Ref. 2186/15 are relatively minor. While there is not dispute with regard to potential for overlooking the generic standard, in the absence of specific mitigating design measures, for separation distances between opposing first floor windows is twenty-two metres a greater separation distance may be warranted at second floor level and above.
- 7.6.2. With regard to the properties to the east on Mount Drummond Square (Nos 39 – 49) to the east of the site and Block F the sunlight and shadow study indicates the projected change, attributable to the proposed development in impact on rear gardens is marginal and in excess of minimum BRE standards with regard to the reductions below target and existing values. Separation distances between the east elevation and the rear gardens and rear facades of the houses are more than sufficient. The increased number of windows and reductions and windows sizes and solid to void ratio are reasonable and satisfactory and privacy is enhanced by the proposed screen planting incorporated in the proposed landscaping. It is acknowledged that a major change in the characteristics of the environs of the properties on Mount Drummond Square would occur by reason of high density urban residential development being inserted into the former convent grounds. Nevertheless, standards of attainable amenity at the adjoining properties would not

be diminished to an unsatisfactory standard. The relationship between the proposed development and Mount Drummond Square with regard to the concerns about overbearing impact, separation distances, and potential for overshadowing and overlooking is considered satisfactory.

- 7.6.3. With regard to the properties on Leinster Park, the orientation of Block F is such that there is no potential for overlooking of the rear facades or rear gardens of the properties on Leinster Park which are perpendicular to the site and separated by an existing site boundary wall and screen planting. The orientation of the block, which is to the north, is such that the south facing end of the block does not terminate the vista at the end of the *cul de sac* or the rear gardens adjacent to the boundary or obstruct access to daylight and sunlight. There is capacity within the site for the block in mass and height, owing to the orientation of the footprint to be accepted within the site without adverse impact on the residential amenities of the properties to the south.
- 7.6.4. With regard to the properties on Leinster Park, the slightly splayed or curved footprint for Block G the south facing façade of Block G to orientation or which is toward the west of Nos 11 to 28 facing east and east to the south east of the site on Leinster Park in conjunction with the design detail, solid to void ratio, use of opaque screening at balconies and windows, massing and separation distances from the southern boundary and supplementary screen planting ensure the retention of a satisfactory standard of attainable residential amenities at the adjoining properties.
- 7.6.5. While there is limited private open space at the rear of Nos 7-10 Leinster Park adjoining the southern boundary the separation distance to Block G is sufficient to provide for sufficient standards of privacy at these properties and is supplemented by opaque glazing and screen planting.
- 7.6.6. The western end elevation of Block G faces towards Parkview Mansions block of apartments. It is noted that there is no change in the relationship with regard to separation distances from the western boundary or east facing façade of Parkview Mansions. The elevation treatment is changed to provide for an increased in fenestration, which is limited but the potential for direct overlooking and perceived overlooking is satisfactorily addressed through the use of opaque glazing. The façade at Parkview Mansions is east facing and it is understood that the windows

serve secondary accommodation as opposed to the main living accommodation. While possible future development potential on this adjoining site should not be disregarded the separation distance has the benefit of approval under the original grant of permission. The massing within the proposed amendments is changed result in a larger, relatively blank façade at the same separation distance but without significant variation in impact on the amenities of Parkview Mansions relative to the impact of Block G as originally permitted as regards dominance as a feature in the outlook from Parkview Mansions. Increased potential for significant overlooking and overshadowing would be marginal.

7.7. Residential amenity standards within the development

- 7.7.1. It is demonstrated that the attainable residential amenities of each of the dwelling units within the three blocks subject of the application comply with the reduced standards for apartment schemes set out in the 2015 Guidelines.
- 7.7.2. The communal open space provision is not significantly altered from the previously permitted layout and, quantitatively, satisfies current development plan standards for lands subject to the Z1 zoning objective and lands subject to the Z12 zoning objective. The variations, to accommodate the amendment to provide for eight units per core on each floor in footprint, separation distances and massing internal layout and fenestration do not result in undue diminution of attainable residential amenities notwithstanding the intensity and density of the development and the standards set out in the development plan (section 16.10.1) and the 2015 guidelines.
- 7.7.3. The area of the most potential for concern, as recognised in the response to the appeal is the relatively close proximity between the east facing side elevation of Block G and the west facing elevation of Block F at the southern end of the site. The floor plans indicate dual aspect end units in which the east elevation at Block G provides fenestration for storage and bathroom accommodation only with the main living accommodation benefitting from a southerly aspect onto a balcony or terrace. Similarly, the end units at Block G benefit from a southerly aspect for the main living room accommodation. Owing to this layout which takes advantage of the southerly aspect the units at the east and west elevations at the southern end of both blocks benefit from sufficient access to sunlight and daylight and to attainable residential amenity.

7.8. Traffic and Parking.

- 7.8.1. The increase in number of units from 156 to 172 is relatively modest, when considered in the context of the permitted development as proposed, although it is noted that changes are also proposed within concurrent applications. The internal roads layout is substantially unaltered and no issues would arise with regard to internal circulation. Bearing in mind the TIA lodged with the original application which relates to a development of 208 units and the potential the increase in volumes, especially turning into and out of the development at the entrance, (at which a priority junction is to be provided) attributable to the proposed fourteen-unit increase in dwellings is marginal and negligible.
- 7.8.2. The increase in on site provision to 160 parking spaces from 155 resulting in a slightly reduced ratio of spaces per dwelling at just under one space per unit is reasonable given the site location within the inner urban area close to the city centre and along a public transport corridor. The relaxation of the application of 1.5 spaces per unit as provided for in the development plan, "Zone 3" parking standards was accepted in the assessment and by way of approval of the original application. Issues as to discouragement of private car trips have been satisfactorily addressed, particularly in relation to modal choice, car sharing and car-pooling within the mobility management plan included in the original application. The inclusion of a condition with the planning authority decision to grant permission with a requirement for allocation of one space for car club use is noted and supported.

7.9. Appropriate Assessment

- 7.9.1. The application entails amendments to a previously permitted residential development on a brownfield inner urban serviced site of institutional buildings and grounds. It consists of alterations to three permitted apartment blocks, which results in a net increase of fourteen dwellings to a total of one hundred and seventy-two units from the previously permitted development which provided for one hundred and fifty residential units, parking and associated development.
- 7.9.2. The nearest European sites are the South Dublin Bay SAC (000210) the qualifying interest for which is *Tidal Mudflats and sandflats* and the South Dublin Bay and River Tolka SPA (0004024) the conservation interests for which are a range of bird species. The main threat to these European sites are that of potential for pollution

arising from a range of activities. There are no direct source-pathway receptor links between the site and the European sites. The existing, permitted and proposed development is and will be connected to existing sewerage network via which effluent will be transferred for treatment at the Ringsend Treatment Plant prior to disposal.

- 7.9.3. Having regard to the location, nature and size of the proposed development 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. In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld. Draft reasons and considerations and conditions follow:

9.0 Reasons and Considerations

Having regard to the planning history for the site, to the site location in an inner urban area close to public transport and facilities, to the zoning Objective Z12 (Institutional Land – future development potential) and Objective Z1 (residential) zoning objectives for the area and policies, objectives and standards set out in Dublin City Development Plan, 2016-2017 and, to the recommendations within “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by Department of the Environment a Community and Local Government in 2015 it is considered that subject to compliance with the conditions set out below, the proposed development would not be seriously injurious to the residential amenities of adjoining residential properties by reason of close proximity, overlooking and overshadowing, would be acceptable in terms of traffic safety and convenience and would be in accordance with the interests of proper planning and sustainable development in the area.

10.0 Conditions

1. The development shall be carried out in accordance with condition Nos. 1

to 12 inclusive attached to the grant of permission under P. A. Reg. Ref. 2186/85 (PL 29S 245164) on 16th November, 2015 except as amended to conform with the provisions indicated in the plans and particulars, lodged with the application and the following conditions.

Reason: To ensure consistency with the development as previously permitted.

**Jane Dennehy,
Senior Planning Inspector.
19th January, 2018.**