



An
Bord
Pleanála

Inspector's Report ABP-307233-20

Development

Demolition of warehouse, construction of 5 storey apartment block comprising 26 one-bed and 8 two-bed apartments, new vehicular entrance off Kilmurry Road and pedestrian access to Dublin Road, bin storage shed, on-site car parking, landscaping, boundary walls, services and all associated site development works.

Location

St. Anne's, Dublin Road, Limerick

Planning Authority

Limerick City & County Council

Planning Authority Reg. Ref.

19/762

Applicant(s)

Real Capital GP Ltd as general partner of Real Capital Ltd Partnership (Jersey)

Type of Application

Permission

Planning Authority Decision

Grant, subject to 27 conditions

Type of Appeal

Third Parties -v- Decision

Appellant(s)

Elaine Dunne

Observer(s)	Avril Kenny Niamh O'Sullivan Willie O'Dea TD Derek Whyte
Date of Site Inspection	4 th August 2020
Inspector	Hugh D. Morrison

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2.0 Site Location and Description

- 2.1. The site is located in the eastern inner suburbs of Limerick City on the southern side of the signalised junction between Dublin Road/Clare Street (R445) and Pennywell Road (R858). These two regional roads are the subject of mild downward gradients towards this junction from the E and from the WSW. The surrounding area is composed of single storey and two-storey buildings, which are the subject of residential, retail/commercial, recreational, educational, and ecclesiastical uses.
- 2.2. The site itself is of irregular shape and it extends over an area of 0.1564 hectares. This site is relatively level and, while it is largely cleared, a warehouse is sited towards its north western corner. The site is vacant having been last used, on an unauthorised basis, for fuel storage and distribution. The northern boundary abuts the above cited junction, while the southern boundary abuts Kilmurry Road. The northern portion of the eastern boundary abuts a petrol filling station and the southern portion abuts the rear gardens to retirement cottages on St. Patrick's Court. The western boundary abuts the side/rear gardens of dwelling houses on Pennywell Road and Kilmurry Road. Walls enclose the site apart from along its northern boundary, the eastern portion of which is enclosed by means of temporary security fencing and the western portion of which is enclosed by means of railings.

3.0 Proposed Development

- 3.1. The proposal would entail the demolition of the existing derelict warehouse building (132.8 sqm) on the site and the construction of a of a five-storey building (2309 sqm) containing 34 apartments. As originally proposed, these apartments would have comprised 26 one-bed and 8 two-bed units. Three apartments on the ground floor would be the subject of a Part V agreement between the developer and the Housing Authority.
- 3.2. The proposed building would be served by a new vehicular, cyclist, and pedestrian entrance off Kilmurry Road and by a new pedestrian entrance off the Dublin Road. A 14-space car park would be laid out to the rear of the building along with 14 bicycle stands. A stand-alone bin shed would also be sited to the rear.

3.3. Following further information and clarification of further information stages, the proposal was revised. Thus, 32 apartments would be constructed (16 one-bed, 15 two-bed, and 1 three-bed), along with a 17-space car park and a 24-bicycle stands within a gated and roofed compound.

4.0 **Planning Authority Decision**

4.1. **Decision**

Following receipt of CFI, permission was granted, subject to 27 conditions.

4.2. **Planning Authority Reports**

4.2.1. Planning Reports

Further information was requested with respect to the following matters:

- On-site set back required for proposed bus corridor.
- RSA recommendations to be shown on a site layout plan and Transport Assessment to be prepared/submitted.
- Revisions to proposed car park to show 17 spaces, including a mobility impaired one, secure cycle stands, and road markings and signage.
- Public lighting scheme to be prepared in accordance with the requisite specification.
- Sightlines with x and y dimensions of 2.4m and 33m for the proposed vehicular egress.
- Pedestrian facilities to be incorporated in the proposed car park.
- Proposed surface water drainage scheme to be revised to meet requisite specifications.
- Refurbishment Demolition Asbestos Survey to be prepared/submitted.
- Invasive Species Management Plan to be prepared/submitted.
- Bat Survey to be undertaken/submitted.
- Noise Impact Assessment to be undertaken/submitted.

- The total floorspace of the proposed two-bed apartments would be sub-standard,
 - The ratio of one-bed to two-bed apartments would fail to meet SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments (SUH: DSNA) Guidelines,
 - Clarification of proposed front boundary wall type,
 - No windows to overlook adjoining residential properties,
 - Recessed balconies recommended,
 - Bedroom storage space needed, and
 - Absence of communal facilities to be addressed.
- Daylight/sunlight analysis to be undertaken/submitted.
- Third party concerns to be addressed.

Clarification of further information was requested with respect to the following matters:

- On-site set back required for proposed bus corridor.
- Daylight reduction in Zone 1 to be addressed.
- Noise mitigation measures to be strengthened.
- The ratio of one-bed to two-bed apartments would fail to meet SPPR 1 of the SUH: DSNA Guidelines, and

Recessed balconies to be incorporated in the NE corner of the proposed building, too.

4.2.2. Other Technical Reports

- Irish Water: No objection + Standard notes.
- DoCHG – Nature Conservation: FI requested with respect to the possible presence of bats and invasive species.
- LCCC
 - Physical Development – Science: Following receipt of CFI, ventilation scheme requested that would meet the desirable internal noise levels

recommended in BS8233: 2014 – Guidance on sound insulation and noise reduction for buildings.

- Physical Development – Engineering: Following receipt of FI, flood risk assessed on a site-specific basis, no objection, subject to conditions requiring a FFL of 5.45m AOD and the submission of a Flood Emergency Response Plan.
- Fire Officer: No objection + Standard notes.
- Archaeologist: No issues.
- Operations & Maintenance: Following receipt of CFI, multiple engineering conditions requested.
- Environmental Services: Following receipt of FI, confirmation that asbestos is not present on site, no objection, waste management plan condition requested.
- Design & Delivery: Following receipt of CFI, front boundary wall set back to facilitate proposed bus corridor along the Dublin Road, condition requested concerning construction of new public footpath along frontage with the Dublin Road.
- Ecologist: Following receipt of FI, no objection, conditions requested to ensure implementation of the Outline Invasive Species Management Plan.

5.0 Planning History

- 1077/0209: To retain fuel station, including ancillary site works, oil storage tank and concrete bund and signage + Permission to install forecourt drainage channel and fuel/oil separator and associated site works: Refused at appeal PL30.238243 on the grounds of road safety and pollution risk.
- Pre-application consultation occurred on 22nd May 2019.

6.0 Policy and Context

6.1. Development Plan

Under the Limerick City Development Plan 2010 – 2016 (CDP), the site is shown as lying within an area that is Zoned ZO.2(A) residential and Zone 3 for parking. Under the CDP's Area Profiles, the site is shown as lying within the Garryowen/Singland Area, wherein one of the key objectives is "To promote a high standard of urban design with a clear sense of place and architectural quality that respects the existing character."

6.2. Natural Heritage Designations

- Lower River Shannon SAC (002165)
- River Shannon & Fergus Estuaries (004077)

6.3. EIA Screening

6.4. Under Items 10(b)(i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2020, where more than 500 dwelling units would be constructed and where 10 hectare-urban sites would be developed, the need for a mandatory EIA arises. The proposal is for the development of a 0.1564-hectare urban site to provide 32 new build dwelling units. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

(a) **Elaine Dunne** of No. 2 Pennywell Road

- The inappropriate size and scale of the proposal would cause it to be overbearing and it would lead to overlooking and overshadowing of

neighbouring properties. The design and industrial finishes of the proposal would cause it to jar with the vernacular architecture comprised in the vicinity in an area known as “The Village”. In this respect, attention is drawn to Objective 33 of the NPF, which refers to the construction of new homes at “an appropriate scale of provision relative to location”.

- Parking provision would be inadequate, as residents would be likely to have their own vehicles due to the City’s under-developed public transport system. Overspill on-street parking would be likely to result giving rise to annoyance and prejudicing road safety.
- Traffic generation and on-street parking would impede access for emergency services to surrounding streets. The RSA is questioned on the basis that it was undertaken on a non-school day and its recommendations have not been fully worked through upon. Extra pedestrians and cyclists in the locality do not appear to have been factored-in to the operation of nearby signalised junctions.
- The proposed access would be problematic insofar as refuse vehicles are depicted as having to reverse into it. Alternatively, leaving bins out on Kilmurry Road would create an obstruction/congestion. Clarification on the gating of this access remains outstanding.
- The site was last used as an unauthorised petrol station. Underground tanks have not been surveyed and their excavation would pose risks to the environment. These matters need to be investigated.
- The Clochan Stream flows underneath the site and so its presence needs to be factored-in to any site excavations. Likewise, attention is drawn to the location of the site within a flood plain.
- Residential properties nearby would be de-valued by the proposal. Overlooking would affect the privacy of the appellant’s kitchen/dining area and that of her neighbours. The submitted daylight analysis is critiqued on the basis of its limited extent. Overshadowing of the appellant’s property and that of her neighbours is thus predicted.

- The proposal would fail to provide communal open space for future residents to share and it would provide an inadequate amount of private open space for them.
- Capacity issues pertain to the local foul water sewerage system. These have yet to be fully investigated and an upgrade of this system should occur prior to development such as that comprised in the current proposal.
- Concern is expressed over how any construction phase would be managed.

The appellant adds that she is not opposed to the redevelopment of what is a brownfield site: She is simply concerned that the scale and design of the current proposal would be inappropriate. She also adds that opposition is widespread within the local community as evidenced by the petition that was submitted to the PA at the application stage.

(b) Avril Kenny of No. 2 Dublin Road

- No objection is raised to the redevelopment of the site, in principle, provided it is undertaken in a manner that “maintains and enhances the functioning and aesthetic of this long-established community.” However, the height and number of units comprised in the proposal is of concern to the appellant, her family, and her neighbours as evidenced by the petition that was submitted to the PA at the application stage.
- The proposal would overshadow the appellant’s dwelling house and that of other family members in the adjoining dwelling house at No. 1 Dublin Road. Daylight would thus be reduced, and skyline views would be curtailed. Plans for solar panels would be jeopardised and property values would fall.
- Notwithstanding being requested to do so, the applicant’s daylight/sunlight analysis omits Nos. 1 & 2 Dublin Road: This may have been to avoid drawing attention to the extent of overshadowing that would occur at these properties.
- Existing dwelling houses are either single storey or two-storey. Within this context, the proposed five-storey building would stand out unduly and, due to the absence of other vacant sites, it would be unlikely to be accompanied by other high buildings.

- Attention is drawn to historic buildings within the locality of the site and beyond and concern is expressed that the height of the proposal would obstruct/obscure views of some of these buildings.
- While the Urban Development and Building Heights (UDBH) Guidelines promote taller buildings, they do state that PAs must determine if “increased height buildings are an appropriate typology, or not, in particular settings.” The site is within a locality where such height would not be appropriate. Furthermore, pressure on local schools, on-street parking, and drainage already exists and would only be exacerbated by the proposal.
- The proposal would be served by an inadequate number of car parking spaces and so overspill parking would be likely to arise. Existing on-street parking is limited and in high demand and so competition for such parking would intensify.
- The surface water drainage system is unable to cope during periods of heavy rainfall. In the absence of additional capacity, the proposal would exacerbate such occurrences.
- An underground tank may be polluting the site and its excavation would pose a pollution risk in its own right. The proximity of the proposed building to the nearside public footpath on the Dublin Road may have adverse implications for its use during the construction phase and parking of workers’ vehicles during such a phase would be an issue, too.
- The need for the proposal on the subject site is questioned in the light of the 50-hectare development site, known as Colbert Station Quarter, where tall buildings and high-density housing would be provided in abundance.

(c) Niamh O’Sullivan of Parkwood, Dublin Road

- The five-storey proposal would dwarf surrounding single storey and two-storey dwelling houses. As such it would contravene Page 16.22 of the CDP, which requires that new residential development should “Reflect the existing character of the street by paying attention to the proportion, pattern, massing, density and materials of surrounding buildings” and “Maintain existing building lines, roof pitches and heights and window proportions.”

Under the CDP's Area Profiles, the site lies on the interface between Corbally/Rhebogue and Garryowen/Singland, wherein urban design should be characterised by "a clear sense of place and architectural quality that respects the existing character." This site lies within an area known as "The Village", due to its village-like streetscape. The proposal would, due to its size, dominate this area and so be at cross purposes with its character.

Furthermore, the CDP states that high buildings should make a positive contribution to the skyline and yet they should respect existing landmarks and views. The proposal would not do so. Thus, it would detract from the setting of the historic St. Patrick's Church (RPS No. 415). Likewise, there is no photomontage of this proposal in relation to existing dwelling houses on Kilmurry Road.

- The site is on a bus route, i.e. the No. 304A. However, it is unreliable, and the nearest stop suffers from an absence of signage.
- The proposal would lead to overshadowing of residential properties on the opposite side of the Dublin Road and on the nearside of Pennywell Road. While overlooking of such properties on Pennywell Road has been addressed, overlooking would persist with respect to residential properties on Kilmurry Road.
- Under SPPR 1 of the SUH: DSNA Guidelines, a maximum of 50% of new apartments can be one-bed units. Under FI, the submitted plans show 17 of the 32 apartments as one-bed units, i.e. 53%, and so in excess of the said cap.

Under SPPR 3, two-bed apartments should have a minimum floorspace of 73 sqm. Of the 14 two-bed units proposed, only 1 would meet this requirement.

- If acoustic standards are to be met, then windows would need to be kept closed in the Dublin Road and Pennywell Road elevations. This would adversely affect the amenities of future residents.
- A strip of land on the W side of the site is unregistered. Its ownership is in need of clarification.

- The proposed building would be sited very near to the edge of the roadway envisaged under the Dublin Road widening scheme to facilitate a bus corridor.

7.2. Applicant Response

The applicant has responded to each of the appellants in turn.

(a) Elaine Dunne

- Size and scale
 - Privacy and daylight were addressed under FI and the design was amended accordingly.
 - The site is derelict/unsightly and thus in need of redevelopment.
 - The CDP, Project Ireland 2040, and the NPF are cited with respect to the desirability of higher density development on serviced sites in urban areas that are readily accessible to public transport. The site is served by public transport, which would be boosted by a proposed QBC.
- Parking
 - Parking was addressed under FI. Seventeen spaces would be provided, and 30 bicycle stands.
 - Attention is drawn to the proximity of the city centre, bus routes, and greenways.
 - Pursuant to draft Condition No. 15, the applicant would provide on-site parking for workers during the construction phase and/or transport for the same.
- Vehicular entrance
 - Sightlines and vehicular and pedestrian access were addressed under FI. Attention is drawn to the relevant documents submitted in these respects.
- Safe removal of underground tanks
 - Evidence of such tanks has yet to emerge. If they are present, then they would be dealt with at the pre-construction stage.

- Clochan Stream
 - Water was addressed under FI. Attention is drawn to the relevant documents submitted in this respect.
- Private and public amenity
 - All the proposed apartments would comply with the SUH: DSNA Guidelines with respect to private amenity space.
 - Public amenity would be available in Kilmurry Park, c. 200m to the S of the site.
- Waste-water treatment capacity
 - Irish Water has raised no objection in this respect.
- Demolition, excavation, and construction
 - The construction phase would be undertaken in accordance with the draft conditions.

(b) Avril Kenny

- Size and scale
See above
- Parking
See above
- Drainage
See above
- Safe removal of underground tanks
See above
- 50-hectare site for housing
 - Proposals for Colbert Station Quarter do not negate the need for new housing elsewhere in the city.
 - The development of the site as proposed would diversify the accommodation available in Pennywell.

- QBC proposals for the Dublin Road corridor would also enhance the attractiveness of the application site.

(c) Niamh O’Sullivan

- Size and scale
 - See above
 - The site lies beside the junction between Dublin and Pennywell Roads. The proposal would address these two Roads and it would refresh a tired site with finishes that would harmonise with its residential context.
 - Reference to CDP Objectives for Corbally/Rhebogue and Garryowen/Singland are misplaced, as these neighbourhoods are not comparable with Pennywell.
- St. Patrick’s Church
 - The proposal for the site would enhance the wider context of this protected structure.
- Public transport
 - The site is served by public transport, which would be boosted by a proposed QBC. The proposal would thus benefit from such transport and contribute to its viability.
 - Bus stop signage issues do not detract from the foregoing.
- SPPR 1 & 3
 - The applicant intended to comply with the cap of 50% on one-bed units. A discrepancy, however, arose on the submitted plans whereby this cap was exceeded, i.e. 17 rather than 16 one-bed units are shown in a scheme of 32 units.
 - The revised description of the proposal refers to 16 one-bed units and, as this description is reproduced in the PA’s draft permission, it takes precedence over the said plans.

- Amended plans have now been submitted at the appeal stage, which are consistent with the said description. These show minor adjustments to openings in the eastern elevation.
- The proposal would comply with the minimum floor areas cited by the SUH: DSNA Guidelines.
- Acoustics
 - Acoustic ventilators and triple glazing have been specified and draft condition no. 15 would be complied with.
- Land ownership
 - The applicant is the sole owner of the site.
- Proximity to road, which is to be widened
 - The front boundary wall has been set back to allow for the proposed widened.

7.3. Planning Authority Response

None

7.4. Observations

(a) Willie O'Dea TD

- Attention is drawn to local opposition to the proposal on the grounds of its size, scale, and character.

(b) Derek Whyte

- The proposal would be of excessive height and it would dominate and overshadow the adjoining petrol station, thereby compromising its redevelopment potential.
- Furthermore, the proposal would be incongruous within its context of mainly earlier vernacular architecture and more recent two-storey dwelling houses.

7.5. Further Responses

Each of the appellants has responded to the applicant's response to their grounds of appeal. Insofar as these responses differ from the original grounds of appeal, they are summarised below.

(a) Elaine Dunne

- Loss of privacy from rear balconies has still not been addressed.
- The submitted light study fails to show the appellant's rear extension: An elevation and photograph of this extension has thus been submitted.
- Beyond the inadequate size of the car park, its design is critiqued insofar as visitor parking spaces, car-sharing facilities, and a drop-off/collecting point are not specified.
- The Clochan Stream is understood to run under the site. This Stream acts as a natural drainage channel for the locality. It could, under a raised water table scenario, lead to flooding, which, under the proposal, maybe displaced to within the surrounding area.
- Reliance on Kilmurry Park for communal outdoor space fails to recognise that this Park is comprised of predominantly playing pitches.

(b) Avril Kenny

- The applicant's reference to a site to the NW of St. Patrick's Church as a derelict industrial one is corrected insofar as this site has been cleared in advance of its redevelopment for an Irish speaking secondary school.
- The prospect of a further school in the locality reinforces the case for family sized housing on the site, rather than the proposed apartments, which would not be designed for families and which would be accompanied by no on-site communal space. Reliance on Kilmurry Park in this respect is misplaced, as it comprises fenced-off playing fields.
- Regarding the site as being beside the city centre is a mistake, too, as it is in excess of 15 minutes walk away and it is circumnavigated by the bus service.

(c) Niamh O’Sullivan

- The applicant’s dismissal of the Garryowen/Singland and Corbally/Rhebogue districts is mistaken: The site lies in the former and the latter abuts it to the north. Within these districts a wide area surrounding the site is composed of single storey and two-storey dwelling houses.
- The proposed school, cited above, would be of sympathetic design. Its form would comprise two storey buildings set back from the street front and a slim four storey one, which would present a narrow gabled end to the street.
- Graffiti aside, the site has not been a venue for anti-social behaviour, unlike Kilmurry Park.
- Ground conditions should be investigated prior to a decision as the disturbance of any contamination would pose a risk to the Cloghan Stream, which runs immediately adjacent to the eastern boundary of the site and which discharges into the canal.
- The proposed QBC is needed to serve the University of Limerick and existing housing rather than being a precursor to new housing along the Dublin Road corridor.
- The proposal would contravene the SUH: DSNA Guidelines insofar as:
 - The proposed two-bed/three person units would comprise 46.87% of the apartments and would thus be well in excess of the 10% cap.
 - Two-bed/three person units are considered to be appropriate for social housing, e.g. sheltered housing. As originally submitted, only 3 of the proposed 34 units were identified for such housing.
- The size of St. Patrick’s Church is immaterial. Its relationship to the surrounding streetscape would be upset by the proposal.
- No photomontage of the proposal has been submitted from a public vantage point on Kilmurry Road.

8.0 Assessment

8.1. I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use, transportation, and density,
- (iii) Streetscape,
- (iv) Development standards,
- (v) Residential amenity,
- (vi) Traffic, access, and parking,
- (vii) Water, and
- (viii) Stage 1 Screening for AA.

(i) Legalities

- 8.2. Appellant (c) contends that the applicant does not own the entire site, i.e. a strip of land alongside the western boundary is apparently unregistered. The applicant has responded by stating that it does own all the site.
- 8.3. No Land Registry documentation has been furnished by either party and, in any event, the Board is not in a position to make determinations on disputed land ownership claims.
- 8.4. Section 34(13) of the Planning and Development Act, 2000 – 2020, states that “A person shall not be entitled solely by reason of a permission under this section to carry out any development.” This statement is a reminder that a prospective developer needs, by implication, to have sufficient interest in land to undertake its development.
- 8.5. I conclude that there are no legal impediments to the Board proceeding to assess and decide upon the current application/appeal in the normal manner.

(ii) Land use, transportation, and density

- 8.6. Under the CDP, the site is zoned ZO.2(A) residential. The proposal seeks the redevelopment of this site for residential use and so there is no, in principle, objection to it from a land use perspective.
- 8.7. During my site visit, I observed that, while there is a mix of different uses along the Dublin Road in the vicinity of the site, elsewhere in the surrounding area the predominant land use is residential. I also observed that the site is within the inner suburbs and so well-placed for the north eastern portion of the city centre, especially. Walking and cycling between it and this destination would thus be attractive options.
- 8.8. The site lies to the south of the junction between the Dublin Road (R445) and Pennywell Road (R858). These Roads form part of the bus route denoted as the 304A, which runs between the Castletroy/University of Limerick and Dooradoyle/Ratheen via the eastern portion of the city centre. Bus stops served by the 304A lie close to the site on Pennywell Road.
- 8.9. Proposals exist to introduce a QBC along Dublin Road and so the level of bus service available would improve correspondingly. Under CFI, the applicant has re-sited the proposed apartment building in a slightly set back position to take account of land reservation requirements in connection with this QBC.
- 8.10. As originally submitted, the proposal envisaged the provision of 34 apartments and, as revised, 32 are envisaged. The site has an area of 0.1564 hectares and so these numbers would represent net densities of 217.39 and 204.60 units per hectare.
- 8.11. The Sustainable Residential in Urban Areas (SRUA) Guidelines address density. Thus, on the basis that the Dublin Road can be considered to be a public transport corridor, a minimum net density of 50 units is recommended, “subject to appropriate design and amenity standards”. The proposal would exceed the required minimum net density by a factor of 4.
- 8.12. The SRUA Guidelines also address infill residential development on unused or derelict land in the inner suburbs. The proposal for the site would fit these categories. The Guidelines state that “The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design, etc.”

- 8.13. The Urban Development and Building Heights (UDBH) Guidelines do not address density directly. However, in addressing building height, they indirectly address density. Under Paragraph 1.9, these Guidelines state that general building heights of at least three to four storeys must be supported in principle in locations outside city centres.
- 8.14. Under Figure 14.1 of the CDP, Area Profiles are depicted schematically, along with a commentary on each area. The site lies within Garryowen, close to its boundary with Corbally to the N and the City Centre to the W. Thus, Paragraph 1.9, cited above is relevant to this site.
- 8.15. The appellants express a desire to see the site redeveloped for two-to-three storey family sized dwelling houses. Paragraph 1.9 indicates that three-to-four storeys must be the default height. Insofar, as the applicant has proposed five storeys, justification for the same is needed.
- 8.16. I conclude that there is no in principle land use objection to the proposal and the site is conveniently placed for the city centre and the No. 304A bus service which would benefit in the future from a QBC along Dublin Road. I conclude, too, that the net density of the proposal would exceed the minimum of 50 dwellings per hectare for the site by a factor of 4. National Planning Guidelines advice on the protection of, variously, neighbour amenities and the general character of the area and its amenities, on the one hand, and the provision of a building of at least three-to-four storeys, on the other hand, will inform my further assessment of the proposal and my ultimate assessment of density in my conclusion.

(iii) Streetscape

- 8.17. The site adjoins, to the south, the junction between Dublin Road and Pennywell Road. This junction lies in a dip when approached from the E along Dublin Road and from the WSW along Pennywell Road. It is in the form of a fork surrounded by single and two storey buildings, which date from a range of periods and which display a variety of designs and finishes.
- 8.18. During my site visit, I observed that the site occupies a prominent position beside the above cited junction, as it maintains a 19m frontage directly onto Dublin Road and a 31m frontage that is set back from this junction behind a turning head to a slip road, which serves a row of 4 two-storey dwelling houses that face onto Pennywell Road,

i.e. Nos. 1 – 4 (inclusive). Its location at an important junction is such that a building of greater height than neighbouring buildings would, in principle, be appropriate.

- 8.19. The proposed building would address the two frontages of the site identified above. It would be composed of five storeys with larger and smaller four-storey portions adjacent to the Dublin Road frontage. Thus, with respect to Pennywell Road, this building would present as five storeys and so there would be a stepped change in scale between it and the row of 4 two-storey dwelling houses to the W, with the nearest of these dwelling houses being c. 7.5m away. Likewise, the stepped down larger four storey portion of this building would be opposite 2 single storey cottages at Nos. 1 & 2 Dublin Road, which lie c. 21 – 23m away to the N.
- 8.20. The site approximates to a fan-shape in plan-view. Thus, the proposed building would be sited in the head of the fan, i.e. the northern portion of the site. A car park would be laid out in the southern portion, adjacent to a pair of single storey cottages Nos. 9 & 10, on St. Patrick's Court to the SSE, and adjoining a row of 6 two-storey dwelling houses Nos. 38 – 43 (inclusive) on Kilmurry Road to the WSW. The cottages would lie a minimum of 14.5m away to the S of the proposed building and the dwelling houses would lie a minimum of 24.5m away to the S, too. The appellants draw attention to the omission of any photomontage representation of the proposal within this context. This omission is compensated for to a degree by drawing no. RC 1941-P-03, which shows a cross section of the proposed building in conjunction with the said cottages. Again, a stepped change in scale is apparent.
- 8.21. To "fit" the shape of the northern portion of the site the footprint of the proposed building would comprise arms that would be offset in relation to one another. The resulting "irregular" layout would translate into elevations that would be broken up, thereby relieving any sense of excessive mass that could attend upon a building of the size in question that displays, for the most part, a common skyline. However, the limited set back of the top storey represents a missed opportunity to ease the perception of the greater scale of the proposed building from public vantage points within the adjacent junction.
- 8.22. Finishes proposed for the building would distinguish the ground and top floors, along with the circulation cores, from the remainder of the elevations. The originally proposed coherent pattern of openings has been eroded somewhat as the proposal

has been revised internally. However, the principal street-side elevations have maintained their coherence.

- 8.23. The appellants have drawn attention to how the proposal would obstruct views of the emerging skyline of the city centre on approach along the Dublin Road. During my site visit, I observed that on passing-by the forecourt canopy to the service station that adjoins the site to the E, views of the spire to St. John's Cathedral open up across the centre of this site. Views of this spire are also available when progressing upwards on Pennywell Road. Given that the said views are over the centre of the site, I consider that any substantial development of this site would entail their loss. While such loss is regrettable, it should be seen in the context of the availability of other views of the said spire along Pennywell Road.
- 8.24. The appellants have also drawn attention to St. Patrick's Church (RPS No. 415), which lies on the northern side of Clare Street to the W of the said junction. Concern is expressed that the setting of this historic church would be adversely affected by the proposal.
- 8.25. The applicant has drawn attention to an industrial site beside the said Church. The appellants have also drawn attention to this site and its recent clearance in advance of its redevelopment to provide a new secondary school. They commend the permitted design and layout of this school (19/1252), which would be set back from the roadside and which would comprise two storey buildings along with a slender four storey one at the western end of the site, i.e. on the far end of the site's frontage to Clare Street from the Church.
- 8.26. During my site visit, I observed the existing relationship between the site and St. Patrick's Church on Clare Street, which is a continuation of Dublin Road to the W. A distance of c. 110m exists between the northernmost corner of the site and this Church. This relationship is influenced by the presence of rows of predominantly two storey buildings on either side of Clare Street and it is mediated by deciduous trees, which have been planted in a road island in the junction.
- 8.27. In the light of my foregoing assessment of the proposal upon the local streetscape, my main concern is over the abrupt change of scale that would arise between existing two storey dwelling houses to the WSW of the proposed five storey building and the failure to ease this change, for example, by setting back the top storey. I am

also concerned that the proposed building is insufficiently tapered in scale with respect to single storey cottages within its vicinity. Accordingly, the proposed building would be an unduly dominant presence within the immediate vicinity of the junction and so by extension it would be insufficiently nuanced to make a positive contribution to the wider setting of St. Patrick's Church.

8.28. I conclude that the overall scale of the proposed building would cause it to be unduly dominant within its immediate streetscape context.

(iv) Development standards

8.29. As originally submitted, the proposal was for 34 apartments of which 26 would have been one-bed and 8 would have been two-bed/three-person units. A Housing Quality Assessment Table was included within the applicant's Planning and Design Statement, which indicates that each of the apartments would exceed the minimum overall floor area standards of 45 sqm and 63 sqm, respectively, set by the SUH: DSNA Guidelines. Likewise, the disaggregated floor areas for living/dining, bedroom, and storage space would be compliant, as would the private amenity areas. This Table also indicates that, on average, overall floor areas would exceed the said minimums by 5.6% and, qualitatively, only 10 of the 34 apartments would be single aspect.

8.30. Under FI, while the proposal remained for 34 apartments, it was revised to specify 21 one-bed and 13 two-bed/three-person units. The applicant contended that, under this revision, the proposal would comply with SPPR 2 of the above cited Guidelines, i.e. that from the 10th apartment on a cap of 50% applies to one-bed apartments. Thus, if the first 9 apartments are one-bed units, then of the remaining 23, 12 would be one-bed and 13 would be two-bed units, i.e. less than 50% one-bed units.

8.31. The PA contended that SPPR 1 should be complied with to the exclusion of SPPR 2 for the following reason: "The site is on the approach to the city centre, with low rise housing, reliance on one-bed apartments is not in keeping with the location of the proposed development." Accordingly, under CFI, the proposal was revised to show 32 apartments, of which 16 would be one-bed, i.e. 50% of the total, 14 would be two-bed/three-person, 1 would be two-bed/four-person, and 1 would be three-bed/five person. However, an error occurred in the accompanying drawings and 17 one-bed apartments were shown.

- 8.32. At the appeal stage, the applicant has submitted amended plans that coincide with the description of 32 apartments, of which 16 are one-bed units. The remaining units are: 15 two-bed/three-person units and 1 three-bed/five-person unit.
- 8.33. In reviewing the above sequence of events, I am not persuaded that the PA was entitled to prize SPPR 1 over SPPR 2 in its handling of the proposal. Nevertheless, insofar as this has happened, I will consider below the finally revised version of the proposal in the light of the SUH: DSNA Guidelines. (The following considerations could be equally applied to the earlier versions of the proposal with similar outcomes).
- 8.34. The Guidelines require that the minimum overall floor area should be exceeded by 10% in the majority of proposed apartments. As originally submitted, this requirement would have been met. As finally revised, the proposal would be as follows:
- 16 one-bed: total floor area 789 sqm – 720 sqm minimum
 - 15 two-bed: total floor area 1001 sqm – 945 sqm minimum
 - 1 three-bed: total floor area 92 sqm – 90 sqm minimum

Applying +10% to a majority of the units:

- 9 one-bed x 49.5 sqm = 445.5 sqm + 7 one-bed x 45 sqm = 315 sqm
445.5 + 315 = 760.5 sqm, i.e. as 789 sqm would be provide a surplus of 28.5 sqm
- 8 two-bed x 69.3 sqm = 554.4 sqm = 7 two-bed x 63 sqm = 441 sqm
554.4 + 441 = 995.4 sqm, i.e. as 1001 sqm would be provided a surplus of 5.6 sqm

The finally revised proposal would thus meet and exceed the +10% test.

- 8.35. Appellant (c) has drawn attention to the cap of 10% on two-bed/three-person units that is set out in Paragraph 3.7 of the SUH: DSNA Guidelines. These Guidelines seek to ensure thereby that two-bed/four-person units remain the norm for two-bed apartment accommodation.
- 8.36. Under the proposal in its finally revised form, all 15 two-bed apartments would be two-bed/three-person units, i.e. at 46.875%, almost 50% of all the proposed apartments. Accordingly, this cap would be exceeded. As originally submitted, 3

units were identified, under Part V, for social housing. An accompanying letter from the LCCC's Housing Development Directorate confirmed that this level of provision was acceptable in principle for the purposes of Part V. Thus, as the only justification cited by the Guidelines for the greater specification of two-bed/three-person units is their use in social housing schemes, the proposed number of these units would be unacceptable.

- 8.37. The above cited finding overlaps with the appellants concern that the proposal would fail to effectively provide family accommodation in a locality which has a cluster of schools within it.
- 8.38. While the proposal would provide private amenity space in the form of either patios or balconies for each of the proposed apartments, no communal amenity space is shown. As the proposal would provide a total of 82 bedspaces, the potential resident population would be 82 people. Under Appendix 1 of the SUH: DSNA Guidelines, minimum communal amenity space standards are cited. If applied to the proposal, then a minimum of 179 sqm of such space should be provided.
- 8.39. The above cited omission has been set aside by the applicant on the basis that Kilmurry Park lies c. 100m to the S of the site. Appellants have responded by indicating that, as this Park is laid out as playing pitches, it is suited to active rather than passive recreation. During my site visit, I observed that O'Brien's Park is located on Clare Street and it would be more suited to passive recreation. However, it lies 300m away from the site.
- 8.40. In the light of the above considerations, I take the view that it is unacceptable that the proposal should be devoid of communal amenity space.
- 8.41. Under FI, the acoustic environment of the site was addressed, i.e. the juxtaposition of a busy road junction with the proposed apartment building. The applicant thus submitted a Noise Impact Assessment (NIA) which identifies an issue with medium to high noise levels during the day and night. Acoustic glazing is thus specified that would ensure that noise levels within rooms with the windows closed would meet the desirable day and night time levels. Likewise, all permanent wall ventilation in the front elevations would be fitted with acoustic ventilators that would achieve a minimum of 42 dB Dn,e,w noise, i.e. an industry standard for noise attenuation when vents are in the open position. Furthermore, the applicant has recessed the

balconies in the NE corner of the proposed building to reduce their exposure to Dublin Road.

- 8.42. Under FI, the lighting of the proposed building was addressed by means of a Sunlight, Daylight & Shadow Assessment of the proposal prepared in accordance with the BRE Report entitled "Site Layout Design for Daylight and Sunlight: A Guide to Good Practice" (2011). This Assessment examined the first floor of this building, as being a representative floor. It identified issues with the lighting of bedrooms denoted as nos. 1 and 2 in apartment no. 11, due to their depth and orientation. Likewise, it identified issues with the lighting of balconies, which would serve apartments nos. 9 and 10. The constraints of the overall design of the proposed building militate against the resolution of these issues.
- 8.43. I conclude that the mix of apartments would fail to follow the advice set out in the SUH: DSNA Guidelines with respect to the specification of no more than 10% of apartments as two-bed/three-person units. I also conclude that, whereas the proposed apartments would afford a satisfactory standard of amenity, the proposal as a whole would fail in this respect, due to the absence of any communal amenity space.

(v) Residential amenity

- 8.44. Under my assessment of streetscape above, I have described the existing dwelling houses which would be nearest to the proposal.
- 8.45. Appellant (a) expresses concern over the issue of overlooking/loss of privacy from balconies on the rear of the proposed building and all the appellants express concern over the issues of overshadowing and loss of direct sunlight.
- 8.46. In relation to overlooking/loss of privacy, I note that the balconies on the rear elevation of the proposed building would be sited close to its SW corner and so in a position adjacent to the site's western boundary and the rear gardens of dwelling houses to the W. The western side of these balconies would be 2.75m from this boundary and so they would afford views into the nearest gardens at short range. The installation of privacy screens on each of the western sides would obstruct such views and so, if the Board is minded to grant permission, then they could be conditioned.

- 8.47. In relation to overshadowing and direct sunlight, the above cited Sunlight, Daylight & Shadow Assessment of the proposal examines how these factors would change for the nearest residential properties under the proposal. Contrary to the contentions of the appellants, this Assessment does include within its ambit the cottages at Nos. 1 & 2 Dublin Road. In terms of skylight, issues were identified in relation to the windows in the gabled E elevation of the two storey dwelling house at No. 1 Pennywell Road, which would be c. 7.5m away from the W elevation of the proposed five storey building. Sunlighting was also examined: However, no issues were identified in this respect.
- 8.48. Appellant (a) critiques the aforementioned Assessment insofar as it is not sufficiently nuanced to have included the rear extension to her dwelling house at No. 2 Pennywell Road, the openings to which are in its eastern elevation. The question, therefore, remains open as to whether there would be a skylight issue at this residential property, too.
- 8.49. Under CFI, the applicant returned to the skylight issues, which would affect No. 1 Pennywell Road. It identifies that only 1 of the 3 windows would serve a habitable room, i.e. a first floor bedroom, and that this room unusually is in the side rather than the front elevation of the dwelling house. Without discounting the skylight issue attendant upon this room, it is assessed in accordance with the Average Daylight Factor and found to be 4.3% at present, i.e. of outdoor light. While this percentage would contract to 2.6% under the proposal, it would still be in excess of 1%, i.e. the recommended minimum for bedrooms.
- 8.50. I conclude that the installation of privacy screens to balconies on the rear elevation of the proposed building would alleviate overlooking. However, skylighting issues would exist at No. 1 Pennywell Road, which would not be the subject of amelioration under the proposal as submitted. The proposal would, thus, not be fully compatible with the residential amenities of the area.

(vi) Traffic, access, and parking

- 8.51. The proposal, which is for 32 apartments, would generate additional traffic in the locality. The applicant has submitted a Traffic Assessment which concludes that this traffic would be capable of being accommodated satisfactorily on the public road network, including junctions within the vicinity of the site. The applicant has also

submitted a Stage 1 RSA, the recommendations of which have been accepted and incorporated into the proposal.

- 8.52. Pedestrian access would be available to the front of the site and pedestrian and vehicular access would available be to the rear off Kilmurry Road. This ungated vehicular access would be of two-lane width and it would be accompanied by the requisite sightlines.
- 8.53. One site, a car park would be laid out with 17 spaces, including 2 mobility impaired spaces, which would be sited close to the rear door to the proposed apartment building. All but 1 of these spaces would be laid out as perpendicular spaces around a central manoeuvring space, which would be wide enough to facilitate turning movements by delivery vans but not a refuse lorry. Thirty cycle spaces would also be provided, 24 of which would be in a storage shed sited along the western boundary of the car park and 6 of which would be stands adjacent to the front door to the proposed apartment building.
- 8.54. Appellants (a) and (b) express concern that the proposed parking provision would be inadequate and so they envisage that overspill parking would occur on-street in the vicinity of the site with possible adverse repercussions for ease of access by emergency vehicles.
- 8.55. Under the CDP, the site is shown as lying within Zone 3 (suburban) for car parking purposes. Within this Zone, 1.25 spaces are required as a minimum for the residents of each apartment, plus 25% for visitors. If this standard were to be applied to the proposal, then 50 spaces (40 + 10) would be required.
- 8.56. The SUH: DSNA Guidelines address car parking for apartments. They state that “In larger scale and higher density developments, comprising wholly of apartments in more central locations (within 15 minutes walking distance of city centres) that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.” This description would fit the proposal and the subject site and so the stated prescription is relevant.
- 8.57. Clearly, there is a tension between the approach of the older CDP, which was adopted in 2010, and the newer Guidelines, which came into force in 2018, when it comes to car parking. Given this tension, I do not consider that the CDP’s above

cited minimum can reasonably be required. Rather, in keeping with the Guidelines, a substantial reduction on this “minimum” is warranted. The proposal would achieve this.

- 8.58. The SUH: DSNA Guidelines also address cycle parking for apartments. They require as a general minimum 1 cycle space per bedroom and 1 cycle space per 2 apartments for visitors. The application of these standards to the proposal leads to the need for 64 cycle spaces, i.e. 48 for residents and 16 for visitors. While these Guidelines do allow some latitude in such application, the case for the same needs to be made. Accordingly, *prima facie*, the applicant’s proposed 30 cycle spaces would represent a significant under-provision.
- 8.59. I conclude that traffic generated by the proposal would be capable of being accommodated on the public road network and proposed access/egress arrangements would be satisfactory. Car parking provision would reflect the latest national planning guidelines, although cycle parking provision would fall short of what is envisaged by these guidelines.

(vii) Water

- 8.60. The proposal would be connected to the public water mains and the public foul water sewerage system. The applicant has submitted calculations as to the likely demand that this proposal would place upon these public utilities. Irish Water has raised no objection to it.
- 8.61. The proposal would also be connected to the public stormwater sewer in Kilmurry Road. On-site, a stormwater drainage system would be installed, which would incorporate an attenuation tank that would be sized for a 1 in 100-year flood event plus a 20% allowance for climate change. This tank would be accompanied by a hydro-carbon interceptor and a hydro-brake, which would limit the outflow to 0.64 l/s. This outflow would represent 0.1% of the capacity of the public stormwater sewer, which has a capacity of c. 930 l/s. The applicant thus assumes that the sewer would be capable of accommodating it.
- 8.62. The appellants draw attention to the former unauthorised use of the site as an oil distribution yard. They express concern that there may be underground tanks in the site and that their removal may risk contamination of the ground.

- 8.63. The applicant has responded to the above concern by stating that to date no evidence of underground tanks has been detected. If such tanks were to be present, then they would be removed in advance of any other development. If the Board is minded to grant permission, then this matter could be conditioned.
- 8.64. The appellants also draw attention to the Clochan Stream, which evidently passes to the E of the site.
- 8.65. The Ordnance Survey Street Map of Limerick shows a stream at some remove to the E of the site and, again, at some remove to the N of the site. Appendix A of the applicant's Civil Utilities Planning Report sets out an extract from Irish Water's records, which shows an "unknown" 450mm stormwater sewer on a similar alignment to the said stream to the E of the site. Accordingly, this line appears to be the culverted route of the stream, which runs outside the site.
- 8.66. Under the OPW's flood maps, the site is identified as being at risk of fluvial and tidal flooding from 0.1% AEP events. The applicant has submitted a Flood Risk Assessment (FRA) of the proposal, which draws upon the Shannon CFRAM to conclude that, in the case of tidal flooding, if the nearby canal walls and banks are discounted as flood defence measures, then the site is at risk from 0.5% AEP events. Thus, the 0.1% AEP events would entail overtopping of these measures, while the 0.5% event would entail their failure.
- 8.67. Under the Planning System and Flood Risk Management (PSFRM) Guidelines, the site thus lies within Zone B for the purposes of fluvial flood risk and Zone A for the purposes of tidal flood risk. As the proposal is for redevelopment of the site to provide a residential after use, it is categorised as highly vulnerable development, and so the need arises to run the Box 5.1 Justification Test.
- 8.68. I will draw upon the submitted FRA, as well as the OPW's flood maps, in undertaking the relevant Justification Test below:
- Item 1: Under the CDP, the site is zoned for residential use. Objectives WS.8 & 9 address flood risk and the use of the PSFRM Guidelines.
 - Item 2(i): The site is at risk from 0.1% AEP fluvial and tidal flood events. Under a scenario wherein the above cited off-site flood defence measures fail, the site would be at risk from a 0.5% AEP tidal flood event, too. The proposal

has thus been designed to withstand this scenario, i.e. the finished floor level (FFL) would be 5.3m OD and thus above the projected level of 5.25m OD, which allows for medium term climate change. This finished floor level would entail the raising of existing site levels. The applicant states that compensatory flood storage would not be required, as under the defended scenario, the site is at risk of 0.1% AEP flood events only.

- Item 2(ii): The aforementioned design would ensure that the proposal would be resilient and so it would protect residents against the risk of flooding.
- Item 2(iii): Again, the design of the proposal would safeguard residents against a worst case flood scenario. Furthermore, the vehicular access to the site from Kilmurry Road is shown on the OPW's flood maps as not being the subject of any identified flood risk, thereby facilitating emergency vehicle access.
- Item 2(iv): The proposal would meet other planning objectives for the site, subject to critiques in this respect set out elsewhere in my assessment.

8.69. Under the PA's draft Condition No. 6(a), the FFL would be raised to 5.45m OD in accordance with the request of the Physical Development Directorate. No explanation for this request is provided and so I can only infer that the freeboard of 0.05m, which would be available under the above cited worst case scenario, was considered inadequate and one of 0.20m was deemed to be necessary. The applicant has not appealed/contested this Condition.

8.70. Clearly, Condition 6(a) represents a more cautious approach to the mitigation of flood risk. Consequently, the site would need to be either raised to a higher level or a ramp would need to be introduced to span between the car park and the rear door to the proposed building.

8.71. I conclude that the proposal would be capable of being served satisfactorily by the public water mains and the public foul and surface water sewerage system. I also conclude that, based on a FFL of 5.45m OD, it would pass the relevant Justification Test of the PSFRM Guidelines and thus be compatible with the identified flood risk attendant upon the site.

(viii) Stage 1 Screening for AA

- 8.72. The site does not lie within a Natura 2000 site. The nearest such site is the Lower River Shannon SAC (002165). The site is a fully serviced urban one. I am not aware of any source/pathway/receptor route between it and this, or any other, Natura 2000 site.
- 8.73. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity of the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Conclusion and Recommendation

- 9.1. In my assessment, I noted that the net residential density of the proposal would be high and that its acceptability would hinge on whether this proposal would be compatible with the visual and residential amenities of the area. I also noted that the proposal would comprise an excessive number of two-bed/three-person units and that it would be accompanied by insufficient cycle spaces and no communal amenity space.
- 9.2. In relation to visual and residential amenity, the proposal would entail step changes in scale, which would be most pronounced with respect to the two-storey dwelling house at No. 1 Pennywell Road and the single storey dwelling houses at Nos. 9 & 10 St. Patrick's Court. These changes would not be eased by a set back to the top storey of the proposed building and so they would result in an unduly dominant building within its immediate setting. Furthermore, in the case of the dwelling house at No. 1 Pennywell Road, the said change would result in a demonstrable deterioration in the lighting of a bedroom window.
- 9.3. In relation to the number and composition of apartments in the proposed building, clearly, the former contributes to the high net residential density, while the latter these would fail to achieve a satisfactory mix of sizes. The low number of cycle spaces and the absence of communal amenity space are indicative, too, of an overly high net residential density.

9.4. In the light of the foregoing considerations, I conclude that the proposal would exhibit an excessive density and it would represent an over-development of the site, which would have adverse impacts on both the visual and residential amenities of the area and the standard of amenity that would be afforded to future residents. Accordingly, I recommend that it be refused.

10.0 Reasons and Considerations

Having regard to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, the Board considers that the specification of almost 50% of the proposed apartments as two-bed/three-person units would exceed the cap of 10% on this specification of apartment set out in these Guidelines. As all but one of the remaining units would be one-bed/two-person, the resulting mix of apartment sizes would exhibit a narrow range, which would be heavily weighted towards unduly small apartments.

The proposed building would be mainly of five-storey form. It would entail an abrupt step change in scale with adjacent single storey and two-storey dwelling houses. This building would also have an adverse impact upon the lighting of the dwelling house at No. 1 Pennywell Road. Accordingly, it would be overly dominant and thus seriously injurious to the visual and residential amenities of the area.

The proposed building would be accompanied by insufficient cycle spaces and no communal amenity space. Accordingly, it would fail to facilitate sufficiently a sustainable mode of transport and it would fail to provide a satisfactory standard of amenity for future residents.

In the light of the foregoing critiques, the Board considers that the proposal would exhibit an excessive density and it would represent an over-development of the site. As such it would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

29th September 2020