



An
Bord
Pleanála

Inspector's Report ABP306791-20

Development

(a) Demolition of all structures on site, (b) restoration of Leitrim Lodge (a protected structure) for use as a single residential unit (c) construction of a five-storey apartment block with 23 units, providing 3 one-bed units, 16 two-bed units and 4 three-bed units.

Location

Leitrim Lodge, Martins Row,
Chapelizod, Dublin 20.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

3010/19.

Applicant

Infield Development Limited.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party -v- Refusal.

Appellant

Infield Development Limited

Observers

(i) Wayne Tyrrell, (ii) Rev. Ruth Noble,
(iii) David Reed, (iv) Desmond
O'Connor and Susan Lockwood,

(v) Donagh McCarthy, (vi) Chapelizod Heritage Society. (vii) St. Laurence's National School Parents Association.

Date of Site Inspection

25th May, 2020.

Inspector

Paul Caprani.

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1.0 Introduction

ABP306791-20 relates to a first party appeal against the decision of Dublin City Council to refuse planning permission for the demolition of existing structures on site and the restoration of an existing protected structure (Leitrim Lodge) for use as a four-bedroomed residential dwelling together with the construction of a five-storey apartment building containing 23 units. The site is located at St. Martins Row, Chapelizod west of Dublin City Centre. Planning permission was refused for a single reason relating to traffic where the Council considered Church Lane, the access serving the development to be substandard in width and would give rise to serious conflict between vehicles and pedestrians and therefore endanger public safety by reason of a traffic hazard. There are a large number of observations on file supporting the Planning Authority's decision to refuse planning permission.

2.0 Site Location and Description

- 2.1. The appeal site is located in the village of Chapelizod approximately 6 kilometres west of Dublin City Centre. The site is located to the rear of buildings fronting onto St. Martins Row continuation of the Chapelizod Road out of Dublin City Centre. The site is located on the northern side of the River Liffey between the river and the Phoenix Park. The site is irregularly shaped and backs onto the boundary of the Phoenix Park which runs along the north-eastern boundary of the site.
- 2.2. The site has one access point onto Martins Row near the south-eastern boundary of the site, contiguous to St. Laurence's Church (NMS Record No. DU018-27001) and Graveyard (NMS Record No. DU018-27002). Several small terraced cottages with rear gardens separate the subject site from the main thoroughfare through Chapelizod Village, these are known locally as Mulberry Cottages. The character of the surrounding area is predominantly residential comprising of a mixture of older 19th century cottages and more recent apartment developments including the Weir Apartments and the Mill Race Apartments which are located on the opposite side of the road to the subject site. The irregularly shaped site has a stated area of 0.397 hectares (3,969 square metres). The site accommodates in its north-western corner

“Leitrim Lodge” an early to mid-19th century house two-storeys in height with a gable ended façade and incorporating a half-hipped roof. The building incorporates a round headed door with a fanlight above. The building is currently derelict but is on the list of protected structures contained in the Dublin City Development Plan. There are a number of other buildings on site which are proposed to be demolished as part of the proposal before the Board. These include a small day care centre, a workshop, a glasshouse, a steel container and four sheds some of which are in poor condition. Leitrim Lodge the protected structure is located at the northern apex of the site.

- 2.3. There are a number of historic buildings in the immediate vicinity of the subject site including St. Laurence’s Church (referred to above) which incorporates a medieval tower (reputedly dated from the 14th Century) and St. Laurence’s School, a small 2 class school (c. 25 pupils) which dates from the 19th century. A historic stone wall associated with the Phoenix Park is also located along the rear boundary of the site. A series of terrace 19th century dwellings are located adjacent to the north-western of the site fronting onto Martins Row. These houses are known as Drummond Terrace, a mixture of Georgian and Victorian dwellings. This terrace is also of Dublin City Council’s record of protected structures.
- 2.4. In terms of Development Plan designations, the appeal site is located in a Conservation Area, an Architectural Conservation Area and a Zone of Archaeological Constraint.

3.0 Proposed Development

- 3.1. Planning permission is sought for the following:
- Demolition of existing structures on site with the exception of Leitrim Lodge. These structures include a day centre, a workshop, a glasshouse, the removal of a steel container and the demolition of four sheds.
 - The restoration of Leitrim Lodge to provide a four-bedroomed residential single occupancy dwelling with two car parking spaces.
 - The construction of a five-storey apartment building incorporating 23 units with balconies consisting of 15 duplex units and 8 apartment units providing:
 - 3 one-bedroomed units,

- 16 two-bedroomed units and
- 4 three-bedroomed units.

- The proposed five-storey apartment block is to be located to the immediate rear of Mulberry Cottages, to the south of Leitrim Lodge and to the immediate west of St. Laurence's School. The five-storey building is to rise to a height of 14.9 metres. The proposed residential block is to incorporate fenestration arrangements similar to that associated with Drummond Terrace, the Georgian/ Victorian terrace of residential dwellings located to the immediate north-west of the subject site. The apartment block is to incorporate a brick finish on the first four levels and a recessed glazed level. A pillared colonnade is proposed at ground floor level. Communal gardens are to be located to the rear of the building adjacent to the southern boundary of the site. Cycle parking is also to be provided in a parking shelter to the south of the residential block.

- Surface parking accommodating 29 vehicular spaces are to be located to the immediate north of the building. Vehicular access to and from the site is to be provided via Church Lane which incorporates a relatively narrow access point onto St. Martins Row between St. Laurence's Church and St. Laurence's School at the south-east corner of the site. An option proposed includes taking up the existing footpath along the side of Church Lane and providing a shared pedestrian and vehicular access along the laneway. The remainder of the site is to be landscaped and planted as public open space to serve the development.

3.2. The planning application form indicates that the proposed plot ratio is 0.69 while the proposed site coverage is 25.7%.

4.0 Planning Authority's Decision

4.1. Decision

4.1.1. Dublin City Council issued notification to refuse planning permission for a single reason which is set out in full below.

1. *Having regard to the substandard width of Church Lane, which cannot accommodate two-way vehicular traffic and pedestrian movement*

simultaneously, and the existing junction with St. Martins Row and the extend to which traffic on Church Lane will be intensified, it is considered that the proposed development would give rise to serious conflict between vehicles and pedestrians and would, therefore, endanger public safety by reason of a traffic hazard.

4.2. Documentation Submitted with the Planning Application

- 4.2.1. The planning application was lodged on 16th May, 2019. A covering letter submitted with the application sets out the description of the proposed development and sets out details of the site location and description. The covering letter acknowledges the highly sensitive context of the area noting that the site is located in a Conservation area, an Architectural Conservation Area and a Zone of Archaeological Interest. It is also noted that Leitrim Lodge is a protected structure. It is also stated that a pre-planning meeting also took place. In the course of preparing the application, the applicants consulted with planning consultants, archaeological consultants and historic building consultants. They also enlisted the support of landscape architects in the overall design approach. The design approach is set out in a separate statement submitted with the application form entitled “Reframing Leitrim Lodge”. The contents of this booklet are briefly summarised below.
- 4.2.2. The booklet sets out some history in relation to Chapelizod Village and notes that Drummond House Terrace located to the immediate north-west of the subject site is amongst the grandest 18th century houses in Chapelizod. The report goes on to set out details of the Leitrim Lodge building on site. It states that the design approach has been to keep the development’s lower part of the site thereby maintaining a setting for Leitrim Lodge. The proposed five-storey block residential unit takes its architectural reference from Drummond House placing the proposed block as a continuation of the terrace. The southern face of the new building would reflect the Georgian nature of Drummond House using vertical emphasis in windows, parapet and a brick front albeit in a more contemporary idiom.
- 4.2.3. Also submitted with the application are the following:
- A Landscape Design Report
 - An Outline Landscape Specification Report

- A Conservation Assessment
- An Archaeological Assessment Report
- A Planning Context Report
- A Traffic and Transportation Impact Assessment
- An Engineering Report (which primarily deals with water issues).

4.3. Planning Authority's Assessment

- 4.3.1. A conservation report is contained on file. It states that no conservation officer's review was undertaken in respect of the application.
- 4.3.2. The City Archaeologist Report recommends that a full archaeological assessment should be undertaken prior to any commencement of works on site. As it is noted that the site of the proposed development is partly within a zone of archaeological constraint for the Recorded Monument DU018-O43-02.
- 4.3.3. A report from the Engineering Department Drainage Division states that there is no objection subject to conditions. A report from the Roads, Streets and Traffic Department recommends planning permission be refused on the grounds of the substandard width of Church Lane and therefore the proposal will result in a traffic hazard.

4.4. Additional Information Request

- 4.4.1. The planner's report concluded that overall, the principle of residential development on this backland site is acceptable. However, it is acknowledged that the site is somewhat constrained largely due to its backland setting and the fact that it is surrounded by protected structures and located within a Conservation Area. However, its overall size and proximity to the city centre makes it a suitable site for higher density development. On this basis the applicant is requested to submit the following:
- The Planning Authority is concerned regarding the potential for overlooking into private amenity spaces of Nos. 10 and 11 Martins Row. The applicant is requested to demonstrate how these concerns can be addressed.

- The Planning Authority has concerns with regard to the impact of the proposed development on No. 4 Drummond House to the immediate west which is a protected structure. Concerns are also expressed that the proposed development may have an unacceptable impact on No. 4 Drummond House in terms of overshadowing.
- The extent of hardstanding across the site for car parking is of concern and the applicant is requested to demonstrate how it is proposed to protect and manage trees on site, as the site is located in a designated Architectural Conservation Area.
- Concerns are expressed with regard to the substandard width of Church Lane which cannot accommodate two-way vehicular traffic. The removal of the existing footpath and its replacement with a delineated pedestrian walkway is not considered acceptable particularly as there are a number of porches on the north-western side of the lane which open directly onto the lane. The applicant is therefore requested to submit additional details which indicate the retention of the existing footpath along Church Lane and to provide additional traffic calming measures to prevent potential pedestrian/vehicular conflict.
- The planning application drawings submitted indicate an existing vehicular and pedestrian gate access from a private lane to the front of No. 4 Drummond House. It is not clear from the planning application documentation submitted whether the applicant proposes to provide a new vehicular or pedestrian access via these gates.
- Revised sweep path analysis is required illustrating the movements of the fire tender entering and exiting Church Lane from Martins Row.
- The applicant is also requested to submit a Preliminary Construction Management Plan as part of the additional information request.

4.5. Additional Information Submitted

- 4.5.1. The additional information was submitted in January, 2020 (after a request by the applicant for an extension of the time limit for additional information submission).

- In relation to the issue of overlooking, the response notes that the originally proposed recessed balcony largely mitigates against overlooking. However, a combination of further recessing as well as the screening effects of a bespoke modified balustrade will remove the potential for overlooking at Nos. 10 and 11 Martins Row. The impacts of these changes are indicated on Drawing FI102 to 106.
- In relation to the impact of the proposal on No. 4 Drummond House, revised drawings have been submitted which indicate that No. 4 and the proposed apartment blocks are not to be located contiguous to each other, but are to be detached.
- In relation to the issue of overshadowing, a new study was commissioned in relation to overshadowing. The study concludes that the large garden to the front of No. 4 will be completely unaffected by the proposed development. It is noted that the rear yard of No. 4 does not meet the criteria for a well-lit space as it stands and that the overall amenity of No. 4 would experience a minor adverse impact should the development proceed.
- With regard to tree protection measures, it is noted that there are two significant tree stands on site. It is proposed that one of these tree stands be preserved and incorporated into the landscape while the second stand should be removed. It is suggested that neither tree are presently or historically key contributors to the character and appearance of the Conservation Area and the removal of a single tree is compensated by the extensive introduction of additional trees which contribute to the restoration of the formal character and appearance of the Conservation Area.
- With regard to the extent of the car parking area, it is stated that car parking areas and turning areas on the site are made of permeable paving which reduces surface water run-off. The permeable paving and gravel road make up 17% of the total site area and this will be adequate for drainage as indicated in the original Engineering Report submitted.
- With regard to access arrangements a separate letter from NRB Consulting Engineers addresses the Planning Authority's concerns in detail. The solution proposes to remove the porches of the units along Church Lane thereby

improving the overall situation and this enables the improved visibility passing space and pedestrian separation.

- In relation to Item 5 it is stated that it is the applicant's intention to remove the existing pedestrian and vehicular access between the private lane and the proposed development.
- In relation to Item 6 a number of drawings are provided which provide a revised sweep path analysis.

4.5.2. Also submitted as Appendix A of the Engineering Planning Report is a construction management plan and construction waste management plan.

4.6. Further Assessment by the Planning Authority

4.6.1. The planner's report notes that the applicant has submitted two drawings detailing two different options for the vehicular and pedestrian access route via Church Lane. One drawing outlines a shared surface with a delineated footpath located to the west of Church Lane and this proposal includes the removal of two of the existing porches which apparently obstruct pedestrians using the existing footpath. A second drawing retains the existing footpath and also removes two of the porches which results in an unobstructed but narrow footpath. Both options provide for a proposed passing area to allow two vehicles pass each other on Church Lane. Reference is made to the Transportation Planning Division Report dated 30th January, 2020. It is contained on file and it considers the provision of 29 car parking spaces to be excessive and it is suggested that in the event that consent is granted the provision of car parking should be significantly reduced to lessen traffic movements. However, it is noted that the Division still had serious concerns regarding the potential vehicular pedestrian conflicts arising from the proposal. The Division also has concerns that both the shared surface and the retention of the footpath layouts in conjunction with the large provision of car parking will result in vehicles passing very close to the access points of the dwellings located on Church Lane. On this basis it is recommended that planning permission be refused for the proposed development.

4.6.2. The planner's report reiterates that there is no objection in principle to the development of the site for residential purposes. However, having regard to the serious concerns of the Transportation Planning Division it is considered that the

proposal would not be acceptable in terms of traffic safety and should be refused for that reason. On this basis Dublin City Council refused planning permission for the proposed development.

4.7. Observations

- 4.7.1. A large number of observations were submitted by third parties raising numerous concerns in respect of the proposed development. Many of the concerns related to the overall size and scale of the proposed development and the adverse impacts this could have on residential amenity. Concerns are also expressed that the proposed development could adversely impact on the school adjacent to the site.

5.0 Planning History

- 5.1. Reference is made to two applications details of which are not contained on file.
- 5.2. Under Reg. Ref. 1238/92 Dublin City Council granted planning permission for the demolition of the existing house and stables to provide for two no. day care centres. However, it appears that this decision was overturned on appeal.
- 5.3. Under Reg. Ref. 0484/94 permission was granted for a day care centre of 109 square metres in size.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council was the subject of a first party appeal. A covering letter from the architects on behalf of the applicant states that the applicants have had extensive and detailed engagement with Dublin City Council's Transportation Department and had it is argued reached agreement in respect of proposals to fully address the deficiencies in the roadway to serve the site. On this basis it is requested that the Board set aside the decision of Dublin City Council and grant planning permission for the proposed development. Also attached is a report from NRB Consultant Engineers specifically addressing the reasons set out in Dublin City Council's reason for refusal.
- 6.2. This report makes reference to Item 4 of the request for additional information set out by the Planning Authority. The applicants in response to the issues raised in relation

to the substandard width of Church Lane submitted a number of drawings showing improvements to provide a safe route for pedestrians and maximise the passing opportunities for vehicles to ensure that vehicles have priority on entering the development and avoid reversing or queuing out onto Martins Row.

- 6.3. According to the TRICS database the total two-way traffic generated over a 24-hour period from 24 units (Leitrim Lodge plus the 23 apartments) amounts to 53 movements. Thus, the risk of two-way vehicular traffic meeting on the roadway is only 25 metres in length. In the unlikely event that there is two-way vehicular traffic and a pedestrian using the laneway at the same time the driver courtesy will prevail so that one car waits to allow the pedestrian to continue walking along Church Lane. Furthermore, there are opportunities for two-way vehicular traffic and pedestrian movement to simultaneously occur along the laneway such as at the church gate and this is indicated in the drawing enclosed.
- 6.4. Furthermore, there are high frequency Dublin bus routes within 500 metres of the subject site.
- 6.5. The applicant would also agree to remove both existing porches along Church Lane and had also agreed to move one of the entrances to the gable end of the house. This would result in only one of the two existing dwelling accessing onto Church Lane and also addresses the Council's concerns in relation to the removal of the footpath. The applicant is still of the opinion that a shared surface solution for Church Lane would be most appropriate solution.
- 6.6. Initially as part of the response to the further information request the applicant had proposed that the first 11 metre section of Church Lane off Martin Row was to be widened to allow two cars to pass comfortably avoiding any reversing or queuing onto Martins Row. The Transportation Planning Division advised that the proposed works and the public footpath and the raised table at the junction of Martins Row and Church Lane should be omitted. As requested, these works were no longer included. The rest of the lane alongside the existing dwellings was proposed as a shared surface as permitted under DMURS. Shared surface represents an actual traffic calming feature. This provides pedestrians with an unobstructed route to the proposed development when allowing two vehicles to pass along much of the lane. Also submitted are auto tracks of two standard saloon cars passing along Church

Lane. These are typical vehicles expected to access the development with passing places and priority designations to ensure that entering vehicles have priority on entry to avoid reversing or queuing onto St. Martins Row.

- 6.7. A second layout was also submitted to Dublin City Council which included the retention of the existing footpath along Church Lane. It is suggested that the existing ramp access from Martins Row, the short length of the lane and the narrow carriageway all act as traffic calming measures in their own right.
- 6.8. The appellant remains of the opinion that the shared surface solution as included in Appendix A is the optimum solution for Church Lane. This solution is reproduced on enclosed drawings with the appeal.
- 6.9. If considered appropriate by An Bord Pleanála in order to further reduce the low level of traffic movements on Church Lane, the applicant is willing to accept a condition requiring the reduction in the number of car parking spaces provided within the site. On the basis of new guidelines including the Guidelines for Sustainable Urban Housing Design Standards for New Apartments and Guidelines for Planning Authorities and having regard to the site's close proximity to public transport routes and Chapelizod Village Centre it is argued that there is scope to reduce the parking provision by c.20% if required. It remains the applicant's position that this reduction is not required however the applicant is willing to accept such a condition should the Board be minded to grant planning permission for the proposed development.

7.0 **Appeal Responses**

Dublin City Council have not submitted a response to the grounds of appeal.

8.0 **Observations**

- 8.1. A number of observations were submitted objecting to the proposed development and supporting the decision of Dublin City Council. These observations are summarised in group format below.
- 8.2. The observations were submitted by:
 - Wayne Tyrrell.
 - The Board of Management of St. Laurence's National School.

- St. Laurence's National School Parents' Association.
- David Reed.
- Desmond O'Connor and Susan Lockwood the owners of No. 4 Drummond House.
- Donagh McCarthy a resident of No. 2 Drummond House.
- Chapelizod Heritage Society.

8.3. The issues raised in the various observations are set out below.

8.3.1. Traffic

- The trip rates to and from the site have been underestimated.
- Construction works could give rise to safety issues particularly as children are travelling on foot to and from St. Laurence's National School. One of the observations state that 60% of the kids attending the school walk to and from the school.
- Even with the widening of Church Lane it is argued that a fire tender or other large emergency vehicle would have great difficulty in negotiating the lane.
- The proposal would result in an increased demand and therefore increase pressure on parking facilities in the area particularly around school time when adults are picking up their children.
- Numerous observations express concerns that the access arrangements are unsuitable to accommodate two cars passing each other simultaneously. There is a general conclusion in many of the observations that the access road is too narrow and unsuitable to cater for vehicular traffic.
- Martins Row is a very busy thoroughfare particularly during morning and evening peak hours. Cars attempting to enter and exit Church Lane will lead to very significant difficulties for both traffic entering onto Martins Row and traffic travelling along Martins Row.
- The proposal will result in vehicles reversing back on Martins Row thereby exacerbating traffic congestion and creating a traffic hazard.

- Sight lines are restricted at Church Lane both at the exit onto Martins Row and also sight lines are restricted along the lane as the lane incorporates a bend which restricts sight lines in a forward direction.
- No account has been made in the traffic analysis for vehicles trying to access the church itself. Church grounds are used for staff, contractors and visitors of both the St. Laurence's School and the church.
- There are restricted sight lines when exiting from the church onto the laneway leading to the site. Also due to general restrictions vehicle manoeuvrability vehicles are often forced to reverse out onto Church Lane thereby exacerbating the traffic hazard.
- Church Lane is often blocked by delivery vans.
- It is unacceptable to remove the footpath at Church Lane. This footpath is used by parishioners and school staff.
- The ownership of the houses on Church Lane is unclear and therefore the removal of the porches may not be permissible.
- Even with the removal of the porches the laneway would still be too narrow and unsuitable to accommodate passing vehicles and would result in a recessed entrance serving a dwellinghouse opening directly onto a shared vehicle and pedestrian space.
- The laneway is longer than 25 metres as suggested in the grounds of appeal and therefore the length of the substandard width of laneway is longer than that suggested in the grounds of appeal.
- Construction vehicles will have great difficulty in negotiating the access in and out of the site and will have to swing out on Martins Row and onto the opposite side of the carriageway towards oncoming traffic.
- There is inadequate parking for construction staff and inadequate space for a construction compound on site.

8.3.2. Legal Ownership Issues

- Two of the observations suggest that the northern portion of the property may in fact be under the ownership of the church and this issue needs to be clarified prior to any decision being made on the application.
- There are public rights of way traversing the site and this issue also needs to be addressed prior to determining the application.
- Contrary to what the maps submitted with the application indicate, the access along Church Lane is not within the applicant's ownership. It is argued that the church owns this laneway and would have not ceded property rights along this laneway to Leitrim Lodge.

8.3.3. Archaeological Concerns

- The impact on the adjoining church and graveyard has not been taken into consideration in the application. It is suggested that the original footprint of the graveyard may extend beyond the existing graveyard and onto the site. An archaeological assessment carried out during a previous application found human remains within the confines of the site.
- Full archaeological investigation should be made as a precondition of any grant of planning permission.
- Excavation works could undermine the structural integrity of the church and graveyard and the protected structures surrounding the site.

8.3.4. Visual and Conservation Concerns

- The scale and massing of the residential block is totally inappropriate for the centre of Chapelizod Village which is an important historic settlement with significant architectural integrity and amenity.
- The proposal will impact on the context and setting of St. Laurence's Church and Graveyard.
- One observation submitted argues that if the development goes ahead the evening sun will never fall on the tower of St. Laurence's.
- The height and scale of the proposed residential block will impact on the context and setting of the church and graveyard.

- The proposed five-storey structure will tower over the school yard and will result in the yard been overshadowed during a significant part of the day and during play times.
- Any decision on the development is premature pending the provision of a local area plan for Chapelizod.
- The development will block views from higher ground towards the Phoenix Park.
- A proper survey of the walls and pillars to be demolished at the entrance to the site from Church Lane should be undertaken to ensure that they are not of any historic value.

8.3.5. Residential Amenity Issues

- Largescale apartment development in the area will bring increased pressure on services that are not currently available including infrastructural services such as water supply and sewage and also increased demands for school spaces.
- Noise levels arising from construction so close to the school would be problematic for teaching and child learning.
- Dust emissions could cause problems during school play times.
- The proposal would result in an unacceptable level of overshadowing of surrounding properties and St. Laurence's School.
- The proposal will give rise to overlooking of the school yard.
- No environmental or ecological reports were submitted with the application and this is an important consideration having regard to the site's proximity to the Phoenix Park.

8.3.6. Impact on No. 4 Drummond House

- No. 4 Drummond House is located on the eastern side of a pair of semi-detached single-storey structures to the immediate north-west of the subject site. An observation on behalf of owners of the house made the following points.

- The proposal adjacent to the house will prohibit access to the gable end of No. 4 and could impact on ventilation and drainage associated with the house.
- The impact in terms of overshadowing to the back of the house is unacceptable as this is the important amenity space associated with No. 4.
- Further clarity is required as to how the applicant will close the access and entrance into the site at the front of No. 4.
- It is not appropriate to build up to the gable end of a fragile protected structure as the structural integrity of the building may be adversely affected.

8.3.7. No. 2 Drummond House

- No. 2 Drummond House is the adjoining dwelling of the pair of semi-detached dwellings to the north-west of the subject site. The observer states that he is part owner and resident of the garden flat at No. 2 Drummond House. It is stated that there are 7 windows facing east that will be dramatically affected by the proposed development.
- It is contended that the proposal will give rise to significant overlooking of the observer's garden.
- The proposal will dwarf protected structures in the vicinity.
- It is argued that a pastiche type development such as that proposed only serves to dilute the historic and architectural integrity of existing protected structures in the vicinity.

9.0 **Planning Policy Provision**

9.1. **National Planning Framework**

An important strategic consideration set out in the NPW seeks to provide more compact development in urban areas at more sustainable densities. Chapter 6 which relates to “people’s homes and communities” emphasises the need to achieve a good quality of life in providing homes and communities. A number of key policy objectives include the following:

National Planning Objective 13 provides that “in urban areas planning and related standards, including in particular height and car parking would be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 33 seeks to prioritise the provision of new homes at locations which can support sustainable development at an appropriate scale of provision relative to location.

National Policy Objective 35 seeks to increase residential densities in settlements to a range of measures including restrictions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

9.2. Dublin City Development Plan

The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022.

The subject site is zoned Z1 “to protect, provide and improve residential amenities”. Leitrim Lodge, the two-storey structure in the north-western corner of the site is a protected structure. The series of residential houses that form Drummond House to the north-west of the site are also protected structures.

The subject site is also located within a conservation area, a designated architectural conservation and the south-eastern portion of the site including the access is located within a zone of archaeological interest. The following policies are relevant to the proposed development.

Policy QH7 to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

Policy QH8 to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals with respect to the design of the surrounding development and the character of the area.

Policy QH18 seeks to promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments and within each apartment development and ensuring that suitable social infrastructure and other supports and facilities are available in the neighbourhood in accordance with standards for residential accommodation.

Policy QH19 seeks to promote the optimum quality and supply of apartments for a range of needs and aspirations including households with children, in attractive, sustainable mixed income, mixed use neighbourhoods supported by appropriate social and other infrastructure.

Policy QH22 seeks to ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

Policy SC25 seeks to promote development which incorporates exemplary standards of high quality, sustainable and inclusive urban design, urban form and architecture benefiting the city environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and includes the creation of new landmarks and public spaces where appropriate.

Chapter 12 relates to sustainable communities and neighbourhoods.

Chapter 11 relates to built heritage and culture.

Policy SN1 seeks to promote good urban neighbourhoods throughout the city which are well designed, safe and suitable for a variety of age groups and tenures which are robust, adaptable, and well served by local facilities and public transport, and would contribute to the structure and identity of the city, consistent with standards set out in this plan.

Policy SN2 seeks to promote neighbourhood developments which built in local character as expressed in historic activities, buildings, materials, housing types or

local landscape in order to harmonise with and further develop the unique character of these places.

Chapter 11 relates to the built environment.

Policy CHC1 seeks to seek the preservation of the built environment of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

Policy CHC2 seeks to ensure that the special interest of protected structures is protected. Development will conserve and enhance protected structures and their curtilage.

Policy CHC5 seeks to protect protected structures and preserve the character and setting of architectural conservation areas.

Policy CHC8 seeks to facilitate off-street parking for residential owner/occupiers where appropriate site conditions exist, while protecting the special interest and character of protected structures and conservation areas.

Section 16.10.8 relates to backland development. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Backland development is generally defined as development of land that lies to the rear of existing property or building lines. The development of individual backland sites can conflict with established pattern and character of development in the area. Backland development can cause a significant loss of amenity to existing properties including the loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and can inhibit the development of a larger backland area. Applications for backland development will be considered on their merits.

9.3. Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2018)

These guidelines set out details and guidance in relation to location, future housing need and housing mix for apartments to be contained in statutory development plans. They also set out detailed design standards for apartments. It notes that in general terms apartments are most appropriately located in urban areas and should

generally increase in density in closer proximity to core urban areas and close to existing public transport nodes.

9.4. **EIAR Screening**

On the issue of environmental impact assessment screening I note that the relevant classes for consideration are Class 10(b)(i) “construction of more than 500 dwelling units” and 10(b)(iv) “urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built up area and 20 hectares elsewhere”. Having regard to the size of the development site which is less than 0.4 hectares and the scale of the development which amounts to 24 units together with the brownfield nature of the receiving environment and to the nature, extent, characteristics and likely duration of potential impacts, I can conclude that the proposed development is not likely to have significant effects on the environment and the submission of an environmental impact statement is not required. The need for the environmental impact statement can, therefore, be excluded at preliminary examination. A preliminary examination form has been completed and a screening determination is not required.

9.5. **Natural Heritage Designations**

The development is not within or directly adjacent to any Natura 2000 site. The nearest designated European sites are located approximately 11 kilometres to the east of the site. These Natura 2000 sites include:

- The South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024).
- The North Bull Island SPA (Site Code: 004006).
- The North Dublin Bay SAC (Site Code: _____).
- The South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024).
- The South Dublin Bay SAC (Site Code: 00210).

10.0 **Planning Assessment**

I have visited the subject site and its surroundings and have had particular regard to the proposed access arrangements to and from the site. I have also read the entire contents of the file and have had particular regard to the Planning Authority’s single

reason for refusal and the grounds of appeal in respect of this refusal. I have also had regard to the numerous observations contained on file which raise other issues in addition to traffic and access. I consider the pertinent issues in determining the current application and appeal before the Board are as follows:

- Traffic and Access Issues
- Principle of Development
- Design and Conservation Issues
- Residential Amenity Issues
- Landownership Issues

Each of these topics will be assessed in turn below.

10.1. Traffic and Access Issues

- 10.1.1. When visiting the subject site I noted that the proposed access is a very narrow access to serve a multiple residential unit development. A slightly raised shared access comprising of brick and granite paving currently provides the entrance from Martins Row onto Church Lane. I measured the existing width of the access between granite kerbs at the entrance to be 3.5 metres. This is akin to a standard driveway entrance serving a suburban residential unit. Drawings submitted with the appeal indicate that with the elimination of the existing footpath which runs along the north-western side of the access road would increase the overall entrance to 4.3 metres. Application drawings indicate that this footpath is within the applicant's ownership and the elimination of the said footpath together with the porches serving the houses facing onto Church Lane are both within the applicant's ownership and within the boundary of the application site. The laneway incorporates various widths along its alignment ranging from 4.3 metres at its narrowest points rising to 7 metres at its widest near the entrance to the church. The width of the laneway does not lend itself to the accommodation of passing vehicles particularly larger SUV vehicles which are up to and sometimes in excess of 2 metres in width.
- 10.1.2. The access is in itself too narrow to accommodate a residential development such as that proposed.

- 10.1.3. The grounds of appeal suggest that trip generation to and from the development would be modest and would result in traffic passing on the laneway on a very infrequent basis. This is based on TRICS outputs for residential apartment developments which show that the total two-way traffic generated on a 24-hour basis would amount to a mere 53 trips over a 24-hour basis. However, this does not take into consideration the fact that the car parking area within the church also accommodates vehicles associated with churchgoers and staff associated with the nearby school. Nor does it take into consideration school drop-off and collection which will take place on a daily basis in the vicinity of the access point. The fact that the access point will also become a shared surface for pedestrian and cycle traffic exacerbates the problematic nature of the access.
- 10.1.4. Service vehicles will also present a particular problem in relation to accessing the development. The development will be served by larger vehicles including delivery vans, bin lorries and perhaps on occasion emergency vehicles such as fire engines etc. I would refer the Board to the auto track/sweep path analysis for a fire tending exiting and entering the site from Martins Row. It clearly indicates the requirement for the vehicle to mount the footpath build out at the entrance. And also in the case of both entering and exiting the access there is a requirement for the vehicle to swing onto the oncoming traffic lane in order to enter and exit the development.
- 10.1.5. Another problem associated with the access arrangements in my view is the fact that Church Lane incorporates restricted forward sightlines along its alignment. The applicant proposes to incorporate a yield sign for vehicles exiting to allow exiting traffic to yield to oncoming vehicles on Church Lane thereby giving entering vehicles priority. However, forward sightlines between the access point off Martins Row and the yield area within the site are very restricted making it difficult for vehicles entering the development or vehicles exiting the development to see oncoming and approaching traffic. It is likely to result in a situation where vehicles meet each other on the laneway will require one vehicle to reverse thereby exacerbating and accentuating road safety and congestion issues in and around the access point.
- 10.1.6. Martins Row is a narrow but busy thoroughfare. It appears to be used as an alternative thoroughfare for the Chapelizod by-pass for commuting traffic travelling to the city centre from suburban areas to the west and north-west of the city. I noted reasonably heavy volumes of traffic during my site inspection and this site inspection

took place during Phase 2 of the lockdown associated with the Covid-19 pandemic where volumes of traffic were in general much lighter than would normally occur. The traffic generated by 24 additional residential units at such a narrow entrance onto and off Martins Row would undoubtedly accentuate road safety and congestion along this narrow yet busy thoroughfare.

10.1.7. Finally, in relation to the traffic and access arrangements the Board will note that there are policies contained in the more recently adopted apartment guidelines where the Board could give consideration to omitting car parking associated with the residential development altogether. However, the subject site is not located in a core city area or a highly accessible area being located adjacent to a large public transport interchange or node. On this basis I would not consider it appropriate to omit or even reduce the parking proposal as part of the development. I note that the applicant requests the Board to reduce the car parking provision by 20% if required in order to obtain a grant of planning permission. Having regard to the traffic congestion and road safety issues outlined above I do not consider that the reduction in car parking by c.5 or 6 spaces will address the concerns associated by the inherent problematic geometrical design issues associated with the access arrangements. It is my considered opinion therefore that the reason for refusal issued by Dublin City Council should stand in this instance.

10.1.8. However, if the Board are minded to grant planning permission it is in my view appropriate to assess the other issues raised in the observations submitted as part of the overall assessment of the application.

10.2. **Principle of Development**

10.2.1. The subject site is zoned for residential development and as such the proposal to sensitively restore a protected structure to bring it back into residential use together with the provision of an additional 23 apartment units fully complies with the land use zoning objective pertaining to the site. Furthermore, the National Planning Framework for Ireland has as one of its central tenets a requirement to build at more sustainable densities particularly on brownfield/backland/infill sites within existing urban areas where services and facilities already exist. The Planning Framework highlights the requirement to create more compact development within existing urban footprints at more sustainable densities. The proposed development would

fully meet the strategic criteria in relation to land use planning set out in the document. The proposal to provide more residential units would fully accord with the Government's policy document in relation to housing supply set out in "Rebuilding Ireland" 2016. The proposal to provide more residential units in the form of apartments at more sustainable densities within existing built up areas where infrastructure and services exist close to the city centre would also sit very comfortably with the strategic considerations set out in the recently adopted Design Standards for New Apartments – Guidelines for Planning Authorities.

10.2.2. In conclusion therefore the proposed development constitutes a large brownfield site incorporating a residential land use zoning objective capable of accommodating higher density development in accordance with national strategic objectives. The fact that the proposal also seeks to sensitively restore a protected structure for residential accommodation sits very comfortably with many of the policies and objectives contained in the Dublin City Development Plan in relation to protecting and enhancing the built environment. Notwithstanding the principle of development any such development needs to be evaluated in the context of qualitative safeguards in relation to residential amenity and traffic safety and these are dealt with under separate headings below.

10.3. **Design and Conservation Issues**

10.3.1. The subject site and its surroundings are very sensitive in conservation terms being located in a conservation area, partially within a zone of archaeological constraint, and perhaps most importantly the site is located in an architectural conservation area. Furthermore, the site contains a protected structure and is also in proximity to a number of protected structures not least of which is St. Laurence's Church and Tower. This point was raised in many of the observations submitted to the Board and it is suggested that planning permission should also be refused on the basis that the proposed design is somewhat insensitive to the surrounding historic context of the site. In relation to this matter I note that the site is zoned for residential development and that there is a strategic need to develop at such sites at appropriate densities in accordance with national strategic objectives referred to above. It is also apparent in my opinion that the applicant has given significant consideration to the subject site and its context.

10.3.2. It is apparent from the documentation submitted with the application that the overall design of the apartment block is informed through its proximity to Drummond House Terrace. Drummond House comprised originally of a set of 18th century Georgian dwellings which were extended on either side to form a terrace creating a red brick terrace of houses to the immediate north-west of the subject site. The design approach has been to keep the development to the lower part of the site and in doing so it maintains the setting of Leitrim Lodge and avoids development in closer proximity to the Phoenix Park. The proposed development mirrors the existing Georgian dwellings at Drummond House in terms of height and scale and external finishes. The formal fenestration arrangements also are respectful to the Georgian character displayed at Drummond House. Thus, the southern face of the new building would reflect the Georgian nature in terms of external treatment and the vertical emphasis of windows. The incorporation of a flat roof with a recessed 5th floor provides an appropriate contemporary idiom in my opinion. The overall design rationale for the new residential block is in my view therefore appropriate in conservation terms.

10.4. Residential Amenity Issues

- 10.4.1. The observation submitted expressed concerns that the proposed development will have an unacceptable impact on surrounding residential amenity. It is noted that the Planning Authority while raising a number of issues in relation to residential amenity by way of further information did not refer to the impact of the proposed development on residential amenity as a reason for refusal.
- 10.4.2. In terms of overshadowing it is clear that the proposed apartment block will have a significant and material impact on the rear garden areas at No. 4 and the garden flat at No. 2 Drummond Terrace. The impact will mainly arise during the morning time. These gardens to the rear represent a small area of the amenity space available to No. 4. There is a larger area which is secluded from the main road (Martins Row) which provides an important and usable amenity space for the occupants of No. 4.
- 10.4.3. The walled garden further north-west c.25 metres from the north-western boundary of the site which appears to be the garden flat associated with No. 2 Drummond House appears to be a sunken garden surrounded by higher buildings and therefore would experience large amounts of overshadowing in any event. The level of

shadowing on this garden may well increase as a result of the proposed development but it would not in my view be detrimental to the amenity of the occupiers of the dwelling.

- 10.4.4. Any impact on overshadowing must be balanced against wider strategic objectives of utilising and developing brownfield sites to the maximum potential in order to adhere to the wider strategic objectives in relation to developing urban areas at more sustainable residential densities. I note that the local authority planner's report notes that the rear garden of No. 4 Drummond House does not currently meeting the criteria for a well lit space and the impact in terms of additional overshadowing caused by the proposed apartment block would not be that significant.
- 10.4.5. Some overlooking will also occur into the rear gardens of the houses to the immediate south of the subject site. This row of cottages fronting onto St. Martins Row, known as (Mulberry Cottages) are currently vacant and are in need for repair prior to any occupation. The separation distance between the proposed apartment block and the rear of these cottages is in excess of 20 metres. While this is not ideal to emanate all overlooking particularly as the apartment block is five storeys in height. It is in my view nevertheless acceptable having regard to the urban location, topography and configuration of the site. Any increase in the separation distances would result in the relocation of the apartment block on higher ground within the site which may not necessarily adequately address the issue of overlooking. It would also detract from the relationship between the apartment block and Drummond Terrace to the north-west. It would also bring the apartment block close to Leitrim Lodge thereby impacting to a greater extent on the setting and context of the protected structure and could also give rise to overlooking issues between Leitrim Lodge and the apartment block.
- 10.4.6. The fact that that applicant revised the balcony arrangements on the more easterly apartments within the block in order to create recessed balconies will also help reduce the potential for overlooking particularly in the rear gardens of the dwellings on the western side of the laneway leading to St. Laurence's School.
- 10.4.7. With regard to the impact of overshadowing and overlooking on the playground of St. Laurence's National School. In relation to overshadowing the playground area is narrow and is bounded by a dense copse of mature deciduous trees which in itself

would give rise to significant overshadowing. Overlooking of a school playground is not a significant issue in my view as there are no windows on the south-eastern elevation of the apartment block overlooking the school yard.

- 10.4.8. Concerns were also expressed in the various observations submitted that construction noise will be unacceptable to both teaching and surrounding residential amenity. Any residential amenity impacts arising from noise or dust will be temporary. The applicant also submitted by way of response to further information a construction management plan and a construction waste management plan which provides outline mitigation measures for pollution and dust control and details of the guidelines and standards which the contractor will be obliged to comply with in relation to noise and vibration emissions. (See Section 1.2 and 1.5 of Appendix A of the Engineering Planning Report submitted by Poga Consulting Engineers by way of further information).
- 10.4.9. In relation to impact on the structural integrity of surrounding historic buildings it is not considered that any structural defects would arise as a result of the proposed development. It is not proposed to excavate basement areas associated with the apartment block and I consider that there are generally sufficient separation distances between the proposed apartment block and surrounding buildings including No. 4 Drummond Terrace. I would reiterate that any contractor will be obliged to comply with guidelines and standards in relation to vibration specified in the outline construction management plan.
- 10.4.10. With regard to the access to the gable of No. 4 Drummond Terrace the further information submitted with the application indicates that the building proposed will now not co-join the gable end of No. 4. The gable end of the proposed apartment block is stepped back from the boundary of No. 4 which will permit the occupiers of No. 4 to obtain physical access to the gable. It is also not envisaged that the reconfigured building as proposed by way of additional information will have any adverse impact on ventilation arrangements at No. 4.
- 10.4.11. One observation submitted expressed concerns that the proposed development during the construction period could unearth artefacts of archaeological importance associated with St. Laurence's Church and the associated graveyard. It is argued

that the area contiguous to the existing graveyard within the site may have formally formed part of the graveyard.

- 10.4.12. An archaeological assessment report was submitted as part of the original documentation submitted with the application. The field survey carried out noted that no features or finds of archaeological significance were noted during the survey. It is acknowledged that the areas of archaeological significance having regard to its location within the vicinity of the Church of St. Lawrence and it is noted that the proposed development will involve substantial ground works to the west of the church in an area of high archaeological potential. The report notes that excavations around Leitrim Lodge found no archaeological material. However, the area to the south under the footprint of the proposed apartment building was not investigated. It is recommended that an archaeological test investigation take place under licence from the relevant authorities to investigate the central and southern areas of the development site. It should be noted that previous development of schools and other small buildings on site may have already disturbed the subsurface _____.
- If the Board are minded to grant planning permission it would in my view be appropriate that an archaeological condition be attached requiring monitoring of all ground works to be undertaken during the construction phase having regard to the site's location within an area of archaeological constraint. This issue in my view could be adequately addressed by way of condition.
- 10.4.13. Finally, in relation to this matter I note that Dublin City Council's archaeological report came to a similar conclusion and recommended that in the event that planning permission be granted a suitable archaeological condition be attached to any grant of planning permission.
- 10.4.14. One of the observations submitted argue that the application should have been accompanied by an environmental impact report and an ecological report.
- 10.4.15. I note that a landscaping report was submitted with the original application. The landscaping report did not identify the site as ecologically sensitive. Of course it is open for the Board to request further details in relation to the ecological sensitivity of the habitats within the site. However, I note that the subject site does not attract any ecological designation which in my view would warrant such a report to be commissioned. I therefore do not consider that either an EIA or Ecological Report is

necessary or justified in this instance. The proposed development will be the subject of an appropriate assessment screening exercise and if it is considered necessary a Stage 2 Appropriate Assessment could be commissioned from the applicant in such circumstances that the Board considered that the proposal could adversely effect on the conservation objectives or qualifying interests associated with any European sites in the wider area.

10.5. Landownership Issues

10.5.1. A number of observations submitted expressed concerns that the applicant may not have necessary legal jurisdiction in the form of wayleaves or rights of ways to use Church Lane or indeed to demolish the porches which currently extend out onto the laneway in order to widen the access. One of the observations submitted suggest that the church may have legal jurisdiction over the proposed access to the residential development. An Bord Pleanála is not the appropriate forum to settle legal disputes pertaining to land ownership, wayleaves or rights of way. The development management guidelines issued to Planning Authorities by the Department of Environment, Heritage and Local Government in June 2007 is clear and unambiguous in offering advice to Planning Authorities with regard to landownership issues. It states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the courts. In this regard, it should be noted that, as Section 34(13) of the Planning Act states a person shall not be entitled solely by reason of a permission to carry out any development.

11.0 Conclusion and Recommendation

Arising from my assessment above I consider that the proposed access arrangements rely on an access lane which is too narrow and substandard in width. On this basis I would concur with the conclusions reached by Dublin City Council and consider that the proposed access arrangements could constitute a traffic hazard and could exacerbate traffic congestion at the proposed access. Planning permission should therefore be refused for this reason.

12.0 **Appropriate Assessment**

The subject site is not located within or adjacent to a designated Natura 2000 site. As already indicated the nearest Natura 2000 site is located approximately 11 kilometres to the east of Chapelizod at Dublin Bay. The subject site is located approximately 100 metres to the north of the River Liffey which discharges into the various Natura 2000 sites which are designated within the Bay. However, it is not proposed or anticipated that any pollutions or emissions either during the construction or operational phase would result in the proposed development having regard to the fact that during the construction phase there is no direct pathway and sufficient separation distance to ensure that the River Liffey will not experience any potential pollution arising from the proposed construction works. With regard to the operational phase the proposal will be served by public water supply and drainage. All effluent discharge within Dublin City discharges to the Ringsend Wastewater Treatment Plant and I note that the development for a relatively small residential development comprising of 24 housing units and would not constitute a significant urban development in the context of the city and as such it is therefore to conclude that on the basis of the information on file which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites in the vicinity in view of the conservation objectives and therefore a Stage 2 Appropriate Assessment and submission of an NIS is not therefore required.

13.0 **Decision**

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

14.0 **Reasons and Considerations**

It is considered that the proposed development would generate a volume of traffic including a high number of movements by heavy goods and servicing vehicles which the road network in the vicinity of the site is not capable of accommodating safely due to the restricted width and capacity of the laneway serving the site and the

restricted capacity of its junction with Martins Row. The proposed development would therefore give rise to traffic congestion and would endanger public safety by reason of a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

Paul Caprani,
Senior Planning Inspector.

XX June, 2020.