



An
Bord
Pleanála

Inspector's Report

ABP-309440-21

Development

PROTECTED STRUCTURE: Removal of prefabricated buildings and demolition of the original church, construction of three storey over basement building. Numbers 89, 90, 91 and 92 are Protected Structures – ref. numbers 4444, 4445, 4446 and 4447 in the DCC Record of Protected Structures.

Location

Catholic University School, (CUS)
89,90,91 and 92 Leeson Street Lower,
Dublin 2

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3057/20

Applicant(s)

The Marist Education Authority

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party

Appellant(s)

The Marist Education Authority

Observer(s)

None.

Date of Site Inspection

26/11/21

Inspector

Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The subject site is located c. 1.5km south of Dublin City Centre and includes the Catholic University School, which is located at No's 89, 90, 91 and 92 Leeson Street Lower, Dublin 2. The site also includes buildings to the rear in the form of an educational campus which backs onto Quinn's Lane, Dublin 2. There is vehicular access to the courtyard area of the school from Stable Lane which is accessed off Leeson St.
- 1.2. No's 89, 90, 91 and 92 are Protected Structures – ref. numbers 4444, 4445, 4446 and 4447 in the DCC Record of Protected Structures. These buildings are all identified in the RPS as 'houses' despite their current educational and ancillary uses.
- 1.3. No's 89, 90, 91 and 92 are also identified on the National Inventory of Architectural Heritage (NIAH) with a 'Regional Rating' and a 'Special Interest' category including Architectural, Artistic, and Social. No's 90 and 91 also indicated as Historical. A detailed description and appraisal of each building is identified on the NIAH website¹
- 1.4. The application includes for the demolition of a building used originally as a Chapel/oratory building which is located mainly to the rear of No. 90 Leeson Street. This building is currently used as a gym/sports hall and is not identified on the DCC RPS as a Protected Structure. It is however included on the NIAH under reference number 50930318 and has a 'Regional Rating' and 'Special Interest Category of 'Architectural and 'Artistic'. It is described by the NIAH as-

"Freestanding gable-fronted double-height former chapel, built c. 1927, with seven-bay nave. Single-bay flat-roofed link connecting to recent school building to rear (east). Now in use as sports hall. Pitched natural slate roof with remnants of stone finials to apex of east and west gables. Cast-iron rainwater goods mounted on projecting moulded masonry eaves course (appears concrete) with moulded soffits. Machine-made red brick walling laid in Flemish bond over offset plinth with partial concrete facing to base of south elevation. East and west gabled elevations with open bed pediments, that to west on projecting brick corner piers, framing double-height round-headed central recess having rendered keystone and brick voussoirs. Nave has

¹ <https://www.buildingsofireland.ie/buildings-search/>

regularly spaced round-headed window openings with brick voussoirs, cast-concrete sills and multi-paned metal-casement windows with stained glass and decorative margin lights (largely having storm glazing affixed). Nave window openings are set within arcade of round-headed recesses having cement-rendered keystones and continuous brown brick soldier course to impost level. Square-headed door opening beneath window to south elevation with concrete lintel beneath sill, plain brick surrounds and timber panelled door opening onto entrance platform with three steps to ground level and steel handrail. Square-headed door opening to centre of west elevation framed by panelled brick piers rising to double moulded-concrete cornice, separated by soldier brick courses and having concrete blocking course. Timber panelled double-leaf doors within moulded cast-concrete surrounds and cornice, with inset concrete panel over; 'SUB MARIAE NOMINE', and flanked by inset carved marble fonts. Tripartite semi-circular recessed motif over west doorcase featuring herring-bone brickwork and central niche with carved marble statue of the Blessed Virgin Mary over masonry plinth, having brick surrounds and circular masonry canopy. Single-storey link block to east contains similar walling with roof concealed by rendered parapet, recent casement window and timber and glazed door accessed via bull-nosed masonry steps. Double-height interior containing rendered walls with barrel-vaulted roof having projecting ribs sprung from stylized consoles at impost level, raised galley to western end with dentilled cornice and flush double-leaf timber doors leading to entrance vestibule. Located to rear plot of No. 89 Leeson Street Lower, with the playground of Catholic University School to south."

The Appraisal states-

"Accessed from Leeson Street by a passageway through No. 89, this early twentieth-century chapel was constructed for the Marist Fathers as a school chapel to a design by architects Ashlin & Coleman. Now in use as a sports hall for the Catholic University School, it retains many original details, including fine Art Deco influenced stained glass windows with intricate margin lights and central circular motifs featuring Bible verses. The detailing of the

external brickwork, particularly to the principal (west) elevation, is subtle yet well executed.”

- 1.5. The majority of the senior school buildings including classrooms and administration rooms are located in the buildings laid out in a U-shape towards Quinn’s Lane and in prefabricated structures to the rear of number 89 and to the side of the Chapel. A freestanding Junior School Building is located centrally on the site along its southern boundary and to the rear of No’s 86-88. Some of the basement level rooms to No’s 89 and 90 are used as practical classrooms with other rooms in the 89-92 used for staff purposes. A number of the rooms throughout the upper floor are underutilised and in poor or unsafe condition for uses associated with the school.
- 1.6. The site has a stated area of 4,009 sq.m.

2.0 Proposed Development

2.1. The application comprises of the following-

- the removal of the two storey prefabricated buildings to the rear of No. 91 and 92 Leeson St and north west of the Chapel building,
- the demolition of most of the original Chapel (currently in use as a gym/sports hall) to the rear of No. 89, 90 and 91 Leeson St
- demolition area detailed as 798 sq.m
- construction of a new three storey over basement building (3,530 sq.m) including-
 - retention of the western gable wall of the Chapel to be incorporated into the façade of the new building and linked to the rear of No. 90 Leeson Street Lower by way of a suspended bridge
 - the stained glass windows, standard bricks, the arch bricks and granite elements of the chapel to be salvaged and incorporated into the new building
- The new building will include a gym, library, canteen, class rooms, practical rooms, lecture hall and other ancillary rooms.
- Building No’s 89 + 90 will be refurbished for use as admin and support offices.

- Building No's 91 + 92 will be refurbished for use as 6 residential apartments incorporating-
 - 2 no. 2 bedroomed duplex apartments at ground and basement level,
 - 2 no. 1 bedroomed apartments at first floor level and
 - 2 no. 3 bedroomed duplex apartments at second and third floor levels with other associated ancillary uses in two storey over basement return building at 92.
- The works include the removal of all subterranean ancillary extensions to the rear of 89 to 92. Creation of a soft landscaped garden for the full width of the houses for use by staff and students to the rear of 89 and 90 and to provide private open space for the residential units in 91 and 92.
- modifications to the administration block (Leeson St) to connect this building to the new building.
- Internal modifications to the classroom block at all levels.
- The Exam Hall will be subdivided into Construction Studies rooms
- The existing Canteen will be subdivided into 4 no. Junior School classrooms.
- A temporary construction access is to be formed from Quinn's Lane to the site for the duration of the build.

2.1.1. On the 11/09/20 DCC sought additional information (AI) including-

- a schedule of accommodation for the proposed apartments
- mitigation measures to ensure future residential amenity and private amenity space is safeguarded
- serious concerns expressed regarding the demolition of the church building, the Applicant was requested to retain the services of a Grade 1 Conservation Architect
- sufficient reassurance that the demolition of the existing church building is justified and that any proposed replacement building is of exemplar design

quality to justify the proposed replacement of the historic church at this location.

- submitting fully detailed plans, sections and elevations which include a revision of the design proposal that takes into account the refurbishment and adaptive re-use of the Church building
- A number of specific conservation issues-
 - a) A comprehensive and detailed photographic cross referenced against a drawn record of the extant Church including internal rooms, with historic fabric and architectural features identified.
 - b) Specific information on how new work and how conservation repairs shall be carried out to both the Church and to the Protected Structures. Including all conservation structural repairs required.
 - c) Detailed drawings that co-ordinate all works to the fabric of the Church.
 - d) In order to ensure protection and conservation of the features of historic and architectural significance to the Protect Structure similar information is required as for the church. The AHIA to be updated accordingly.
 - e) Revised proposals that show the following:
 - The proposed new staircases throughout the scheme shall be either omitted or relocated to a more appropriate location – such as within the historic staircase area.
 - The proposed location of ensuites and kitchenettes in the historic rooms throughout shall be revised including a number of identified rooms.
 - f) kitchenettes shall be revised to ensures the view from the historic rooms to the windows is not blocked.
 - g) annotated drawings of the fabric removal that will be required to accommodate ductwork as well as identification of proposed ductwork, flues / extracts, water supply and drainage routes. as identification of proposed ductwork,

2.1.2. On the 18/12/21 the applicants submitted their response to the FI request which included the following-

- Proposals for 10 residential apartments in No. 91 & 92-
 - 6 no. 1 bedroomed apartments
 - 4 no. 2 bedroomed apartments²
- Appointment of a Grade 1 Conservation Architect
- Updated Architectural Heritage Assessment
- Landscape Design Rationale
- A Structural/ Civil Engineering assessment of the Church building retention.
- Details of Lighting team proposed for external areas around new build
- Robust reasoning why it is not possible to maintain the church building and to accommodate the clients brief
- Revised layouts to all floors within 91-92 Leeson St Lower
- Maintenance of kitchenettes within 'Pod Structures' with reconfigured layouts addressing concerns over views of rooms

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission on the 22/01/21 for two reasons which can be summarised as follows-

1. The proposed new building is not considered of exemplar design quality to justify the proposed demolition of the church building to the rear of Protected Structures and would result in a significant and unacceptable loss of original historic fabric. The proposal would seriously injure the special architectural

² Section 8 of the Planning Design Report submitted in response to Additional Information sets out a schedule of accommodation that suggests 5 one bed and 5 two bed apartments i.e. apartment No. 8 on the first floor of No. 92. Drawing No. 18.15.18P clearly shows this apartment is a one bedroom. For the purpose of this assessment, it is the proposal as set out in the drawing that is considered.

character and integrity of the existing church building and nearby Protected Structures.

2. The proposed alterations to the interior of Protected Structures do not relate sensitively to the original structure, nor are they sensitive to the historic fabric and special interest of the interior. The works to the interior would create an undesirable precedent and would be contrary to the Development Plan and the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer (22-01-21) reflects the decision of the Planning Authority. The following is noted from the report-

- There are serious reservations regarding the proposed demolition of the historic church building. The existing church has a distinctive urban form and composition which sits comfortably to the rear of Protected Structures at 89-92 Leeson St.
- The proposed new building is not considered of exemplar design quality to justify the proposed demolition of church building and would comprise a series of unsympathetic and inappropriate interventions which would result in a significant and unacceptable loss of original historic fabric.
- The design would seriously injure the special architectural character and integrity of the existing church building and nearby Protected Structures, would create an undesirable precedent for similar type development and would therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.
- There is also a significant concern that the proposed interventions to the Protected Structures would be unsympathetic to the legibility of the historic floor plan and would permanently compromise their special architectural character.

- The proposal would therefore be contrary to Section 11.1.5.3 and Policies CHC2 and CHC4 of the Dublin City Development Plan 2016-2022 which seeks to protect the special interest of Protected Structures and discourage any development which would not relate sensitively to the Conservation Area.

4.2. Other Technical Reports

- Drainage Division- No objections subject to conditions
- Transportation Planning- No objections subject to condition
- City Archaeologist- No objections subject to condition
- Conservation Officer-
 - Two reports on file. The first dated 04/09/20 recommended Additional Information. The second report dated 19/01/21 and signed the 20/01/21 recommended permission should be **refused**. The second report details-
 - The applicants submitted a copy of an email from DCC from 2011. This email was written within the context of the 2011-17 Development Plan. The policies of the current development plan take precedence.
 - Serious concerns are raised by way of the developments bulk, massing, proximity of the Protected Structures, selection of materials and detail, as well as the demolition of the Chapel Building. The proposal would cause serious injury to the setting of the Protected Structure and the special architectural character of the site.
 - The Chapel forms part of the curtilage of Protected Structures and is located within a designated Z8 Conservation Area. Policy 16.10.17 Retention and Re-Use of Older Buildings of Significance which are not Protected applies.
 - The refurbishment and reuse of the existing church building is preferable to its demolition and construction of a new building.

- The justification of the removal of the Church building has not been adequately demonstrated, especially as an assessment of its significance has not been included in the submitted AHIA.
- The fact the building has not been given an individual Protected Structure reference number appears to be the primary reason why the Chapel has been identified for demolition. The protection of buildings at 89-92 extends to all significant internal and external fabric lying within the curtilage of the property.
- Many examples of the reuse of ecclesiastical and institutional buildings have been demonstrated across the city where the historic building has evolved with the change of use e.g. the subject building was repurposed as a gym.
- The applicant was requested to submit fully detailed plans, sections and elevations which included a revision of the design proposal that takes account of the refurbishment and adoptive reuse of the Church building to meet the schools brief in lieu of demolition. This was not submitted as part of the AI request.
- It would have been preferable to have reconsidered the design strategy to develop a scheme that would be wholly more sensitive and appropriate for this historic site and which would be subservient to the Protected Structures and significant structures such as the Church itself.
- It would be more appropriate to relocate some educational facilities within the Protected Structures. It would have been preferable for a separate new building to the rear of the site to form a quadrangle to the buildings along Quinn's Lane and for more sensitive reuse within the Chapel.
- The AHIA submitted at AI stage is more comprehensive. However the applicants contention that the loss of the chapel will be mitigated by retention of stained glass window and their display in the proposed building is not agreed with. The salvage of bricks, arch bricks and granite elements of the chapel and

their incorporation within the new build is not an appropriate mitigation strategy and is contrary to good conservation practise.

- The introduction of apartments to the Protected Structures is considered appropriate in principle.
- Minimal information regarding the current detail, significance and condition of the structures and proposed works are provided. The significant level of fabric removal has not been satisfactorily identified on the drawings.
- The applicant was requested at FI stage to update the AHIA with detailed information on how work and conservation repairs should be carried out and detailed drawings that coordinate structural interventions, service installation and general upgrading and repair work to the fabric of the structures. This was not submitted.
- The proposal neither relates sensitively to the architectural detail, scale, proportions and design of the original structure, nor is it sensitive to the fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures, fittings and materials.
- The proposal is unsympathetic to the legibility of the historic floor plan of the Protected Structures.
- The applicants have revised the proposal for staircases as requested at FI stage.
- The applicants were requested to revise the ensuite and kitchenettes in historic rooms. They were also requested to revise the kitchenette to ensure the views from historic rooms to the windows would not be blocked. The applicants have not revised the floor plans as requested. The kitchenettes/bathroom enclosures are located in the centre of historic rooms over all floors compromising the eligibility of the spaces. The introduction of kitchenettes/bathroom in these rooms will cause

permanent serious injury to the special architectural character and legibility of the rooms.

- In order to assess the impact of services on the fabric of the structures the applicant was requested to submit annotated drawings of the fabric removal that would be required to accommodate ductwork as well as identification of proposed ductwork, flues/extracts water supply and drainage routes. This information was not submitted.

4.3. Prescribed Bodies

- TII- Recommends section 49 levy if applicable

4.4. Third Party Observations

- None

5.0 Planning History

This Site-

- 3321/17 (249289)- Removal of roof of school, provision of two extra storeys and 1 part storey with extensions to stairs, landings and corridors, new internal layouts and firefighting entrance Notification of **Grant** by DCC 28/08/17

Appeal of Condition 2 and 3 the terms of the Development Contribution Scheme and the Supplementary Development Contribution Scheme. The Board determined they had been properly applied in respect of condition number 2 and 3. **Attach conditions** 24/04/18

- 2313/13- An extension to the east of existing three storey detached educational block (449.78m²) at ground, first and second floor plus an additional storey above to create a four storey detached block- **grant** 22/04/13

6.0 Policy Context

6.1. Planning and Development Act 2001-21

6.1.1. Section 2- Interpretations-

- *“Protected Structure”* is defined as-

(a) a structure, or

(b) a specified part of a structure,

“which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition”

- *“attendant grounds”* is defined as-,

“in relation to a structure, includes land lying outside the curtilage of the structure”

- *‘Structure’* is defined as-

“any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and.....

(b) in relation to a protected structure....., includes-

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

*(iii) any other structures lying within that curtilage and their interiors,
and*

*(iv) all fixtures and features which form part of the interior or exterior of
any structure or structures referred to in subparagraph (i) or (iii);”*

6.1.2. Section 57 (10) (b)-

‘A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.’

6.2. Ministerial Guidelines

6.2.1. Architectural Heritage Protection – Guidelines for Planning Authorities 2011. The following sections are relevant-

- Section 2.44-

“The Minister may make recommendations regarding individual structures at any time. In addition, where an NIAH survey has been carried out, those structures which have been attributed a rating value of international, national or regional importance in the inventory will be recommended by the Minister to the planning authority for inclusion.”

- Chapter 6- Development Control-

- Section 6.8.5-

“In urban areas, careful consideration needs to be given to proposals for the construction of rear extensions to protected structures and buildings within ACAs. Rear elevations sometimes contain fabric that is useful in reading the history of the structure, for example surviving older windows or doors. The effect of extensions may have considerable impact on the appearance of buildings or on the setting of neighbouring buildings, or indeed on the appearance of the structure when viewed from a distance (or a set of similar structures such as in a terrace), and this should be considered by the planning authority when assessing applications.”

- Section 6.8.2

“If planning permission is to be granted for an extension, the new work should involve the smallest possible loss of historic fabric and ensure that important features are not obscured, damaged or destroyed. In general, principal elevations of a protected structure (not necessarily just the façade) should not be adversely affected by new extensions. The design of symmetrical buildings or elevations should not be compromised by additions that would disrupt the symmetry or be detrimental to the design of the protected structure.”

- Sections 6.8.11-

‘Where a proposal is made to demolish such a structure, it requires the strongest justification before it can be granted permission and will require input from an architect or engineer with specialist knowledge so that all options, other than demolition, receive serious consideration.’

- Section 6.8.13

‘Caution should be used when considering proposals to demolish parts of protected and proposed protected structures as these parts may be of importance to the cumulative historic interest of a building. Where partial demolition of a protected structure is proposed, the onus should be on the applicant to make a case that the part – whether or not it is original to the structure – does not contribute to the special interest of the whole, or that the demolition is essential to the proposed development and will allow for the proper conservation of the whole structure.’

- Section 6.8.17

Façade retention or the demolition of the substantive fabric of a protected structure behind the principal elevation, is rarely an acceptable compromise, as only in exceptional cases would the full special interest of the structure be retained.

- Chapter 7- Conservation Principles

- Section 7.12.1

“The use of processes which are reversible, or substantially reversible, when undertaking works to a protected structure is always preferable as this allows for the future correction of unforeseen problems, should the need arise, without lasting damage being caused to the architectural heritage.”

- Chapter 11- Interiors

- Section 11.1.3

“Items to consider in the assessment of an interior include:

a) Does the structure retain its original plan-form?

b) If not, are there any alterations or additions of interest?

c) Have the proportions of the rooms or spaces been altered? Have they been damaged by alteration, improved or merely changed?

d) Are there any interesting, planned relationships between rooms or spaces, such as enfilades, processional routes, industrial processes and the like? Have these been altered or interrupted by changes or created out of previously existing spaces?

e) Is there a hierarchy to the various spaces? How do the principal spaces relate to the subsidiary ones; for example, dining rooms to kitchens or banking halls to offices?

f) Are there elements of interest in the interior such as early iron and concrete floors, timber stud partitions, lath-and-plaster ceilings, exposed roof trusses?

h) Is there any joinery of quality such as internal doors, window shutters, skirting boards, dado rails, architraves, wall panelling?

i) Are there finishes of interest to flooring, walls or ceilings?

j) Are there any surviving original or good quality decorative schemes? These might include limewash, paint, wallpaper, wall-paintings, painted ceilings, tiling, gilding, and other finishes.

k) Are there any fixtures or features which are original to the building or of architectural or historical interest; for example fireplaces, counters or benching?

l) Is there surviving machinery connected with a building's present or former use, such as milling machinery, early lifts or dumb waiters?

○ Section 11.2.9

"The cutting of old timber joists for new services should be avoided or kept to a minimum."

○ Section 11.2.17

"Where new partitions are proposed, they should be installed in such a way that they can be removed at a later stage with little or no damage to the historic fabric. New partitions should not cut through decorative

plasterwork, finishes or joinery but be scribed around them with extreme care and accuracy. The installation of new partition walls should generally be avoided in high-quality interiors.”

- Section 11.5.1

“The introduction or alteration of services within the interior of a protected structure requires extremely careful consideration in advance.”

- Section 11.5.4

“Alterations connected with service installations should be reversible and should not involve the loss or damage of features such as floor finishes, skirting, dados, panelling or doors.

- Section 13.1.1-

“By definition, a protected structure includes the land lying within the curtilage of the protected structure and other structures within that curtilage and their interiors. The notion of curtilage is not defined by legislation, but for the purposes of these guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure.”

- 6.2.2. Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2020); The following Sections and Specific Planning Policy Requirements are relevant-

Section 1.19 states-

‘...An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.’

Section 2.4- 1) Central and/or Accessible Urban Locations

Such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:

- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;*
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and*
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.*

The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other relevant planning factors.

Section 2.15 states-

In accordance with Section 28 of the Planning and Development Act 2000, as amended, planning authorities must apply the standards set out as planning policy requirements in these guidelines, notwithstanding the objectives and requirements of development plans, local area plans and SDZ planning schemes.

Specific Planning Policy Requirement 1 states-

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.....

Specific Planning Policy Requirement 3 states-

Minimum Apartment Floor Areas:

- 1-bedroom apartment (2 persons) 45 sq.m
- 2-bedroom apartment (4 persons) 73 sq.m
- 3-bedroom apartment (5 persons) 90 sq.m

Section 3.7 states-

'...no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three person apartment'

Section 3.8 deals with Safeguarding Higher Standards and states-

In the interests of sustainable and good quality urban development these guidelines should be applied in a way that ensures delivery of apartments not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a requirement that:

- a) The majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)*

Specific Planning Policy Requirement 4- Dual Aspect

In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

(i) A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in.

(iii) For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33%

minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.

Specific Planning Policy Requirement 5- Ground Floor Ceiling Height

1. Ground floor apartments a minimum 2.7m, for urban infill schemes on sites of up to 0.25ha , planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

Specific Planning Policy Requirement 6- Apartments per core

2. Maximum provision of 12 apartments per core, maybe increased for urban infill schemes on sites of up to 0.25ha subject to quality.

Section 6.13

....planning applications for apartment development shall include a building lifecycle report which in turn includes an assessment of long term running and maintenance costs as they would apply on a per residential unit basis at the time of application, as well as demonstrating what measures have been specifically considered by the proposer to effectively manage and reduce costs for the benefit of residents.

6.2.3.

6.3. Dublin City Development Plan 2016-2022

6.3.1. The site is zoned Z8 Georgian Conservation Areas with a zoning objective to-

To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.

The Development Plan details that Lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian Squares and streets. The aim is to protect the architectural character/design and overall setting of such areas. Education and Residential are listed as Permissible Uses in this area.

6.3.2. The terrace of buildings to the west of the site along Leeson St Lower are Protected Structures. These are No's 89, 90, 91 + 92 and are recorded on DCC's Record of Protected Structures as Ref. No's 4444, 4445, 4446 and 4447. These are all recorded as Houses in the RPS.

The following sections and policies of the Development Plan are of particular relevance-

Section 11.1- Built Heritage

Policies-

- *CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.*
- *CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:*
 - (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest*
 - (b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances*
 - (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials*
 - (d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.....*
- *CHC5: To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas. The City Council will resist the total or substantial loss of:*

• Protected structures in all but exceptional circumstances (and will require the strongest justification, including professional input with specialist knowledge so that all options receive serious consideration).....

.....In all cases, demolition will only be permitted where:

1. Any replacement building will be of exceptional design quality and deliver an enhancement to the area and improvement in environmental performance on-site, taking into account whole life-cycle energy costs.

Section 11.1.5.3- Protected Structures – Policy Application

“In order to protect the city’s Protected Structures, the City Council will manage and control external and internal works that materially affect the character of the structure....

.....Interventions to Protected Structures should be to the minimum necessary and all new works will be expected to relate sensitively to the architectural detail, scale, proportions and design of the original structure. This should take into account the evolution of the structure and later phases of work, which may also contribute to its special interest.

..... The original plan form of protected structures should be protected or re-instated and not compromised by unsympathetic alteration or extension.

.....

The curtilage of a Protected Structure is often an essential part of the structure’s special interest. In certain circumstances, the curtilage may comprise a clearly defined garden or grounds, which may have been laid out to complement the design or function. However, the curtilage of a structure can also be expansive and can be affected by development at some distance away. The protected structure impact assessment should also include an appraisal of the wider context of the site or structure and the visual impact. The design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure. The traditional proportionate relationship in scale between

buildings, returns, gardens and mews structures should be retained, the retention of landscaping and trees (in good condition) which contribute to the special interest of the structure shall also be required. Any development which has an adverse impact on the setting of a protected structure will be refused planning permission.....

6.3.3. The site is zoned Z8 and is located within a red hatched Conservation Area on the zoning map. Section 11.1.5.4 of the Development Plan deals with Conservation Areas and details that DCC will seek to ensure that development proposals within all Conservation Areas complement the character of the area, including the setting of protected structures, and comply with development standards. The following sections and policies of the Development Plan are of particular relevance-

Section 11.1.5.4-

The policy mechanisms used to conserve and protect areas of special historic and architectural interest include:

- Land-use zonings:*'and the red-hatched areas shown on the zoning objective maps'.....*
- Architectural Conservation Areas:.....*are intended to preserve the character of townscapes that are of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest.*

The policy to ensure the conservation and protection of the areas of special historic and architectural interest is as follows-

It is the Policy of Dublin City Council:

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.....

... Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area

2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail

3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors

4. Harm the setting of a Conservation Area

5. Constitute a visually obtrusive or dominant form

6.3.4. Part of the site towards Leeson St. where the No's 89-92 are located is located within the identified Zone of Archaeological Interest on the Development Plan zoning map.

6.3.5. Section 16.10.17 Retention and Re-Use of Older Buildings of Significance which are not Protected

The re-use of older buildings of significance is a central element in the conservation of the built heritage of the city and important to the achievement of sustainability. In assessing applications to demolish older buildings which are not protected, the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.

Where the planning authority accepts the principle of demolition a detailed written and photographic inventory of the building shall be required for record purposes.

6.3.6. The following policies and objectives of the Development Plan are considered relevant-

- Policy SN10- To facilitate the provision of new schools, school extensions and third-level institutions and to have regard to the provisions of the DoEHLG and DES (2008).
- SN13: To facilitate multi-campus-style school arrangements, where appropriate, in close proximity to residential neighbourhoods and public transportation routes, and to promote an urban typology of school building design sustainable in a city context and which responds to the local character or streetscape and reflects the civic importance of a school to a local community.
- Objective SNO3: To actively assist and liaise with the DES in the provision of new schools where there is a demand for such and to facilitate any potential expansion of existing schools throughout the city.
- Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities.
- Policy QH5 - addressing housing shortfall through active land management;
- Policy QH6 - sustainable neighbourhoods with a variety of housing;
- Policy QH7 - promotion of sustainable urban densities;
- Policy QH18 - support the provision of high-quality apartments;
- Policy QH19 - promote the optimum quality and supply of apartments.

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

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 12.5.4 - Schools and Educational Facilities-

An urban school typology which achieves an efficient use of scarce urban land, responds positively to the streetscape and contributes to the identity of a neighbourhood, will be actively promoted and especially so with regard to the restricted nature of many inner city school sites. Innovative contemporary design solutions which may include roof top or terrace play decks and linkages to neighbourhood or pocket parks, with an emphasis on sustainable

travel patterns for pupils and staff, will be encouraged to deliver exemplars of solutions to inner city school building design.

- Section 16.2 - Design, Principles & Standards;
- Section 16.10 - Standards for Residential Accommodation
- Section 16.16 - Schools
- Section 16.38 and Table 16.1 - Car Parking Standards (Area 1 / Zone 1 - maximum of '1 per dwelling' and none for schools).
- Section 16.39 Cycle parking Standards- Area 1 / Zone 1 – 1 per unit dwelling', 'Primary Schools' one per pupil and 'Other Educational Buildings' 1 per 3 pupils/students).

6.4. Natural Heritage Designations

6.4.1. The site is

- c. 3 km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).
- The site is c. 6 km south west of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006).
- The site is c. 380m north of the Grand Canal Proposed Natural Heritage Area.

6.5. EIA Screening

6.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.

6.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

- 6.5.3. The application proposes 10 residential units in the form of refurbishment of existing buildings. The site has an overall area of 4,009 sq.m (0.4 ha) and is located within an existing built up area. The site area is therefore well below the applicable threshold of 2 ha.
- 6.5.4. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The site is located within a designated Z8 Conservation Area and includes a number of Protected Structures. Significant information has been submitted by the applicants including an Architectural Heritage Impact Assessment and I am satisfied that the extent and nature of the development proposed would have no significant adverse direct, indirect or cumulative effects on cultural heritage- that would warrant the submission of a subthreshold EIA.
- 6.5.5. The proposed development is not likely to have a significant effect on any European Site (as discussed below in section 8.7) and there is no hydrological connection such as would give rise to significant impact on existing watercourses nearby (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from the existing and/or other development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would not be significant.
- 6.5.6. Having regard to the above I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an Environmental Impact Assessment Report for the proposed development is not necessary in this instance (See Preliminary Examination EIAR Screening Form).

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal has been received from the applicants. The grounds of appeal can be summarised as follows-

- DCC have adopted a narrow rather than a broad conservation view in reaching their decisions. After years of meetings and consultations it was understood that a consensus on how to proceed had been reached and was confirmed in an email from a Senior Planner with DCC in November 2011. A copy of the email is enclosed.
- The content of the email is set out, as well as the applicants position on each point. The email details a significant new build to the rear may or may not require the demolition of the former oratory. The applicants were requested to explore the option of retaining/integrating the oratory as a link between the old and the new. Demolition can be considered only if it can be demonstrated that the retention of the oratory is not feasible and compromises the delivery of high quality educational facilities on site.
- The proposal is a Masterplan solution for the entire campus with Administration and Staff in No's 89 and 90, Residential units in No's 91 and 92, a consolidation of all classrooms within the existing classroom block and a new build for all specialist spaces.
- The applicants take issue with the planning authority's assertion that the existing church building has a distinctive urban form and composition which sits comfortably to the rear of Protected Structures at 89-92 Leeson Street.
- The building has not been a church for 29 years and is now in use as a sports hall. Internal fixtures have been stripped. Its original purpose and symbolism has given way to its practical use. It is considered the proposal complies with the principles of CHC5 of the Development Plan.
- The location of the building is awkward as it divides the available space at the rear of the Protected Structures and is positioned end on to the rear of the Georgian terrace. This is far from a distinctive urban form and the relationship between the buildings is haphazard.
- DCC have had the option of adding the building to its record of protected structures. It is assumed this was not done to facilitate the future development of the school.

- The applicants propose the removal of the building with reluctance after considering a number of design alternatives. If the building was suitable as a sports hall, assembly room, canteen etc then this option would be adopted, if only on pragmatic grounds of costs and sustainability.
- The proposal identifies the key building elements of significance i.e. the entrance façade and stained glass windows, which shall be retained and relocated within the proposal. It is inconsistent not to add the building to the RPS and to refuse with reference to historic building fabric.
- It is accepted that the building is within the setting of protected structures at 89-92 Leeson Street. The removal of the building and construction of newer taller buildings will inevitably create new building relationships. The protected buildings are not disadvantaged under the proposals and the functioning of the school will further enhance the usefulness of the buildings. The proposal will also comply with the essential requirements of the Department of Education and Skills. The improvements are dependent on the removal of the building and clearance of the site.
- It is difficult to understand how the proposal with extensively landscaped areas will impact in a detrimental way on the Protected Structures. A video presentation is included with the submission.
- The school has a long tradition in Leeson Street. It generates a great deal of activity which benefits the street and the city.
- A letter is enclosed from the Administrator of the Marist Fathers which indicates the commitment to retain the school at this location only if facilities can be upgraded to comply with the highest standards.
- In relation to the second refusal reason, the Additional Information submission proposed the retention of the existing staircases in their original locations and the provision of single bedroom apartments, one for each floor. This eliminated the need for duplex level apartments.
- The retention of existing interiors, original plasterwork and details were achieved through proposed pods units with bathrooms and kitchen facilities. Services would run under new raised floors in the bedroom section of each

apartment, thus eliminating notching of joints or interfering with plasterwork. A video demonstration of the design is submitted.

- The pods are 2.5m high in rooms with floor to ceiling heights of 3.6m and 4m. They will read as items of furniture leaving substantial views through from the front to back of these spaces. A similar proposal was permitted by DCC at 2, 3 and 4 Wilton Place in similar Georgian houses.
- A detailed Architectural Heritage Assessment (AHIA) prepared by Deaton Lysaght Architects (Grade one Conservation Architect) was submitted at FI stage. This identified the special significance of No. 89 within categories of Artistic, Architectural, Historical and Social. Its rating is regional according to the NIAH. A key conservation design principle with minimal intervention to preserve its special interest is detailed in the AHIA. The document demonstrates the conversion of 91-92 would be achieved with little if any impacts on the building fabric. The provision of residential apartments is compliant with the development plan and the principles of conservation.
- The intermediate change of level in No. 90 was installed for functional reasons, this is a pre-existing alteration. No changes are proposed to this arrangement. It is an important circulation route for the school.
- The key design approach to the protected structures is in accordance with section 1.1.2 of the 'Architectural Heritage Protection Guidelines for Planning Authorities'.
- There are no third party observations, submissions or objections to the proposal. There are no drainage, transportation or archaeology interdepartmental objections.
- The appeal is accompanied by letters from the Board of Management of the school and the Administrator of the Marists Fathers of Ireland.
- The appeal includes a report from Horgan Lynch providing a structural/civil engineering assessment of the retention of the Chapel Building. It details there are no engineering solutions that would enable retention of the building and adequate spaces to be developed at the proposed lower levels. They would also impose significant space planning restrictions at upper levels due

to the extent of existing walls and roof structures. Retention of the original chapel entrance elevation remains the only feasible engineering arrangement that allows the development of the required school spaces within the proposed block space envelope.

7.2. **Planning Authority Response**

- None

7.3. **Observations**

- None

8.0 **Assessment**

8.1. **Introduction**

8.1.1. I have examined the application details and all other documentation on file, including the submissions and observations received in relation to the appeal. I consider the substantive issues for assessment arising from the application and the grounds of appeal relate to the following matters-

- Zoning and the Principle of Development
- The Chapel Building
- The Proposed Building
- No's 91 and 92 Leeson Street and DCC's second refusal reason
- Apartment Standards
- Appropriate Assessment

8.2. **Zoning and the Principle of Development**

8.2.1. The site is zoned Zone Z8 Georgian Conservation Areas with a Land-Use Zoning Objective-

To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.

The Development Plan details-

The aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time.....

In the south Georgian core where residential levels are low, it is the aim to encourage more residential use in the area.

- 8.2.2. The application is essentially for an extension to and existing educational use and return of two buildings to residential use. Education and Residential are both 'Permissible Uses' within this zoning and accordingly the proposal is consistent in principle with the zoning.

8.3. **The Chapel Building**

8.3.1. **Background to Application and Appeal**

- a) The Planning Authority's first refusal reason relates to the demolition of the existing Chapel building which they detail has a distinctive urban form and composition which sits comfortably to the rear of the Protected Structures on Leeson Street. It considers the development will result in a significant and unacceptable loss of original historic fabric.
- b) The DCC's Conservation Officer's report specifically details that *justification for the removal of the Church building has not been adequately demonstrated, especially as an assessment of its significance has not been included in the AHIA*. The application was originally accompanied by an Architectural Heritage Value Appraisal document prepared by Shaffrey and Associates. This document appears to have been prepared at the time of the DCC Development Plan 2011-17 as per section 4.0. I note section 5 of this appraisal carries out an Assessment of Significance of No's 89-92 and includes an 'Assessment Criteria' which also addresses the Chapel building (former oratory). The assessment then provides floor plans of No's 89-92 and

details the significance of each. This section does not include a specific assessment of the Chapel Building.

- c) An Assessment of Significance of the Chapel Building is provided in section 5.1 of the AHIA and identifies key features of architectural and artistic significance i.e. the stained glass windows and the brickwork of the west façade to be retained. The assessment does not make reference to the other elevations or any of the internal fabric of the building. An appraisal of the removal of most of the building is set out in section 5.2 of the AHIA and states it has a '*negative conservation impact*' but retention of the west façade and salvaging and display of stain glass windows and reuse of brick and other listed materials from the other facades are mitigating factors.
- d) The applicants argue in the appeal that after years of meeting and consultations they had reached a consensus on how to proceed with the development of the site. They refer to confirmation of this in an email from DCC date the 25th of November 2011. They also take issue with the Planning Authority's assertion that the Chapel Building has a distinctive urban form. They consider DCC could have added the building to its RPS, but did not do so and is assumed this was to facilitate the development of the school.
- e) I have reviewed the email between DCC and the applicants dated 25th of November 2011. I note that this was sent at the time when the previous Development Plan was in force. I also do not see any firm commitment in the email to permit the demolition of the chapel building. The email details that the buildings demolition will be considered only if it can be clearly demonstrated that the retention of the oratory is not feasible and compromises the delivery of high quality educational facilities.

8.3.2. Protected Status of the Chapel Building

- a) The subject Chapel Building is not designated a Protected Structure with a standalone RPS reference number. However, it is located in very close proximity to the rear of No's 89-92 Leeson St, which have been identified on DCC's Record of Protected Structures (RPS). All four buildings have individual records and are described in the RPS as 'houses'.

- b) Section 5.2 of the Architectural Heritage Value Appraisal document submitted with the original application states the Chapel building (former oratory)-

“... . lies within the curtilage of a Protected Structure (or indeed four Protected Structures), it may be deemed to benefit from protection despite lacking its own specific listing.”

- c) It is necessary to consider the legal interpretations of ‘Protected Structure’, ‘Attendant Ground’ and ‘Structure’ as set out in the Planning Acts and summarised in section 6.1.2 above.
- d) Section 13.1.1 of the Architectural Heritage Protection Guidelines for Planning Authorities details the following in relation to curtilage-

“.....for the purposes of these guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure”

- e) Having visited the site it is clear that the original site plots of each of the four houses to Leeson St and their settings have been fundamentally altered from their original form. Section 2.1 of the AHIA details that the likely date of the development of the houses was between 1787 and 1811. Section 2.2 suggests that No. 89 changed use from residential to educational by 1859 with the Catholic University School (CUS) opening in 1867. The AHIA suggests that No. 90 was incorporated into the CUS between 1874 and 1880. Figure 2.6 shows an 1880 Ordnance Survey Map which suggests the original site plots of each property, including landscaped gardens to rear of No’s 89 and 90. Figure 2.9 of the AHIA shows a photograph of these gardens c.1926 before construction of the Chapel.
- f) Section 2.3 of the AHIA indicates that No’s 89 and 90 also served residential purposes for the Marist Fathers with 10 residents. No’s 91 and 92 were jointly a hotel from c.1912 and continued as such until c. 1960. The AHIA then details the buildings were incorporated into the school complex by the mid-twentieth century.
- g) Page 14 of the AHIA details that the Chapel building was constructed in 1927 and accessed through No. 90 Leeson St. The AHIA refers to an article on the

building in the Catholic University School (CUS) annual of 1928. The AHIA details that the Chapel building is now in use as sports hall by the school. Based on this information in the AHIA, it is clear the use of the Chapel since its construction has been ancillary to the established educational use of No's 89 and 90 Leeson St. before, at the time and after they became protected and more latterly to No's 91 and 92. I am satisfied the building is within the curtilage of the Protected Structures as detailed in Section 13.1.1 of the Architectural Heritage Protection Guidelines.

- h) The Chapel building clearly falls under the interpretation of 'Structure' of the Planning Acts and in particular I note the same interpretation provides clarity relating to Protected Structures i.e. a 'structure' on land lying within the curtilage of the Protected Structures. Therefore I agree with the view put forward by the DCC's Conservation Officer on page 5 of their second report and the opinion detailed in Section 5.2 of the Architectural Heritage Value Appraisal submitted by the applicant i.e. the Chapel building does benefit from the same protection as the Protected Structures.

8.3.3. The Significance of the Chapel Building

- a) The Architectural Heritage Value Appraisal document submitted with the original application appears to date back to the previous Development Plan period of 2001-17. Section 5.2 details that using the criteria of the National Inventory of Architectural Heritage (NIAH) the Church building would have a rating of Local if not Regional Importance given its association with a noted architecture firm and the quality of its design.
- b) The National Inventory of Architectural Heritage (NIAH) is a state initiative with statutory functions under the administration of the Department of Housing, Local Government and Heritage. It was established to identify, record, and evaluate the post-1700 architectural heritage of Ireland as an aid in the protection and conservation of architectural heritage.
- c) The Chapel Building has been surveyed and identified by the NIAH (presumably since the preparation of the Architectural Heritage Value

Appraisal). The building has been given a rating of 'Regional' and with 'Categories of Special Interest' listed as 'Architectural' and 'Artistic'³.

- d) Section 2.4.4 of the Architectural Heritage Protection Guidelines details that Structures which are given a 'Regional Rating' are recommended by the Minister to the relevant local authority for inclusion on the RPS.
- e) Accordingly, I am satisfied that the Chapel Building is of significant architectural heritage value and should benefit from the protection afforded to 'Structures' located within the curtilage of the protected buildings at No's 89-92 Leeson Street.
- f) The Board are advised that Section 57 (10) (b) of the Planning and Development Act 2000-21 (as amended) states-

'A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.'

8.3.4. The Architectural Heritage Protection Guidelines for Planning Authorities

- a) Chapter 6 of the Architectural Heritage Protection Guidelines deals with 'Development Control' and provides a number of sections on 'Demolition'. These detail that proposals to demolish such structures require the strongest justification and that all options, other than demolition, should receive serious consideration.
- b) Section 6.8.13 cautions against proposals to demolish parts of protected structures which may be important to the cumulative historic interest of a building. It details the onus is on the applicant to make a case that the part to be demolished (whether or not it is original to the structure) does not contribute to the special interest of the whole, or that the demolition is essential to the proposed development and will allow for the proper conservation of the whole structure.'

³ See section 1.4 of this assessment for the NIAH description of the Chapel.

- c) Section 6.8.17 details that Façade Retention, *is rarely an acceptable compromise, as only in exceptional cases would the full special interest of the structure be retained.*

8.3.5. Justification for Demolition

- a) The application proposes demolishing the Chapel building save for the retention of the western gable wall which will be incorporated into the new building. In section 5.2 of the AHIA the applicants clearly detail the demolition will have a '*negative conservation impact*'.
- b) The AHIA also proposes mitigating the loss of the remainder of the building through the salvaging and restoration of the stained glass windows which will then be displayed in the new building. Bricks, arch bricks and granite elements from the Chapel will also be salvaged and incorporated into the new building.
- c) Section 1.2 of the AHIA seeks to justify the removal of the Chapel building. It details its removal is regrettable but necessary in order to provide the required brief for the school on a restricted urban site and maintaining its current city centre location is a key priority. The required dimensions of the sports hall and the necessity of excavating down to provide the facilities required by the Department of Education for a modern school without building above the parapet line of the protected structures necessitates the removal of the Chapel building. If a modern building which provides suitable facilities on site cannot be built in this location the school will have to close.
- d) The applicants have submitted a report from Horgan Lynch Consulting Engineers as part of the appeal considering the potential retention of the entire chapel building. This report details there are no engineering solutions to the retention of the entire Chapel building that would enable adequate school spaces to be developed at the proposed lower levels. It would also impose significant space planning restrictions on any space insertions at upper levels due to the size and extent of the existing robust wall and roof structures. The proposal as applied for remains the only feasible engineering arrangement.

- g) In points 4 and 5 of the request for Additional Information (AI) the Planning Authority requested the applicants to offer sufficient reassurance that the demolition of the Chapel building is justified and to consider revising the design to take into account the refurbishment and adaptive re-use of the building.
- h) The applicants referred to section 6 of their AI response 'Built Form and Design Concept'. In this they set out the school's essential requirements. In order to provide the '*specialist uses required*' and to meet the '*brief dictated by the CUS accommodations needs and curriculum*' the viability and retention of the Chapel building within the design was considered. When this proved unviable retention and incorporation of the southern and western facades were considered. The new building could have been placed within the internal line of the west façade but to retain the southern façade would have a catastrophic impact on room sizes within the new building. The Horgan Lynch report submitted at FI stage details the southern chapel wall is located within the footprint of the proposed basement and would require significant support structures to transfer the weight of the wall to foundations at basement level below. These structures would be substantial and impact significantly on the layouts. The report advises against the retention of the southern wall from '*engineering and risk perspectives in the context of the proposed development*'.
- i) The AI submission also details the footprint of the gym is determined by the Department of Education recommendation of 406 sq.m which is a smaller gym. A larger one of 594 sq.m is impossible to accommodate on the site. As daylight is not essential it is proposed at basement level with a clearance of 7m and ancillary features contributing to a required excavation in excess of 9.5m. The submission details retention of the Chapel building and provision of an additional new building/extension is not viable as the scale required cannot meet the floor area criteria required and would all but eliminate any remaining playground area.

8.3.6. Conclusion

- a) Having considered all of the above and the information on file, I find that-

- The Chapel building is a building of significant architectural value as recognised by the National Inventory for Architectural Heritage. The Chapel is rated of Regional Importance with Architectural and Artistic special interest categories.
- The Chapel building is located within the curtilage of No's 89-92 Leeson St which are designated Protected Structures in the Dublin City Development Plan 2016-22.
- The statutory designation of Protected Structures to No's 89-92 Leeson Street and the definition of 'Structure' as set out in the Planning Acts, includes for the protection of any other structures lying within the curtilage of Protected Structures. This also includes the interiors, and all fixtures and features which form part of the interior or exterior of that structure. In this case that includes for the Chapel Building.
- Policy CHC2 of the DCC Development Plan seeks to ensure that the special interest of protected structures are protected and that development will conserve and enhance the curtilage of Protected Structures.
- Policy CHC5 details the Council will resist the total or substantial loss of Protected Structures in all but exceptional circumstances, demolition behind retained facades may be considered on non-protected structures, depending on the significance of the structures and in all cases, demolition will only be permitted where the replacement building will be of exceptional design quality.
- Section 6.8.11, 6.8.13 and 14.1.3 of the Architectural Heritage Protection Guidelines details there is a presumption in favour of the preservation of all protected structures, only permits demolition of protected structures in exceptional circumstances, seeks to protect the cumulative historic interest of protected buildings and cautions against proposals to demolish parts of protected structures whether original to the structure or not.
- The applicants justification for the demolition of the chapel building centres around-

- the provision of the development as proposed, the engineering constraints in retaining the southern wall of the Chapel and the school's essential requirements and needs for specialised uses.
 - The viability of a separate new building/extension and the scale and floor area criteria required would all but eliminate any remaining playground area.
- b) I am satisfied the Chapel Building's siting to the rear the Protected Structures was primarily due to its ancillary use and function to the educational establishment at No's 89 and 90. I note No's 91 and 92 were not under the control of the school when the Chapel was being constructed and options for its siting would have been limited in the context of the current site boundaries. I consider the siting of the Chapel's does form part of the character of the Protected Structures and represents a significant stage of the school's history and evolution on the site.
- c) I accept that some of the internal fabric of the Chapel building has been lost through its conversion and use as a sports hall over time. However the external fabric remains significantly intact and the value of same is not limited to just the west and southern elevations. Section 6.8.17 of the Architectural Heritage Protection Guidelines details that the demolition of the substantive fabric behind the principal elevation is rarely an acceptable compromise.
- d) The applicants have detailed the footprint of the proposed gym is 406 sq.m (15.6m by 26m). They argue that a separate new building or an extension would not be viable, cannot meet the floor area criteria required and would all but eliminate remaining playground areas. It appears the provision of a footprint of this size creates the most difficulty especially at basement level.
- e) Having visited the site and examined all the documents on file I am satisfied the needs of the school as detailed in the application are beyond question. However, I am not convinced that these needs can only be achieved on this site through the demolition of the Chapel Building which is of significant architectural value. Section 16.8.11 of the Architectural Heritage Protection Guidelines requires that all options, other than demolition should receive serious consideration.

- f) The applicants have not-
- demonstrated exceptional circumstances justifying the demolition of the Chapel building and that the building does not contribute to the special interest of the Protected Structures as a whole as required under sections 6.8.11 and 13 of the Architectural Heritage Protection Guidelines
 - demonstrated that other buildings within the site could not be redeveloped/replaced to facilitate the school needs e.g. the required footprint for a basement level gym would appear to be achievable under the area of the existing Junior School which is not a building of significant architectural value comparable to the Chapel building.
 - specifically addressed DCC's Conservation Officer suggestion of completing the quadrangle towards Quinn's Lane and it would appear an underground gym of the footprint proposed could be provided under the yard area.
- g) I accept there are likely to be significant difficulties with the options above. However the application is relatively silent on these options and serious consideration of all options is required by the Guidelines.
- h) The demolition of the Chapel Building would lead to the substantial loss of a building of significant architectural value that lies within the curtilage of Protected Structures. It is considered that the protection afforded to these would include for the protection of all fixtures and features which form part of the interior and exterior of the Chapel Building. The application has not adequately justified how the remainder of the application site cannot be developed to meet the requirements of the applicants whereby the Chapel Building could be retained. The application does not demonstrate exceptional circumstances in this regard. The development as proposed is therefore considered to be contrary to Policy CHC 2 and 5 of the Dublin City Development Plan, the Architectural Heritage Protection Guidelines and would be contrary to the proper planning and sustainable development of the site and it should therefore be **refused**.

- i) The Board may also wish to consider if they are precluded from granting permission for the development in any event as per section 57 (10) of the Planning Acts.

8.4. The Proposed Building

- 8.4.1. The Planning Authority's first refusal reason also considers the proposed new building is not of exemplar design quality to justify the demolition of the church building. They consider the proposal would be contrary to section 11.1.5.3 and Policies CHC2 and CHC4 of the Development Plan.
 - Policy CHC2 details development will conserve and enhance Protected Structures and their curtilage and should protect form, features and fabric which contribute to the special interest. Proposals should not cause harm to the curtilage of the structure and the design, form, scale, height, etc. should relate to and complement the special character of the protected structures.
 - Policy CHC4 which includes for Z8 Georgian Conservation Area zonings, details development will not involve the loss of traditional, historic or important building forms and features, harm the setting of the Conservation Area or constitute a visually obtrusive or dominant form.
- 8.4.2. The cover letter that accompanies the original planning application provides a brief description and describes the shortcomings of the current school campus. It details that the proposed building and refurbished buildings are required to cater for the existing school numbers and it is not envisaged that these numbers will be increased. The proposed development will provide for a number of classrooms, practical rooms, a library, PE hall and other spaces. Floor areas are to be in accordance with the Department of Education guidelines.
- 8.4.3. The cover letter also details the starting point for the design of the new building is the potential impact on the Protected Structures No's 89-92. The application proposes to soften the impact of the new building by lowering the ground to the rear of the buildings to existing basement level and providing a 10m wide landscaped garden for the entire width of the four protected buildings. This proposal is supported by the submission of a Landscape Design Rationale for the area at AI stage. A bridge from the rear of No. 90 at existing ground level will connect to the new building.

- 8.4.4. The proposed development is essentially a new building but will be located in very close proximity to the rear of No's 89-92. It will also physically connect to the Protected Structures by way of a bridge over the proposed landscaped area. In this regard reference to sections 6.8.2 and 6.8.5 of the Architectural Heritage Protection Guidelines dealing with extensions are considered appropriate.
- 8.4.5. Section 6.8.2 details principal elevations of protected structures (not necessarily just the façade) should not be adversely affected by development. I consider the rear elevations of No. 89-92 to be significant elevations in this regard. Section 6.8.5 details the effect of new development to the rear of Protected Structures. Such developments may have a considerable impact on the appearance of rear elevations (such as in a terrace), and this should be considered when assessing applications.
- 8.4.6. The proposed development involves significant excavations to the rear of the Protected Structures to provide for a basement level gymnasium. The basement level is indicated as -8.35m as per drawing 18.15.13P submitted with the original application. The footprint area will be c. 25m wide by c. 27m deep. The building will present largely as a block in form with a stated height of 17.714m from the basement level and new garden area as indicated on drawing 18.15.12P. This appears to align with the parapet heights to the rears of No. 89-92. The east elevation shown on drawing 18.15.12P shows the impact of the development from Quinn Lane. In order to assess the impact on the rear elevations of No. 89-92 a contiguous elevation drawing from within the site to the rear of the existing chapel building showing the impact of the proposed development from within the school grounds would have been more appropriate than from Quinn's Lane.
- 8.4.7. The application is also accompanied by a video presentation. The presentation provides an appreciation for the new building, which in my opinion is an acceptable design in the context of the existing buildings to the east of the application site and Quinn's Lane and would provide an excellent facility for the school campus as whole. However, it must be noted the video presentation does not show No's 89-92 and the visual impact the development would have on same.
- 8.4.8. Having visited the site I consider the rear elevations of No. 89-92 significantly contribute to the architectural value, the special interest and character of these

structures. The form, scale, bulk and massing of the existing Chapel building is well considered in this context.

- 8.4.9. However the scale, height, bulk and massing of the new building in such close proximity to No's 89-92 would be overbearing, would be visually obtrusive and would significantly reduce the visual appreciation of the rear elevations of the protected structures. The proposed landscaped area is not of sufficient size and depth to address this in the context of the curtilage of the protected buildings. The proposed building at this location constitutes a visually obtrusive and dominant form that does not relate to or complement the special character of the protected structures and as a result would cause harm to the curtilage of the structures. The development would be contrary to Policies CHC2 and CHC4 of the DCC Development Plan and accordingly permission should be **refused**.

8.5. **No's 91 and 92 Leeson Street and DCC's second refusal reason**

- 8.5.1. The proposed development involves works to the existing buildings at No. 89-92 Leeson Street to bring each building back into active uses. The works include the removal of all extensions structures at basement level to the rear of No's 89 to 92 and the creation of a 'sunken' landscaped garden for the full width to the rear of each house. No's 89 & 90 will be refurbished for use as administration and support offices associated with the school. No's 91 & 92 are to be refurbished for use as ten residential apartments following the submission of Additional Information (AI).
- 8.5.2. The Planning Authority's second refusal reason relates specifically to the proposed alterations in No's 91 and 92 to accommodate kitchen and bathroom facilities for the proposed apartments. They consider these works do not relate sensitively to the architectural detail, scale, proportions and design of the original structures including their plan form, hierarchy of spaces, structure and architectural detail, fixture fittings and materials. The works were considered be contrary to section 11.1.5.3 of the Development Plan.
- 8.5.3. The DCC Conservation Officer Report highlights a number of concerns including the requirement for detailed drawings that coordinate structural intervention, service installation and general upgrading and repair work to the fabric of the Protected Structures. These were requested in point 6 of the Additional Information request but

have not been submitted. I note many of these concerns have not specifically been provided for in the second refusal reason.

- 8.5.4. I agree it is preferable for such matters to be submitted in as much detail as possible with the application and especially as sought at AI stage. However, should the Board decide to grant permission I consider these matters can be addressed by condition for agreement with the Planning Authority prior to commencement of any works on site. It would be required that such measures would comply with best conservation principles and advice as set out in Part 2 of the Architectural Heritage Protection Guidelines including chapter 11 which specifically deals with works to interiors.
- 8.5.5. The Planning Authority's concern as detailed in the second refusal reason relates to the Pod structures and their imposition on the original structure. The applicants argue in the appeal document that the height of 2.5m in rooms with floor to ceiling heights of 3.6m and 4m will read as items of furniture leaving substantial views from front to back in these spaces.
- 8.5.6. I note section 6.9.6 of the AHIA (Proposed works to return nos. 91 & 92 to domestic use) describes the Pods as '*modern reversible interventions*' in the historic fabric. It details existing floor to ceiling heights of 2.67m, 3.61m, 4.0m, 2.985m and 2.635m will provide clear space above of 0.17m, 1.11m, 1.5m, 0.485m and 0.35m. The application does not provide section drawings through each room and as a result it is difficult to determine the impact of the Pod Structures within each room across each floor of the two protected buildings.
- 8.5.7. However and on balance, the existing buildings are located in a central city area, their use for residential purposes is entirely appropriate and their careful restoration and re-use will help avoid further deterioration of the buildings historic fabric which is already in poor condition in many places.
- 8.5.8. Having assessed Drawings 18.15.17P and 18.15.18P submitted in response to the AI request in conjunction with the relevant sections of the Conservation Methodology Statement set out in section 6 of the AHIA and in particular section 6.9.6. I accept the applicants contention that the provision of Pod structures would be reversible and agree this would generally accord with good conservation principles as set out in section 7.12.1 of the Architectural Heritage Protection Guidelines. In particular the

provision of the false floor is in accordance with sections 11.2.9 and 11.2.17 of the Guidelines.

- 8.5.9. The only intervention to existing fabric evident, is for two service cores per apartment providing wastewater disposal and ventilation from the Pods in the rear elevations. This level of intervention is considered minimal and necessary.
- 8.5.10. I acknowledge the Planning Authority's concern that the Pod structures would not relate sensitively to the architectural scale, proportion, form and plan of the rooms in the buildings. I also note that only 4 apartments have floor to ceiling heights of 3.6m and 4m and the impact on views across the space, from the Pods, will be greater on the other 6 apartments. However, I consider this impact would be mitigated by the largely open plan floor nature of each apartment, the fact the Pods do not extend to the ceilings and the reversible provision of the Pods.
- 8.5.11. Section 11.1.3 of the of the Architectural Heritage Protection Guidelines sets out a number of items to consider in the assessment of an interior. Having considered these I am satisfied the original plan-form of each room will be retained, the proportions of the rooms and spaces will not be significantly altered, the hierarchy of spaces is not materially affected and elements of interest in the interior of rooms will not be negatively impacted. In this regard the provision of Pods (as well as partitions to second bedrooms) are clearly reversible and will not negatively impact on existing fabric save for minor interventions. In this regard I do not agree with the Planning Authority's second refusal reason.

8.6. Apartment Standards (New Issue)

8.6.1. Introduction

- a) Following the submission of Additional Information the applicants have revised the proposal from 6 apartments to 10 apartments. The Planning Authority second Planning Report details the residential units are above the minimum standards for 1 and 2 bed apartments and the units are below the minimum standards for storage space and private and communal amenity space. DCC consider the relaxation of these standards acceptable given the need to retain the historic character of the building and taking into account the central location of the site.

- b) For the purpose of this assessment, the residential element of this proposal is considered to be a 'Building Refurbishment' scheme and is located within a 'Central and/or Accessible Urban Location' as described in section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2020 (DoHPLG). The proposed development will be assessed against the following Specific Planning Policy Requirements- SPPR 1, 2, 3, 4, 5, and 6 of the same Guidelines.

8.6.2. SPPR 1 and 2

- a) SPPR 1 details housing developments 'may' include up to 50% one-bedroom or studio type units. I acknowledge the use of the word 'may' in SPPR 1 creates a degree of ambiguity. However, SPPR 2 provides clarity in how SPPR 1 should be interpreted.
- b) SPPR 2 includes 3 bullet points. The second bullet point relates to proposals for 10-49 units and therefore includes the proposed development i.e. 10 units. In this regard a flexible dwelling mix may be carried forward for the first 9 units in the second bullet point but 'SPPR 1' shall apply to for the 10th to 49th unit.
- c) The application submitted at Additional Information stage provides for 6 one bedroom apartments and 4 two bedroom apartments. In this regard I am satisfied the application complies with SPPR 1 and SPPR 2 in terms of Housing Mix.

8.6.3. SPPR 3 and section 3.7

- a) SPPR 3 sets out minimum requirements for apartment floor areas and in particular requires 45 sq.m for 1-bedroom apartment (2 persons) and 73 sq.m for 2-bedroom apartment (4 persons) 73 sq.m. None of the proposed apartments meet the minimum requirement of 73 sq.m for two bed (4 person) apartments.
- b) Appendix 1 of the Guidelines details '*Required Minimum Floor Areas and Standards*' and details the Minimum Floor area for two bedroom 3 person apartments to be 63 sq.m. A double asterisk indicates this is-

'Permissible in limited circumstances'.

c) Section 3.7 of the Guidelines states-

‘...no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment....’

d) There is a discrepancy between Drawing No. 18.15.18P and Section 8 of the Planning Design Report submitted in response to Additional Information in which the applicants details the provision of 5 no. 2-bedroom, 3 person apartments. All the apartments exceed 63 sq.m with the smallest being 66.2 sq.m and the largest being 67.3 sq.m.

e) For the purpose of this assessment Apartment 8 as shown in the drawings is considered a one bedroom apartment and therefore, I am satisfied the application proposes 4 no. 2 bedroom, 3 person apartments which equates to 40% of the overall provision in this private development.

f) The provision of 40% or 4 No. 3 person 2-bedroom apartments does not comply with SPPR 3, section 3.7 and Appendix 1 of the Guidelines and will impact on the overall quality of the development in terms of the required minimum floor areas and the acceptable variation in housing type.

g) I note SPPR 2 details that-

All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.

h) Section 1.3 of the guidelines refers to ‘*design quality safeguards*’ for the purpose of the Guidelines. These safeguards include- internal space standards for 1- and 2-bedroom apartments, floor to ceiling height, internal storage and amenity space. In order to determine the ‘overall quality’ of the proposed scheme, I will have regard to these safeguards in terms of exercising discretion and if the proposal can comply with SPPR 3. I will also have regard to the need to retain the historic character of the protected buildings and taking into account the central location of the site.

8.6.4. **Section 3.8 Safeguarding Higher Standards**

- a) Section 3.8 of the Guidelines is titled 'Safeguarding Higher Standards' and seeks to ensure delivery of apartments that are not built down to a minimum standard, but that reflect a good mix of apartment sizes.
- b) It is a stated requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1 or 2-bedroom unit types, by a minimum of 10%.
- c) The provision of this excess will be a significant contributory factor to the 'overall quality' of this 'building refurbishment' scheme and in particular in terms of the quality of residential amenity for the residents of the 10 apartments.
- d) The development proposes-
 - All 6 of the proposed one bedroom apartments exceed the required floor area of 45 sq.m by more than 10% with a range of 5.6 sq.m – 21.4 sq.m extra floor space.
 - All 4 of the two bedroom apartments exceed the required floor space of 63 sq.m for two bedroom 3 person apartments with a range of 3.2 sq.m – 4.3 sq.m. But none exceed by 10%
- e) As 6 one bedroom apartments is the majority of the apartments proposed and as all exceed the minimum required floor space by at least 10%, I am satisfied the development as proposed complies with section 3.8 of the Guidelines while noting the provision of four number two bed 3- person apartments is not permissible in any event.

8.6.5. **SPPR 4**

- a) This SPPR requires a minimum of 33% of dual aspect units in central and accessible urban locations. It also details for building refurbishment schemes planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than 33%.

- b) The proposed development will provide open plan dual aspects to each of the 10 apartments. I am satisfied the proposed development complies with SPPR 4.

8.6.6. SPPR 5

- a) This SPPR requires ground level apartments to have floor to ceiling heights of a minimum of 2.7m. It also details for building refurbishment schemes planning authorities may exercise discretion on a case by case basis.
- b) I have not been able to identify proposed section drawings through No's. 91 and No. 92 as originally submitted or with the Additional Information response. Section 6.9.6 of the AHIA details proposed works to No's 91 and 92 for domestic use. This section details existing floor to ceiling heights of 2.67m, 3.61m, 4.0m 2.985m and 2.635m. It is assumed this is basement, ground, first, second and third floors. This section details that a false floor is to be installed to the bedroom area only and it is "*envisaged*" that the overall height will be 150mm. Drawing No. 18.15.19 provides a 'cross section through staircase No. 91'. This does not appear to be correctly scaled and does not show the works proposed including the false floor. However the ground floor would appear to have a floor to ceiling height comparable to 3.61m if scaled at 1:100.
- c) I am satisfied the ground level apartment will generally retain a floor to ceiling height in excess of 2.7 m In this regard I am satisfied the proposal complies with SPPR 5.

8.6.7. SPPR 6

- a) This SPPR requires a maximum of 12 apartments per floor per stair or lift core in apartment schemes. The proposed development involves the refurbishment of two Protected Structure for residential purposes. It provides 5 apartments in two separate buildings over five floors with one stair core to each apartment.
- b) I am satisfied the proposed development complies with SPPR 6.

8.6.8. Other Requirements

a) The apartment guidelines sets out a number of other requirements. Having regard to section 1.3 of the guidelines and in order to determine 'overall quality' in accordance with SPPR 2 the following are considered most pertinent-

- Internal Storage (Section 3.30 and Appendix 1) –
 - 3 sq.m of storage space required for one bedroom apartments.
 - 5 sq.m of storage space required for two bedroom 3 person apartments and
 - 6 sq.m of storage space required for two bedroom 4 person apartments.
- Section 8 of the Planning Design Report submitted in response to Additional Information details that the proposed development provides storage space ranging from
 - 1.2 sq.m – 1.9 sq.m for the one bedroom apartments.
 - 1.8m for the two bedroom apartments.

The proposed development does not comply with Internal Storage requirements. However, I note the significant excess floor space provided for all one bedroom apartments and consider this would adequately compensate for the absence of dedicated storage space.

- Private Amenity Space (Section 3.35-3.39 and Appendix 1)-
 - 5 sq.m of private amenity space required for the one bedroom apartments.
 - 6 sq.m of private amenity space required for two bedroom 3 person apartments and
 - 7 sq.m of private amenity space required for two bedroom 4 person apartments.

The development does not propose any private amenity space for any apartments. Section 3.39 of the Guidelines details that for building refurbishment schemes, private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality. In

the context of the two buildings and their Protected Structures status, where the provision of private amenity space such as balconies and terraces would likely require undesirable interventions on the fabric of the buildings, I consider it appropriate to relax this requirement.

- Communal Amenity Space (Section 4.10-4.12 and Appendix 1)
 - 5 sq.m of Communal Amenity Space required for the one bedroom apartments.
 - 6 sq.m of Communal Amenity Space required for two bedroom 3 person apartments and
 - 7 sq.m of Communal Amenity Space required for two bedroom 4 person apartments.
 - Therefore based on the application as proposed there is a requirement for 54 sq.m of communal amenity space.

The application proposes a dedicated communal amenity space in a sunken courtyard area adjoining and with an access through an area of public space for the school as well as No. 91 and 92. These spaces will be separated by perforated metal screen as shown in a Landscape Masterplan and Sections Drawing No. 6839 300. This drawing does not provide dimensions but based on its scale of 1:100 appears to provide c. 100 sq.m of communal amenity space. The proposal is accompanied by a 'Landscape Design for Built Environment' report. The area of this space is located to the rear and north east elevation of No. 91 and 92. It is located between No's 91 & 92 and the proposed new building. These buildings have parapet heights of 17.714m as shown on Drawing No. 18.15.12. In this regard I have significant concerns about the quality of sunlight that would penetrate this space.

Section 4.12 of the Guidelines states communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality. The site is located very close to St Stephens Green. I consider the provision of communal amenity space in this instance as acceptable.

8.6.9. Conclusion

- a) The site is located in area that can be described as a Central and/or Accessible Urban Location and the development proposed is considered a Building Refurbishment Scheme in accordance with the 2020 Apartment Guidelines.
- b) The proposal will provide 10 apartments and this use is consistent with the Z8 zoning objective for the site. Dublin City Council have not raised any concerns in the context of the 2020 Apartment Guidelines or their Development Plan.
- c) In accordance with Section 28 1 (c) of the Planning and Development Act, 2000-20 (as amended) and Section 1.19 of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2020', I consider the proposed development does not comply with SPPR 3 of the 2020 Apartment Guidelines and the provision of the minimum floor space for two bedroom apartments. In particular, I understand the provision of 40% or 4 No. 2-bedroom 3 person apartments as not permissible as set out in section 3.7 of the Guidelines.
- d) I understand SPPR 2 allows for discretion to be exercised on all standards in the guidance on a case-by-case basis, having regard to the overall quality of the proposed development. However, the proposed development lacks quality in terms of-
- its provision of 40% or 4 no. 2-bed 3 person apartments (the guidelines provides for no more than 10%),
 - non-compliance with Minimum Floor Areas for all proposed 2-bedroom apartments of 73 sq.m. (2 bed 3 person apartments are only permissible in limited circumstances.)
- e) Having considered section 1.3 of the Guidelines I also note the proposed development does not provide-
- the minimum required internal storage- however given the extent of floor areas in excess of the minimum requirements for 1 bedroom two person apartments it is appropriate to relax this requirement as per section 3.34 of the guidelines.

- Any private amenity space- however given the protected structure status of the buildings, the refurbishment nature of the development, the provision of no private amenity space is considered acceptable and therefore it is appropriate to relax this requirement as per section 3.39 of the guidelines.
 - Quality access of sunlight for the proposed communal amenity space- however given the refurbishment nature of the development and its proximity to St Stephens Green, it is appropriate to relax this requirement as per section 4.12 of the guidelines
- f) Considering all of the above, the proposed development does not provide sufficient 'overall quality' and is reliant on discretion in terms of '*design quality safeguards*' as per section 1.3 of the Guidelines i.e. storage space and private amenity space. Therefore I am not convinced exercising further discretion is warranted in accordance with SPPR 2 i.e. to permit four number two bedroom apartments serving 3 people each which is contrary to the requirements of SPPR 3 and section 3.7 of the Guidelines. Accordingly the application as proposed should be **refused**.
- g) I have given consideration to addressing these matters by way of condition. The Board are advised that a condition requiring 9 number one bedroom apartments and 1 number two bedroom apartment would comply with SPPR 1, 2, 3 and section 3.7 and 3.8 of the Guidelines. Given the overall size of the floor space provided per all one bedroom apartment, the sites central location, building refurbishment nature of the protected structures and the sites proximity to St Stephens Green, it would then be appropriate for the development to rely on discretion for other design quality safeguards such a storage space and private amenity space.
- h) The Board are advised that this is a **new issue** and they may wish to seek the views of the parties on this matter. However having regard to other substantive reason for refusal as detailed in sections 8.3 and 8.4 of this report and based on the information on file I recommend this application be **refused**.

8.7. Appropriate Assessment

8.7.1. Stage 1 Screening

- a) A screening report for Appropriate Assessment was not submitted with this application or appeal. Therefore, this screening assessment has been carried out de-novo.
- b) The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on European sites. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SCA) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on such European Sites.

8.7.2. The Proposed Development and Receiving Environment

The proposed development comprises of the demolition of a Chapel building, construction of a new school building, refurbishment of four protected structures and other works to existing buildings all within a school campus. The site is located in an existing urban location in central Dublin. The site is not located within or adjoining a designated European site.

Taking account of the characteristics of the proposed development in terms of its nature, location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites-

- discharge of surface water from the site
- discharge of foul water from the site.

8.7.3. European Sites

Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites as set out in Table 1 to be within the zone of influence of the subject site-

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
South Dublin Bay SAC [000210]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 3 km to the east
North Dublin Bay SAC [000206]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalwort <i>Petalophyllum ralfsii</i> [1395]	c. 6km to the north east
South Dublin Bay and River Tolka Estuary SPA [004024]	Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046] Oystercatcher <i>Haematopus ostralegus</i> [A130] Ringed plover <i>Charadrius hiaticula</i> [A137] Grey plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A149] Bar-tailed godwit <i>Limosa lapponica</i> [A157] Redshank <i>Tringa totanus</i> [A162] Black-headed gull <i>Chroicocephalus ridibundus</i> [A179] Roseate Tern <i>Sterna dougallii</i> [A192] Common Tern <i>Sterna hirundo</i> [A193] Arctic Tern <i>Sterna paradisaea</i> [A194] Wetland and waterbirds [A999]	c. 3 km to the east
North Bull Island SPA [004006]	Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046] Shelduck <i>Tadorna</i> [A048] Teal <i>Anas crecca</i> [A052]	c. 6 km to north east

Pintail <i>Anas acuta</i> [A054] Shoveler <i>Anas clypeata</i> [A056] Oystercatcher <i>Haematopus ostralegus</i> [A130] Golden Plover <i>Pluvialis apricaria</i> [A140] Grey Plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A144] Dunlin <i>Calidris alpina</i> [A149] Black-tailed Godwit <i>Limosa</i> [A156] Bar-tailed Godwit <i>Limosa lapponica</i> [A157] Curlew <i>Numenius arquata</i> [A160] Redshank <i>Tringa totanus</i> [A162] Turnstone <i>Arenaria interpres</i> [A169] Black-headed Gull <i>Chroicocephalus ridibundus</i> [A179] Wetland and Waterbirds [A999]	
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I am satisfied that other European sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site.

8.7.4. Test of Likely Significant Effects

The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Based on the source-pathway-receptor model, the nearest downstream pathway to designated sites from the appeal site would appear to be the Grand Canal c. 380m to the south of the site which flows into Dublin Bay. The site is surrounded by existing urban development and I am satisfied that significant effects from the development would not be likely in this context.

8.7.5. Potential Effects

Having regard to the urban context and the nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. I consider standard construction methods would generally be sufficient to address these considerations during both the construction and operational phase.

Due to the nature of the application site and the proposed development, there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.

Section 2 of the Engineering Report- Water Services submitted with the application details the site has 100% coverage and the Sustainable Urban Drainage Systems (SUDs) proposed are the provision of c.332 sq.m of new garden and rain water harvesting. The report also details that all foul water from the proposed development will be discharged via the existing public system. This is to the Ringsend Wastewater Treatment Plant (WWTP). Permission has been granted (ABP Ref. 301798-18) for works that would increase the capacity of the plant. I note there is evidence to suggest that some nutrient enrichment is benefiting winter birds for which the SPAs have been designated in Dublin Bay (Nairn & O' Halloran eds, 2012). It goes on to detail that increased flows from this project to Ringsend WWTP, individually or cumulatively are not likely to have a significant impact on protected sites.

I consider that the distances are such that any pollutants in discharge post treatment from the Ringsend WWTP would be minimal and would be sufficiently diluted and dispersed. I also note the application does not propose increasing the number of students on the site. The provision of 10 apartments in existing buildings will not have a substantial impact and there will be no significant change over and above the existing use of the site.

Therefore, there is no likelihood that pollutants arising from the proposed development, either during construction or operation, could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

8.7.6. **In-combination Impacts**

The proposed development must be considered in the context of the existing educational use and existing buildings on site. The provision of 10 residential apartments in existing buildings will not have a significant impact. Having regard to the nature of the proposal in an existing urban area, the existing use on site and the above findings of no likely significant effects from the proposal, I am satisfied that likely significant in-combination impacts would not arise in this context.

8.7.7. **Conclusion**

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024),
- South Dublin Bay SAC (Site Code: 000210),
- North Bull Island SPA (Site Code: 004006) and
- North Dublin Bay SAC (Site Code: 000206),
- or any other European sites, in light of the sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 **Recommendation**

9.1. I recommend that permission is refused for the following reasons-

10.0 **Reasons and Considerations**

1. The Chapel Building is considered a building of significant architectural heritage value, which has been identified of regional importance by the National Inventory of Architectural Heritage and lies within the curtilage of Protected Structures ref. numbers 4444, 4445, 4446 and 4447 as identified in the Dublin City Development

Plan's Record of Protected Structures. The protection afforded to these Protected Structures includes for the protection of all fixtures and features which form part of the interior and exterior of the Chapel Building.

It is considered that the proposed development would result in permanent, irreversible and significant loss of a protected building that contributes to the character and setting of the Protected Structures. Furthermore, the scale, height, bulk and massing of the new building in close proximity to the rear elevations of Protected Structures ref. numbers 4444, 4445, 4446 and 4447 as identified in the Dublin City Development Plan's Record of Protected Structures would constitute a visually obtrusive, overbearing and dominant form that does not relate to or complement the character of the protected structures and as a result would seriously injure the visual amenity and cause harm to the curtilage and setting of the protected structures.

Therefore the proposed development is considered contrary to Policy CHC2, CHC4 and CHC5 of the Dublin City Development Plan 2016-2022, the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities 2004 and the proper planning and sustainable development of the area.

2. The provision of four number 3-person apartments does not comply with Specific Planning Policy Requirement 3, the requirements of section 3.7 and Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2020, issued under Section 28 of the Planning and Development Act, 2000-20 (as amended). The proposal would therefore be contrary to the Ministerial Guidelines, and the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

02nd of December 2021