



An
Bord
Pleanála

Inspector's Report ABP-300133-17

Development

Permission to amend Condition No. 3 of PL 29S.117164 to facilitate the use of existing student accommodation as temporary tourist or visitor accommodation only outside of academic term times & to be used to accommodate any student registered in a Higher Education Institute during the academic term times.

Location

Blocks 1, 2 and 3 at the Halls of Residences, Trinity Hall, Dartry, Dublin 6

Planning Authority

Dublin City Council Sth

Planning Authority Reg. Ref.

3674/17

Applicant(s)

Paul Mangan (Trinity Halls).

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

1. Richview Residents
2. Rathmines Initiative
3. Diana & Lee Healion

Observer(s)

1. Finola Flanagan
2. Rathgard Residents
3. Myles & Louise Lee
4. James Kenny

Date of Site Inspection

03rd of April 2018.

Inspector

Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site forms part of the Trinity Hall Student Residence in Dartry, Dublin 6. Trinity Hall is the main halls of residence for first year undergraduate students of Trinity College and comprises of three blocks accommodating 832 no. bedrooms. Blocks 2 & 3 front onto Dartry Road and Block 1 adjoins the original Trinity Hall and Purser House, Protected Structures, in the centre of the site.
- 1.2. Block 1 is 7 stories in height and supports a range of services including restaurant, shop, reception, administrative offices and 273 no. bedrooms in upper floors and 30no bedrooms are the subject of a separate but concurrent application (PL300092-17) for a temporary change of use to classroom. Block 2 is 6 storeys in height and located along the North West and Block 3 is along the south west, both contains the remainder of the student accommodation.

2.0 Proposed Development

- 2.1. The proposed development would comprise of:

Amendments to Condition No. 3 of PL 29S.117164, Block 1, 2 & 3 for student accommodation for Trinity College Dublin, which states:

“The proposed development at Trinity Hall shall not be used for any purpose other than that specified as student residences and shall not be used by persons other than those whose education at the University of College, Trinity College.

Reason: In the interest of clarity and the proper planning and development of the area.”

In order to:

- facilitate the use of the student accommodation as temporary tourist or visitor accommodation only outside of academic term time;
- accommodate any student registered in a Higher Education Institute during the academic term times.

3.0 **Planning Authority Decision**

3.1. **Decision**

Decision to grant permission subject to 5 no conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and refers to the following:

- The third party submissions;
- The policies in the development plan in relation to student accommodation, the accommodation for tourist and international students and the promotion of Dublin as an city of an international education centre including English Language Courses;
- The existing student accommodation permitted on the site and the change in national policy in relation to student accommodation since the grant of permission for the parent permission;
- The existing circumstances on site in particular the retention of the same number of units and occupants.

3.2.2. Other Technical Reports

Conservation- No objection to proposed development.

Drainage Division- No objection to proposed development.

3.3. **Prescribed Bodies**

None received.

3.4. Third Party Observations

A total of 16 third party submissions were received from individual property owners and residents' associations and the issues raised in addition to the grounds of appeal are summarised below:

- There was extensive consultation and an oral hearing on the original application.
- There has been a constant breach of planning conditions and there is currently Section 160 proceedings on the site.
- The commercial use of the site is contrary to conditions.
- There is currently unsupervised activity on the site.
- The original conditions were very specific to restrict the use on the site and protect the surrounding area.
- The proposal will have a negative impact on the residential amenity and include additional traffic generated.

4.0 Planning History

The most relevant planning history to the application is summarised as follows:

PL29S.RL2839 (2011)

Section 5 Declaration to state that the use of bedrooms of student residence as classrooms by an external operator is not exempted development.

PL29S.202698 (Reg Ref 0577/03)

Permission granted for the temporary amendment of condition No 3 (PL29S.117164) to permit occupancy from 01/06/2003 to 15/06/2003 by persons involved with the Special Olympics World Summer Games.

PL29S.117164 (Reg Ref 1101/99)

Permission granted for the construction of new student halls of Residence at Trinity Hall for c. 25,00m² of development for three number student residences with 832 no. bedrooms, new central support facilities and refurbishment of Trinity hall and new sports facility and associated works.

Condition No 2; required the reduction of the western arm of building No 3 by the omissions of the first floor.

Condition no. 3; refers to the use of the accommodation only as a places of residence and support facilities by students enrolled in educational course at the University of Dublin, Trinity College.

Condition no 4; the proposed central facilities shall only be the sole use of the occupants of the student apartments at Trinity Hall.

Condition no 5; no organised social events would cause music or other amplified sounds to be emitted onto the nearby public roads.

5.0 Policy Context

5.1. Planning and Development (Housing) and Residential Tenancies Act 2016

Part 2, Chapter 1 – Student Housing Division, “student accommodation” has the meaning provided for by section 13 (Act).

Section 2 (d) Student accommodationincludes residential accommodation that may be used as tourist or visitor accommodation but only if it is so used outside of academic term times.

5.2. Rebuilding Ireland: Action Plan for Housing and Homelessness.

Pillar 4: Streamlining planning for student accommodation

New planning policy guidance will be issued to local authorities and An Bord Pleanála on the use of student accommodation complexes outside of the academic year, as their use during these periods provides a potential additional income-stream, thereby aiding the overall viability of these projects.

5.3. Circular PL 8/2016 APH 2/2016 (Department of Housing, Planning. Community and Local Government, DHPCLG “*Identifying Planning Measures to Enhance Housing Supply*”

- A flexible approach should be applied in respect of any planning conditions related to use/occupation of student accommodation. Such an approach would recognise the need to establish a steady rental income for such student

accommodation throughout the year in order to ensure the deliverability of development projects from a funding point of view and recognise that student accommodation complexes can play an important role in providing affordable accommodation for tourists and visitors in major urban areas during peak summer demand periods.

- Therefore, planning authorities should aim to avoid making permissions for student accommodation complexes subject to restrictions on alternative summer or holiday uses, while at the same time ensuring that student accommodation is:

(1) not used for residential accommodation of a permanent nature;

(2) safeguarded for use by students and other persons related to the HEI during the academic year; and

(3) capable of being used for legitimate occupation by other persons/groups during holidays periods, when not required for student accommodation purposes.

- Appendix 1 provides an appropriate sample condition for student accommodation relating to use.

5.4. **Dublin City Development Plan 2016-2022**

The site is located on lands zoned for Z1, Sustainable Residential Neighbourhoods, where it is an objective “*To protect, provide and improve residential amenities*”, and partially for Z2, Residential Neighbourhoods (Conservation areas), where it is an objective “*To protect and/or improve the amenities of residential conservation areas*”

- Education is a permissible use in Z1 and open for consideration in Z2.

The relevant sections of the City Development Plan include:

5.5.12 Student Accommodation, sets out a broad policy statement in relation to the expansion of the student accommodation sector.

QH31: Support for high-quality, professionally managed and purpose built third-level student accommodation on campuses or in appropriate locations close to the main campus, in the inner city or adjacent to high-quality public transport corridors.

CEE19: (i) To promote Dublin as an international education centre/student city, as set out in national policy, and to support and encourage provision of necessary infrastructure such as colleges (including English language colleges) and high-quality, custom-built and professionally managed student housing. (ii) To recognise that there is a need for significant extra high-quality, professionally-managed student accommodation developments in the city; and to facilitate the high-quality provision of such facilities.

16.10.7 Guidelines for Student Accommodation, sets out design criteria and considerations for the design of student accommodation, the relevant standards include:

Purpose built student accommodation shall:

- respect the residential amenity,
- be accompanied by documentation to indicate how they are to be managed, confirm students will be registered with a third-level education institution and;
- support the local community through design and layout.

Appendix 21 Definition of Student Accommodation

A professionally managed residential building, or part thereof, built either on or off campus, for the purpose of accommodating students over the duration of the academic year.

Car parking Standards

The site is included in Zone 2 where car parking is restricted on account of the proximity of these locations to public transport.

Table 16.1- Maximum car-parking standards.

Student Hostel/ Student Accommodation- 1 per 20 bed -spaces

Youth Hostel- 1 per 30 bed-spaces

Residential Institution- 1 per 20 bed-spaces

Schools- 1 per classroom

5.5. Natural Heritage Designations

The site is located 3.6km to the west of South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC.

6.0 The Appeal

6.1. Grounds of Appeal

Three grounds of appeal were submitted by residents and residents' associations in the vicinity of the site and the issues raised are summarised below under grouped headings:

Planning History & Conditions

- There is no justifiable reason to remove the conditions.
- The proposed development would materially contravene Condition No 3 and No 4 for the parent permission PL29S.117164.
- There are no conditions on the operation of the site, the management, nature or links to concurrent application and there is conflict between the concurrent applications.
- The conditions imposed by the Board on the original permission addressed the real concerns of the local residents (c 3, 4 & 5) and were cognisant to the residential zoning on the site and the vicinity.
- The conditions on the original permission have been regularly breached over the years and have failed to mitigate against the impact from the students as there has been anti-social behaviour etc.
- Condition No 3, 4, 5 & 16 are relevant to this application (use by those in education in trinity, use of the social club, no organised events or amplified sounds, restriction of noise levels).

Rationale and Justification

- In the Rebuilding Ireland Action Plan (circular to Planning Authority PL 8/2016 APH 2/2016) states that use of student accommodation throughout the year for visitors is important from a funding perspective and affordable.

accommodation for visitors during peak summer periods. This is contradicted in the analysis of Visitor Accommodation in Dublin 2015-2020 by Failte Ireland in 2016 which states that the potential contribution of student accommodation for visitors is limited by the quality of the student accommodation

- The Enhanced Housing Supply circular refers to the planning official report for a critical evaluation of the various technical inputs and it is submitted the proposal does not have regard to the zoning on the site.
- The Residential Tenancies Act 2016, includes a definition of Student accommodation as “(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic terms” and it is argued this proposal would broaden the definition of student accommodation.
- The application also seeks to provide accommodation during term time for students which are in Third Level Accommodation and not members of Trinity, there is currently an undersupply of student accommodation, as noted on Trinity’s own web page in relation to the provision of accommodation.
- The applicant is seeking to compare the application to DSDZ3689/15, for planning permission within the North Lotts & Grand Canal Dock SDZ, which is zoned Z4 and Z14 for mixed use zoning and regeneration. This application was accompanied by a Management Plan, includes a Demand Analysis prepared by agents. The Planners Report noted the use of this site during the summer months would bring vibrancy to the Point Village Hub.
- The rationale and justification of the project was requested in the pre-application.
- Rooms could be rented on a per night basis etc., therefore the impact for traffic would be greater and there is an incorrect assumption that there is no impact.

Development Description

- The notices do not define the parameters of the tourist or visitor accommodation and the operating hours have not been specified, the number of rooms have not been specified, the commercially run venture. These all

lead to an invalid development description and traffic impact associated with the same.

- The use of the language within the development description is extremely vague in particular, temporary tourist or visitor accommodation, academic term times and Higher Education Institute.
- There is no official definition of the proposed visitor accommodation, possibly an aparthotel. It is questioned if the facilities will be used by the visitors.

Material Intensification

- The proposed development in itself and in conjunction with the concurrent application for the change of use of 30 classroom would lead to a material intensification of use on the site and would a serious adverse impact on the surrounding area and detract from the residential amenities.
- There is a concurrent application 3645/17 and there is no reference to this proposal within the proposed development and no indication which use takes precedence. It is not possible or practical for children to be in the same building as that used for visitor/tourist accommodation and are incompatible uses.
- The use of the site for those attending the classroom (addressed in 3645/17) is only one demographic which may use the site and it may be associated with all users e.g. hens, stags, backpackers etc.

Residential Amenity

- The type of students will impact on the residential amenity of the surrounding area as they have no invested interest in the area.
- The light pollution from the current student accommodation has dramatically changed the area and it is impossible to ignore, the only reprieve is that it is only during term time.
- The Board and the Inspector, in the Section 5 Declaration for use of 30 bedrooms as classroom, referred to the intensification on the use, the material change of use on the site and the significant effect on the adjoining area.

- An example of a promotional brochure for accommodating foreign students, age 13-17, on the site, where a minimum of two weeks accommodation is required and includes on site teaching, excursions by coach and entertainment.

Development Plan

- The proposed development does not comply with the development plan policy's and standards.
- The proposed development is not compatible with the Z1 zoning on the site.
- Section 16.10.7 of the development plan includes Guidelines for Student Accommodation states that the proposal must respect the residential amenities, be professionally managed, students must be registered with a third-level institution and they must outline how the proposal will be integrated with the local community.

Traffic

- The traffic implications have not been considered or properly evaluated.
- A mobility management plan has not been submitted.
- The inclusion of excursions will have a negative impact on the traffic.

Built Heritage

- Trinity Hall is surrounded by a Z2 zoning, there are protected structures on the site and the Old Rathmines Castle, one of the most important historical sites in Ireland, is within the grounds.

Planning Authority Decision

- The conclusion by the Planning authority is not evidence based nor substantiated.
- The planning authority does not adequately address the issues raised in the observations to the application and therefore not in compliance with Section 6.5 of the Development Management Guidelines.

- There is no assessment of the changes required for the concurrent application therefore there may be structural changes required.
- The report of the area planner argues the use of the site on a continuous basis is acceptable and will not alter the capacity of the site which is incorrect as it is a commercial venture.

Procedural

- The application is invalid as there is no provision in the act to allow the amendment of a conditions where the planning application has been implemented.
- The public notices are incorrect and do not adequately describe the nature of the proposal and therefore the application is invalid.
- If granted, it will set a precedent for similar development.

6.2. Applicant Response

An agent on behalf of the applicant has responded to the issues raised in the grounds of appeal as summarised below:

Principle of Development

- The validity of an application in relation to the development description has been similarly addressed in a previous Board decision, PL06D.242216, where the scope of the definition “*Development*” set out in S.3 (1) of the Planning and Development Act, 2000, may be applied. Although this application materially contravened a condition, the context of the development plan had changed over time and the development was considered reasonable.
- The Development Management Guidelines set out the parameters for submitting an application, which the application follows. It is not intended that the permission is overly descriptive.
- The Government circular on Rebuilding Ireland has identified the need to support the use of student accommodation outside the academic term, which is a material change in circumstance since the original permission.

Rationale and Justification

- The rationale for the proposal stems from the need to use the accommodation on a consistent year round basis in line with government policy, in Rebuilding Ireland, which promotes the use of visitor accommodation in student accommodation and recommends planning authorities include relevant conditions.
- The Rebuilding Ireland document supports other national policy, in particular those in relation to teaching English as a foreign language.
- Section 13 of the Planning and Development (Housing) and Residential Tenancies Act 2016 includes a definition of Student Accommodation which includes *“(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times”*
- Addition commercial revenue from the proposal will be reinvested into Trinity College.
- During the year some student accommodation becomes available, due to Trinity Students leaving, this accommodation may be offered to students at other higher level education facilities. This a small element of the proposal.
- The occupation of the rooms for visitor accommodation would support a concurrent application, 300092, for the use of classrooms for teaching English.
- Any unauthorised action in the past has ceased.
- The term “Higher Education Institute” is used by the Department for conditions relating to student accommodation.
- The use of the site for visitors would not bring any more users on site than is current.
- The Board removed the allowance for other use on site, as previously recommended by the Inspector.
- The legal proceedings on the site relate to compliance drawings and do not pertain to the use of the site outside term time.

Development Plan

- The policy and zoning provision of the development plan support the proposed development.
- The proposed development has no impact on the protected structures.
- The site is located in Zone 2, due to its location beside the Luas, where there are maximum standards for car parking. The current 88 spaces (Table 16.1 of the development plan, student accommodation 1 per 20 bed-spaces) are underutilised and the proposed development, in conjunction with that application for classrooms is likely to attract foreign students with no cars.
- In relation to the guidelines in the development plan, the accommodation will respect residential amenities, all occupiers will be third level students and shall be professionally managed and support integration with the local community.

Conservation

- There will be no impact on the protected structure on site.

Residential Amenity

- The proposed development is for mostly for the summer time when the evenings are longer and therefore there would be less of an issues with light pollution.
- A copy of the “Conditions of Occupancy” have been submitted which include the strict regulations for occupants in relation to behaviour, fire safety, damage to property etc.

6.3. Planning Authority Response

None received.

6.4. Observations

Four observations were received from residents of properties in the vicinity of the site and the issues raised have been summarised below:

Principle of Development

- The proposed development is so wide it would allow any member of the public to call themselves visitors/ tourists.
- There is no justifiable reason why this application should be granted.
- The proposed development would ultimately change the residences into a non-institutional hostel and commercial activity.
- The planning authority report did not take into detailed consideration of the observations submitted and the conditions imposed are generic.
- The profitability of the College will now be the main focus on the site.
- There is a lack of any meaningful detail on the scale of the proposed operation and in light of previous breaches of permission this is unsatisfactory.
- The proposed use is not residential and not connected in any way to the College.
- The proposal will soon be an aparthotel or a “Student Hotel”.
- The occupation of the halls will accommodate a different demographic on the site.
- The constraints of the Trinity Hill security will mean it cannot younger age group will not be controlled.
- To permit the visitor accommodation is close to a full change of use.

Planning History & Development Description

- The development description should refer to the removal of Condition No 3 and not to amend it as suggested.
- Block 3 has been unlawfully used for accommodation outside term time previously (2003) and has not been built in accordance with the Boards decision.
- There have been previous breaches of conditions on the site (information attached).

- The main reason why planning permission was sought initially was to accommodate the 1, 000 Trinity Students.
- The permission should not be referred to as temporary as there are no restrictions and it is essentially permanent.
- It is evident from Condition No 3 that the intention of the Board was to restrict the use to the population connected with Trinity College.
- The University is currently operating this structure and this proposal is seeking to validate the use.
- The application is not temporary.

Residential Amenity

- The proposed development, as a commercial development, is not appropriate in an exclusively residential area.
- There is currently anti-social behaviour from the occupants of the Students Halls.
- Further activity on the site would further damage the residential amenity in the vicinity by way of traffic movement etc.
- The same controls over the occupants will not be available if they are not from Trinity College and at present there is only one warden on the site, which is not sufficient.
- There is currently a constant source of anti-social behaviour during academic term and the proposed use on the site will remove any respite the residents had outside term time.
- Large tours groups will include additional coach movements to the site.

6.5. Further Responses

None received.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Planning History
- Recent Board Decisions
- Concurrent Planning Application
- Development Plan Compliance
- Impact on the Residential Amenity
- Other
- Appropriate Assessment

Principle of development

7.2. The proposed development is for an amendment to Condition No 3 of PL29S.117164 to allow the use of the existing Trinity College Halls of residence for visitor/ tourist accommodation outside the academic term and use of the same accommodation for use by only Trinity College student also 3rd level students during the academic term. PL29S.117164 included permission for three student accommodation blocks, with 832 no. bedrooms and associated facilities, and Condition No 3 specifically restricted occupation of these Halls “*as a place of residence and support facilities by students enrolled in education course at the University of Dublin, Trinity College.*”

7.3. The grounds of appeal are submitted by local residents, and supported by observers, to state that the initial intention of the parent permission was to ensure sufficient controls over the specific use of the site and to allow the change of use would be a material contravention of those conditions of this permission and state that the development description is incorrect as the proposal relates to the removal of condition no. 3, which is not temporary in nature.

7.4. The site is in the most part zoned Z1, Residential, where both education and residential are permissible uses. Two of the buildings along Temple Road, protected structures, are located within Z2 zoned lands, Residential (conservation area), although are not the subject to any changes proposed in this development. The

grounds of appeal argue the inclusion of visitor accommodation will intensify the use on the site which would be more akin to aparthotels, a commercial activity. I note hostels and hotels are also open for consideration within the Z1 zoning. Therefore, having regard to the landuse zoning the uses proposed are considered reasonable.

- 7.5. The proposal refers not only to the use of the student accommodation for visitors outside the academic term and also for other third level students during the academic term, not specifically restricted to Trinity College Students. The national document Rebuilding Ireland includes an action plan for housing and homelessness. Guidance for the provision of student accommodation is included in Pillar 4 which states that the use of student accommodation complexes outside of the academic year provides a potential additional income-stream, thereby aiding the overall viability of these projects. Circular P 8/2016 *“Identifying Planning Measures to Enhance Housing Supply”* was issued by the Department of Housing, Planning, Community and Local Government on foot of the national guidance which provides recognition that student complexes play an important role in providing affordable accommodation for tourists and visitors in major urban areas during peak summer demand periods. The guidance also states that student accommodation permitted should not be allowed to be used as residential accommodation of a permanent nature and safeguarded for students related to Higher Education during the academic terms. It is of note that information provided in Rebuilding Ireland provides a significant material shift in national policy since the granting of permission of the parent permission (PL29S.117164) and as such any alterations to conditions, relating to the occupation of the student accommodation, are comprehensible and I consider the proposed development is in accordance with the national guidance and accompanying circular.
- 7.6. The applicant’s submission includes justification for the proposal in relation to the need for Trinity College to maintain a steady flow of revenue throughout the year by maintaining full occupation of the accommodation at all times, which I consider reasonable. In regard to the grounds of appeal reference to the development description, whilst I consider the proposal to alter the occupation of accommodation acceptable in principle I do not consider the removal of condition appropriate in light of national guidance on retaining the permanent use for student accommodation and therefore the development description is reasonable.

7.7. Therefore, having regard to the zoning on the site and the national policy Rebuilding Ireland and associated circular, I have no objection to the principle of the use site as visitor accommodation outside the academic term and for students in a Higher Education Institution (HIE) during academic term, subject to complying with other planning requirements as addressed in the following sections.

Planning History

- 7.8. The proposed development requires an amendment of condition No 3, PL29S.117164, which the grounds of appeal state is a material contravention of a parent permission and other decisions on the site. In addition to condition no 3, regarding the control of occupants, condition no 4 restricted the use of the ancillary facilities for Trinity College students. The Inspectors report on the parent permission referred to the size of the site to accommodate the scale of the proposed development, the institutional use proposed, the relatively low volume of traffic generated from the proposed development, the proximity of the site to a rail line, the inevitable increase in pedestrian activity to the site and the realisation that the site may be subject to development in the future. I do not consider the proposal significantly alters the terms of the original permission to render it inconceivable.
- 7.9. A Section 5 declaration (PL29S.RL2839) issued by Dublin City Council on foot of unauthorised development of the use of bedrooms as classrooms outside the academic term, was declared not exempt development. The Board also found the proposal not exempt having regard to the material change of use and the use expressly in conditioned in the permission PL29S.117164, namely condition no. 3.
- 7.10. I do not consider the condition attached to permission PL29S.117164 precludes the submission of a new application to amend, it merely controls the use and occupation on the site and removes any exempted development rights. I consider the proposed development may be assessed in its own merits and therefore the argument that the proposed development is a material contravention of a condition on the parent permission (PL29S.117164) is not relevant in this instance.

Recent Board Decisions

- 7.11. A large number of student accommodation applications have been decided recently by the Board under the Planning and Development (Housing) and Residential Tenancies Act 2016 and Planning and Development (Strategic Housing

Development) Regulations 2017. Each of the following permissions for student accommodation, TA 0001, PL300184 and PL300325, include a condition restricting the occupation of the units for student accommodation, as defined in section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Therefore, the Board consider “*student accommodation*”

(a) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not for use—

(i) as permanent residential accommodation, or

(ii) subject to paragraph (b), as a hotel, hostel, apart-hotel or similar type accommodation,

and

(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times;”

- 7.12. In the interest of consistency with previous Board decisions and in line with national policy the use of the student accommodation at Trinity House for visitor accommodation outside the academic year and for other HEI during the academic terms and complies with the national policy and I consider as similar condition should be concluded for any similar student accommodation permissions.

Concurrent Planning Application

- 7.13. PL 30092-17 is currently with the Board for decision on the change of part of the existing student accommodation in Block 1 to 30 no classrooms outside of the academic term times amending the conditions of PL29S.117164. The grounds of appeal argue the impact of this application has not been fully considered in the assessment for this proposed development, the change of use to visitors, and the response from applicant states that both applications were submitted in tandem with the intention of accommodating those students attending the courses outside the academic term as visitors in the student accommodation.
- 7.14. Plans and particulars submitted with this application illustrate the use of the 30 no classrooms, the area subject of PL 30092-17 in Block 1, as bedrooms for visitors outside the academic term and higher education students not specifically registered

with Trinity College, rather than classrooms as proposed in PL 30092-17. I do not consider the applicant was required to illustrate the classrooms as part of this proposal and I consider the supporting statements from Trinity College are clear of the intentions for proposal on the site. Although I do not consider either application is necessarily dependant on the other, I have fully considered the cumulative impact of both proposals throughout my assessment and provided cross referencing were appropriate.

Development Plan Compliance

- 7.15. The grounds of appeal are concerned the proposed development does not comply with the requirements of the development plan and consider the need for housing, as raised in national policy, should not override the requirements of the plan. As previously stated the proposed change of use to classrooms complies with the permitted uses in the Z1 landuse zoning and other compliance issues for development plan are listed below.
- 7.16. Built Heritage: The site is partially zoned as Z2, along the south of the site covering three protected structures, the original Trinity Hall, Sarah Purser House and “Greenane”, a detached house in the grounds of Trinity Hall. The site is also situated on a site of archaeological interest which the grounds of appeal refer to as the Old Rathmines Castle, (listed as DU022-087 www.archaeology.ie, Departments of Arts, Heritage, Regional, Rural and Gealtacht Affairs. Policy CHC9 of the development plan includes guidance for the protection of archaeology throughout the plan area and there is no specific objective for protection on this site. I do not consider there are any physical works associated with the proposed development which should have any significant negative impact on the archaeology of the site or the historical setting or either of the protected structures within the curtilage of Trinity Halls.
- 7.17. Car parking: There are 88 parking spaces on site and it is not proposed to amend the amount of spaces. The site is located in Zone 2, for the purpose of car parking requirements, where a maximum amount of spaces are permitted due to the provision of high quality public transport. The site is located c.600m from a Luas stop. The grounds of appeal are concerned the additional visitors to the site outside the academic term cannot be accommodated on site and the movement of traffic will cause congestion. Table 16.1, of the development plan, refers to the maximum

permitted car parking provision and I note the requirement for student accommodation and residential institution is both 1 per 20 bed-spaces and youth hostel is less at 1 per 30 bed spaces. Therefore the change of use for visitor accommodation would not require a significant alteration to the provision of parking spaces. The grounds of appeal have referred to the concurrent application which would require 1 space per classroom (30 spaces) and having regard to location of the site in Zone 2 and the maximum spaces allowed in the development plan, I do not consider the cumulative impact would have a significant negative impact on the traffic flow in the vicinity. In addition, the response from the applicant states that the students will also be staying on the campus, therefore restricting any additional traffic flow, which I consider reasonable.

- 7.18. Having regard to the limited scope of any physical works on site, the location of the protected structures and provision of parking, I consider the proposed development complies with the policies and objectives of the development plan.

Impact on Residential Amenity

- 7.19. The proposed development is located on residential lands and is surrounded by existing properties which are separated along the north, west and south by main roads and adjoin the rear of Orchard Close along east of the site. The grounds of appeal are concerned the proposed development will change in demographics on the site and the use and movement around the site will have a negative impact on the residential amenity of existing residents in the vicinity of the site.
- 7.20. Noise and Disturbance: The site is solely occupied by Trinity College students and both the grounds of appeal and observers refer to the current anti-social behaviour and raise concern over the unrestricted occupation of the accommodation. The response from the applicant includes a copy of the “Conditions of occupancy” applicable to all residences’ of the campus and states that there have been limited complaints in relation to any disturbance from the site. I note the Inspectors Report on the parent permission refers to the noise emanating from the building was essentially a matter of control by the College and no conditions relating to the management were imposed. I consider it reasonable that the College would control any disturbance from the site.

7.21. Traffic and congestion: The site is accessed from the Dartry Road which radiates north off the R820. The grounds of appeal have submitted a promotional brochure for the summer teaching facilities and associated accommodation which includes organised coach excursions. I note the brochure refers to two coach excursions per week. As stated above the proposed development, also considering the concurrent application, I do not consider the parking requirement would be significant change to the current situation. Therefore, considering the limited proposal for additional traffic, I do not consider the proposed development would have a significant negative impact of the traffic flow in the vicinity of the site.

Other

7.22. Procedural: The grounds of appeal are concerned the development description is misleading and as such the planning authority should not have validated the application. The reference to the permitted use of the site outside the academic term is included and I note the applicant's response refers to the alterations in the dates for academic terms on a yearly basis which precludes from overly descriptive times. I consider the development description and the supporting information is sufficient to undertake an assessment of the proposal.

7.23. Legal: Legal proceedings were undertaken by an objector in relation to drawing submitted to Dublin City Council for compliance of condition No 3. The applicant response to this appeal and the concurrent application refers to the decision of the High Court, *Kenny v Trinity College*, which found in favour of Trinity College. The observer refers to an appeal of this High Court decision currently with the Supreme Court. The plans and particulars submitted with the proposal include an example of one floorplan, sections and elevations for Block 2 and Block 3. It is of note that any enforcement proceedings under Section 160 of the Act are a matter of the Planning Authority. This aside, I consider the proposed development, and specifically the amendment to the use on the existing bedrooms is not impacted by these legal proceedings.

7.24. Fire Safety: The grounds of appeal raise concern over the compliance of the proposal for in regard to fire safety. As part of the Building Control legislation the onus is on the applicant to ensure they are Fire Safety Certificate in relation to the works where a material change of use takes place.

7.25. Having regard to the facts of the case, I do not consider it necessary to inquire further into the matter of the dispute over compliance drawings or the terms of the fire safety certificate as the applicant is required under other mechanisms to ensure they have all the necessary rights in place before undertaken the proposed development.

Appropriate Assessment

7.26. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the Z1 and Z2 zoning in the Dublin City Development Plan, 2016-2022 and the policies and objectives, the National guidance document Rebuilding Ireland and the accompanying circular, the planning history on the site, the location of the existing student accommodation use on the site and the pattern of development in the vicinity it is considered that the proposed development would not have a negative impact on the character and setting of a protected structure or national monument, seriously injure the residential or visual amenity of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may

otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and shall not be used for any other purpose without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

Karen Hamilton
Planning Inspector
18th of April 2018