



An
Bord
Pleanála

Inspector's Report

ABP-310813-21

Development	Construction of building with 8 apartments.
Location	Lands at Church Park Way, Kimmage Road Lower, Dublin 6W
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2641/21
Applicants	Mount Argus Monastery Ventures Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Mount Argus Monastery Ventures Limited
Observers	None
Date of Site Inspection	7 th February 2022
Inspector	Margaret Commane

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1.0 Site Location and Description

- 1.1. The area surrounding the subject site features mainly residential uses interspersed with liturgical and community uses. The Church Park Residential Estate is generally characterised by two-storey terraced and semi-detached dwellings.
- 1.2. The subject site has an area of 841sqm and is located south-west of the intersection of Church Park Way and Church Park Avenue in Dublin 6W. It comprises part of the grounds of Mount Argus Church (which is a designated Protected Structure, RPS no. 4260), more specifically the north-eastern corner of the church grounds. The church grounds are located off Kimmage Road Lower but the part of the church grounds comprising the subject site has frontage to Church Park Way and Church Park Avenue. The subject site is devoid of buildings and currently comprises an area of hard standing. It originally formed part of the formal garden that was attached to the Mount Argus Monastery and Church. The site's northern boundary currently features a concrete wall and palisade fencing features along the east boundary.
- 1.3. To the north and east of the subject site are 2-storey terraced houses, to the south is the graveyard associated with Mount Argus Church and to the west is a site, also within the church grounds for which a concurrent planning application, Reg. Ref. 2643/21, relates.

2.0 Proposed Development

- 2.1. The development will consist of the construction of a 666sqm part 2-storey part 3-storey apartment building, providing 8 no. apartments (consisting of 4 no. 1-bed units, 1 no. 2-bed unit and 3 no. 3-bed units). Vehicular access and parking for 7 no. car parking spaces and 23 no. bicycle parking spaces is provided from Church Park Way. The proposed development would equate to a plot ratio of 0.79 and a site coverage of 34%.
- 2.2. In addition to the standard documentation and drawings, the planning application was accompanied by various technical reports and drawings, including the following:
 - Planning Report;
 - Screening Statement for Appropriate Assessment;

- Conservation Impact Report;
- Engineering Report, Drawings and Calculations, inclusive of a Flood Risk Assessment; and
- 3D computer generated images of the proposed development.

3.0 Planning Authority Decision

3.1. Decision

To Refuse Permission for the following 3 reasons:

- 1. Having regard to the Z15 zoning objective of the site and to the lack of submission of a masterplan, proposals for the provision of 25% of the lands for public open space and/or community facilities and a contribution to the strategic green network, it is considered that the proposed development is not in accordance with the zoning objective for the lands. The proposed development would, therefore, be contrary to the policies of the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*
- 2. Having regard to the siting, layout, scale, form and appearance of the proposed building and to the history of development on the wider site, it is considered that the proposed development would seriously injure the architectural character and setting of the protected structure of Mount Argus church, associated buildings within its curtilage and graveyard. The proposed development would, therefore, be contrary to the policies of the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*
- 3. Having regard to the proposed layout of parking relative to the pedestrian footpath, to the inadequate provision of pedestrian facilities and to the lack of details of servicing arrangements, it has not been demonstrated that the proposed development would be acceptable in terms of access and impact on the streetscape. The proposed development would, therefore, be contrary to the policies of the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Report

- In the absence of a Masterplan, public open space, community facilities and links with the strategic green network proposed, the principle of development was not deemed to have been established.
- Having regard to the planning history of the site and to the siting, layout, scale, form, articulation and materiality, the proposed development would compromise the architectural character and setting of the protected structure, associated buildings within its curtilage and graveyard.
- It is considered that the proposed development would provide an acceptable quality of residential accommodation, save for issues pertaining to communal amenity space and bin storage needing to be addressed by way of condition.
- The Planning Dept. echoed the concerns of the Transportation Planning Section in relation to the location of the proposed car parking spaces, impact on adjacent taken in charge areas and proposed pedestrian paths. The proposed cycle parking provision, in terms of quantum and design, and the quantum of car parking spaces proposed, are considered acceptable.
- With regard to privacy, given the siting of the proposed building on a corner site and with a graveyard and church to the south and southwest, it is not considered that material issues arise in respect of overbearance, overlooking or overshadowing of neighbouring residential properties.
- Overall, it is considered that the proposed development would not be in accordance with the Z15 zoning objective, would detract from and seriously injure the architectural character and setting of the Protected Structure and the adjoining former monastery buildings and would be unacceptable with regard to access and servicing. The proposed development would therefore be contrary to the City Development Plan 2016-2022.

3.2.2. **Other Technical Reports**

Transportation Planning (11/06/2021): Recommended that further information requested regarding the location of the proposed car parking spaces, bin storage and collection, resident and visitor cycle parking spaces and adjacent taken in charge areas.

Drainage Planning (19/06/2021): No objection, subject to conditions.

City Archaeologist (2/06/2021): No objection, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

4 third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

- Site located within curtilage of a protected structure. Site and newspaper notices do not adequately describe the development in this regard. Site notice should be erected on unauthorised entrance from Church Park Avenue.
- Site extends into adjoining roads, giving misleading density calculations.
- Architectural design, location and position of structure will compromise the visual integrity, setting and character of the protected structure and burial grounds.
- Piecemeal approach: should be considered with concurrent application 2643/21.
- Masterplan required for Mount Argus lands as a whole. Lack of contribution to green network, integration with surrounding residential uses. Proposed layout contrary to Z15 zoning objective.
- Proposed building is 3 storeys, not two.
- Building will block line of sight to back of church, which has architecturally important features and stained glass.

- Erosion of the open character of the lands.
- Lack of communal open space proposed.
- Inadequate parking provision.
- Density: combined with Reg. Ref. 2559/20 and concurrent application, density proposed for the site is 130 dwellings/ha.
- Traffic hazard – cars will have to reverse out onto Church Park.
- Overdevelopment.
- Cycle parking is difficult to access and not secure/enclosed.
- Impact on trees.
- Additional parking issues.
- Impact on burial ground.

4.0 Planning History

4.1. Appeal Site

4.1.1. There has been 5 no. previous application pertaining to the subject site (as part of a larger land parcel at the former Mount Argus Monastery) of relevance.

PA Reg. Ref. 2559/20 (Appeal Reference ABP-308482-20)

This application involved a proposal for the provision of residential accommodation in courtyard wings at the former Mount Argus Monastery, within the curtilage of a protected structure (Mount Argus Church). More specifically, conversion of attic space to accommodate 9 family accommodation unit and creation of a new three-storey residential accommodation wing accommodating 12 family accommodation units. The subject land parcel was to be maintained as grass area as part of this proposal.

The Board granted permission for this application in March 2021 concluding that the proposed development '*would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties, be satisfactory in the context of the character and setting of a protected structure and be satisfactory in the context of traffic safety and convenience*'.

PA Reg. Ref. 3792/13 (Appeal Reference PL29S.243181)

This application involved a proposal for change of use, alterations and extension of the existing former monastery and detached outbuilding to develop 42 residential units in total, comprising of a mix of 33 apartments within the existing monastery building and nine houses located along the northern and eastern boundary of the site (of which 3 dwellings were proposed on the subject land parcel accessed from Church Park Avenue).

Concerns were raised by the Inspector regarding the adverse impact the proposed 9 no. dwellings would have on the character and setting of the protected structure, buildings and lands within its remaining curtilage and the shortfall in the provision of public open space (25% public open space required in the context of institutional lands). The development was granted in July 2014, subject to 14 no. conditions, including Condition No. 2 which read as follows:

2. The development shall be amended as follows:

- a) The nine houses shall be omitted from the development and the area to the north and north-east shall be laid out as landscaped publicly accessible public open space with car parking for the apartments, a landscape plan of this area along with a revised location for the car park away from the rear of Mount Argus Church shall be submitted to and agreed in writing with the planning authority prior to commencement of development.*
- b) The number of units in the eastern link corridor shall be reduced from four to three and the new units shall comply with minimum development plan standards for floor areas for one and two bedroom apartments. Revised plans showing compliance in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The revised layout shall also ensure that none of the bedrooms are located above or below any neighbouring kitchens or living rooms.*
- c) The modification of the original library shall be reviewed based on the opening up of the primary fabric and the proposed intervention revised so that the symmetry of the original volume is not detrimentally altered. The retention and re-use of original bespoke shelving shall form part of the final*

fit out. Revised drawings in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: *To ensure the provision of 25% public open space as required by the Z15 zoning objective as set out in the development plan, to preserve an appropriate setting for the Protected Structure, to protect and enhance this architecturally important building, and to provide for an acceptable level of residential amenity for future occupants.*

This permission was not implemented and has subsequently lapsed.

PA Reg. Ref. 2375/11 (Appeal Reference PL29S.239033 – appeal subsequently withdrawn)

Permission was granted in May 2011 for change of use of existing former Mount Argus Monastery to a nursing home comprising 92 no. en-suite bedrooms. It was proposed to use the subject land parcel as a car parking area as part of this proposal. This permission was not implemented and has subsequently lapsed.

PA Reg. Ref. 2106/09 (Appeal Reference PL29S.233369)

This application involved a proposal for demolition of northern wing of the monastery building and the construction of a new 4-storey extension, refurbishment of the southern and western wings, to provide 55 residential units plus a single storey crèche building and the construction of seven new 3-storey townhouses to the north of the quadrant building. The creche proposed as part of this proposal featured in the subject land parcel.

The development was refused by the Board in January 2010 for the following reasons:

- 1. The proposed development, which involves works to a Protected Structure and works to structures within the curtilage of a Protected Structure, does not show sufficient regard to the impact of said works on the context and integrity of the Protected Structure and its curtilage. The Board is not satisfied that the proposed development is of such high design quality, or that exceptional circumstances pertain, which would support the extent of development proposed including the demolition of the northern wing of the Monastery which is a Protected Structure. The proposed development would, therefore, be contrary to section 15.10.02 of the Dublin City Development Plan, 2005-2011*

and the provisions of the Department of Environment, Heritage and Local Government Architectural Heritage Protection Guidelines for Planning Authorities and be contrary to the proper planning and sustainable development of the area.

- 2. Mount Argus Church and monastery buildings constitute an architectural composition of high quality, originally set in extensive grounds. It is considered that the extent of development proposed in the grounds, including the town houses and the crèche, would adversely affect the setting of the protected structure. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.*
- 3. The proposed development does not display sufficiently high design quality to warrant a relaxation of development control standards with regard to floor size areas, public and private open space. The proposed development would therefore, conflict with Variation number 21 and section 14.6.0 of the Dublin City Development Plan, 2005-2011 and be contrary to the proper planning and sustainable development of the area.*
- 4. The proposed public open space is not considered to maximise public use and facilitate active recreational use by residents of the proposed development. The proposed development would be contrary to the zoning objective of the site which requires 25% of the site to be set aside for accessible public space which maximises appropriate public use. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

PA Reg. Ref. 3427/06 (Appeal Reference PL29S.222546)

This application involved a proposal for development of a new 1 to 2 storey Monastery Building featuring 17 bedrooms on the grounds of St. Paul of the Cross Church (a protected structure), St. Pauls Retreat, Mount Argus, Lower Kimmage Road, Dublin 6W. More specifically, the new building will be located to the south of the existing monastery and public car park.

The development was approved by the Planning Authority in February 2007. Condition 9 (pertaining to financial contributions) of the Planning Authority's decision was appealed to the Board who say fit to permit its deletion in September 2007.

4.2. Adjacent Sites

4.2.1. There have been 2 recent applications pertaining to sites adjacent to the subject site that are pertinent to the current proposal. These are summarised below/overleaf.

PA Reg. Ref. 2643/21 (Appeal Reference PL29S.312274)

This application relates to an application for the construction of a part 3/4 storey apartment building, providing 22 no. apartments (consisting of 6 no. studio units and 16 no. 1-bed units) and served by 21 no. car parking spaces, 1 no. motorcycle parking spaces and 43 no. bicycle parking spaces, provided in an undercroft car park accessed from Mount Argus. The site comprises part of the Lands at the former Mount Argus Monastery and is located immediately west of the current application. In response to a further information request, the no. of apartments proposed was reduced to 19 no. 1-bed units.

Permission was granted by Dublin City Council in November 2021. The Planner Report concluding as follows following completion of their assessment:

'Having regard to the nature and extent of the proposed development, it is considered that the development will not seriously injure the residential or visual amenities of the area and, subject to compliance with the conditions set out below, it is considered that the development accords with both the City Development Plan 2016-2022 and the proper planning and sustainable development of the area.'

The Planning Authorities decision has been appealed to An Bord Pleanála by a third party (Appeal Reference PL29S.312274). A determination had not been made on this appeal at the time of writing this report.

PA Reg. Ref. 6798/07 (Appeal Reference PL29S.230447)

This application relates to an application for the demolition of the existing convent building and attached garage and the construction of 15 no apartments (1 no. 1 bed, 12 no. 2 beds and 2 no. 3 beds) in 1 no. three storey block, served by 22 no. basement car parking spaces and 15 no. bicycle spaces at basement level accessible from Church Park Court (via a car lift); and a semi detached 3 storey convent containing 14 no. bedrooms and living accommodation, served by 8 no. surface car parking spaces and 2 no. bicycle spaces accessible from Church Park Avenue. The site comprises the site of the Assumption Convent and is located to the east of the current application,

on the opposite side of Church Park Avenue. In response to a further information request, the no. of apartments proposed was reduced to 13 no. apartments (1 no. 1 bed, 6 no. 2 beds and 6 no. 3 beds).

Permission was granted by Dublin City Council in July 2008. The Planning Authorities decision was appealed to An Bord Pleanála by a third party (Appeal Reference PL29S.230447). The Board refused permission in March 2009 for the following reason:

'Having regard to the location of the site, surrounded by residential development and in proximity to two-storey back to back dwellings, it is considered that, by reason of height and scale, the proposed development would constitute overdevelopment of the site and would seriously injure the residential amenities of property in the vicinity by reason of overlooking and invasion of privacy and would, therefore, be contrary to the proper planning and sustainable development of the area. In deciding not to accept the Inspector's recommendation to grant permission, the Board noted the Inspector's concerns regarding overdevelopment of the site and overlooking but considered that the level of overdevelopment and overlooking would seriously injure the amenities and privacy of property in the vicinity.'

4.3. Surrounding Area

4.3.1. Reflective of the inner-urban character of the area, there have been a number of other recent applications in the vicinity of the subject site, the following of which is of relevance to the subject appeal:

PA Reg. Ref. 2966/10 (Appeal Reference PL29S.237974)

This application relates to an application for the demolition of existing single storey prefabricated parish / community hall building; construction of 8 no. residential buildings ranging in height from 3 to 5 storeys over basement car parking and accommodating 184 no. apartments, a crèche and a community building; and creation of 2 no. new vehicular entrances, 1 no. from Kimmage Road Lower and 1 no. from Mount Argus Road, providing access to a basement car park featuring 281 no. car parking spaces and 190 no. bicycle spaces. The site comprises a 1.8Ha site known as Lot 1, Kimmage Road Lower & Mount Argus Road, Mount Argus, Harold's Cross,

Dublin 6W, within the former attendant grounds of Mount Argus Church. In response to a further information request, the no. of apartments proposed was increased to 185 no. apartments.

Permission was granted by Dublin City Council in October 2010. The Planning Authorities decision was appealed to An Bord Pleanála by third parties (Appeal Reference 29S.237974). The Board granted permission for this application in April 2011 concluding as follows:

'Having regard to the residential zoning of the site, as set out in the current development plan for the area, its inner suburban location close to major transport routes, to the coherence and quality of the design and layout which would enhance the River Poddle and public access thereto in addition to public open space provision and views of Mount Argus Church, which is a local landmark and a Protected Structure, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.'

The Board's Order included a condition (Condition No. 2) requiring the omission of 5 apartments, reducing the overall total no of apartments proposed to 180.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

5.1.1. Land Use Zoning

The site is zoned 'Z15' - Institutional and Community in the Dublin City Development Plan 2016-2022 with a stated objective '*to protect and provide for institutional and community use.*'

The Development Plan details that lands zoned Z15 generally comprise large blocks of land, consisting of buildings and associated open spaces, are located mainly in the suburbs. The present uses on the lands generally include community-related development including schools, colleges, residential institutions and healthcare

institutions, such as hospitals. With any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network, and to the delivery of housing in the city. In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in Section 16.10 (standards for residential accommodation) and in Section 14.7 (transitions of scale between zonings).

5.1.2. **Other Relevant Sections/ Policies**

Mount Argus Church is a Protected Structure (RPS. No. 4260).

The following policies are considered relevant to the consideration of the subject proposal:

Section 4.5.3.1 – Policy SC13:

‘To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context, and which are supported by a full range of community infrastructure such as schools, shops and recreational areas, having regard to the safeguarding criteria set out in Chapter 16 (development standards), including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture. These sustainable densities will include due consideration for the protection of surrounding residents, households and communities.’

Section 4.5.3.1 – Policy SC14:

‘To promote a variety of housing and apartment types which will create a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces.’

Section 4.5.9 – Policy SC25

Section 4.5.9 – Policy SC28:

‘To promote understanding of the city’s historical architectural character to facilitate new development which is in harmony with the city’s historical spaces and structures.’

Section 4.5.9 – Policy SC29:

‘To discourage dereliction and to promote the appropriate sustainable re-development of vacant and brownfield lands, and to prioritise the re-development of sites identified in Dublin Inner City Vacant Land Study 2015.’

Section 5.5.2 – Policy QH5:

‘To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration area, vacant sites and under-utilised sites.’

Section 5.5.2 – Policy QH7:

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

Section 5.5.2 – Policy QH8:

‘To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.’

Section 5.5.2 – Policy QH22:

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

Section 11.1.5.1 – Policy CHC2:

‘To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage.’

Section 11.1.5.15 – Policy CHC9: National Monuments Preservation

Section 16.2.2.2 - Infill Development:

‘It is particularly important that proposed development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape. As such Dublin City Council will seek:

- *To ensure that infill development respects and complements the prevailing scale, architectural quality and the degree of uniformity in the surrounding townscape*
- *In areas of varied cityscape of significant quality, infill development will demonstrate a positive response to context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.'*

Section 16.2.2.2 Infill Housing:

'Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development; however, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

Infill housing should:

- *Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.*
- *Comply with the appropriate minimum habitable room sizes.*
- *Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.'*

Development Standard 16.10.1 - Residential Quality Standards – Apartments

This section contains standards under the following headings that shall apply to the proposed development: - floor areas, mix of residential units, aspect, natural lighting, ventilation and sunlight penetration, block configuration, entrance lobbies, circulation and safety, internal space configuration for apartments, storage, layout flexibility, private open space, communal open space, communal facilities, cycle parking, and design for management and maintenance.

Development Standard 16.10.3 - Residential Quality Standards – Apartments and Houses

This section contains standards under the following headings that shall apply to the proposed development: - public open space, safety and security and acoustic privacy.

Section 16.38 Car Parking Standards

Section 16.39 Cycle Parking Standards

5.2. Dublin City Development Plan 2022-2028

5.2.1. Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that Stage 2 of public consultation on the draft Development Plan finished on 14th February 2022.

5.3. Regional Policy

5.3.1. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands area (adopted June 2019) provides a framework for development at regional level. The RSES encourages promotes the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint. To realise ambitious compact growth targets, at least 50% of all new homes to be built, are to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other metropolitan settlements.

5.4. Planning Guidelines

5.4.1. The following national policies are considered relevant to the consideration of the subject proposal:

- National Planning Framework 2018 – 2040.
- Housing for All – A New Housing Plan for Ireland (2021).
- Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual.
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020).

- Urban Development and Building Heights - Guidelines for Planning Authorities (2018).
- Architectural Heritage Protection Guidelines for Planning Authorities (2011).

5.5. Natural Heritage Designations

5.5.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)/South Dublin Bay SAC (Site Code 000210), located c. 5km east.

5.6. EIA Screening

5.6.1. An Environmental Impact Assessment (EIA) Screening report was not submitted with the application. 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:

- Construction of more than 500 dwelling units; and
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

5.6.2. It is proposed to construct a building containing 8 apartments. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 841sqm and is located within an existing built-up area, but not in a business district given the predominance of residential uses. The site area is, therefore, well below the applicable threshold of 10ha. The site current comprises an area of hard standing forming part of the grounds of Mount Argus Church and is surrounding by a mix of residential, liturgical and community uses. The provision of additional residential development on site would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural heritage or cultural heritage and the proposed development is not likely to have a significant effect on any

European Site (as concluded below under Section 7 of this report) and there is no hydrological connection present such as would give rise to significant impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing 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 be marginal.

5.6.3. Having regard to the nature and scale of the proposed development and its location in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The current proposal is a logical conclusion to the recent upgrades to the Monastery for institutional purposes and, along with a separate proposal for consolidation of the institutional use of the former monastery grounds, completes the overall building programme for the Mount Argus Lands.
- The grounds of the application site have been used as a building access and compound area during the course of construction associated with the Monastery and was also significantly disturbed during repair and upgrade of leaking watermains serving the general area.
- In deeming the proposal to be contrary to the Z15 zoning objective and associated development plan policies due to the lack of a masterplan and provision of 25% public open space, the Planning Authority has failed to have regard to the planning history for the subject site, the prior subdivisions in the earlier decades and the extensive Mount Argus Park created as part of the

original masterplan for the Monastery lands, all which occurred prior to the adoption of the current Development Plan.

- It is evident from Map H included in the Development Plan that the institutional buildings within the applicable Z15 zoning that have been preserved in institutional use comprise more than 50% of the entire zone area. Therefore, the 25% public open space requirement does not apply because the footprint of the existing buildings exceed 50% of the total site area of the institutional lands in question and the essential open character is retained.
- Residential development is 'open for consideration' on institutional lands so the principle of development has been established and the proposed development would not be contrary to the policies of the Development Plan.
- The subject site is a small infill site located to the north-east of the Protected Structure and is effectively land left over after redevelopment with no connection with the church as a private garden or useful curtilage. The NPF and EMRA RSES advocate exploitation of opportunity sites such as this to deliver a compact city.
- The proposed building is aligned to sit opposite the houses on Church Park Way, facing the public road, and will form part of that residential estate.
- The main appreciation of the church and its setting is on the approach from the south along the avenue and across the public park. The proposed building is not in this view and would be seen as part of the adjoining housing estate, which has not itself damaged the setting of the church.
- The main view of the rear elevation of the church is from directly behind, from the open space in Mount Argus Green, which is not affected by the proposed development.
- The OSI 1995 Map shows the subject site was a surfaced area and did not form part of a formal garden as suggested by the Planning Authority.
- In light of comments from the Planning Authority that the roof form, materials, fenestration and articulation of the building fail to relate positively to the Protected Structure, the applicant has reviewed and modified aspects of the proposed building.

- The proposed development will not obscure views of the characteristic features of the Protected Structure, including its stained windows, as there is no public open space from which to view the apse from Church Park Avenue or Church Park Court.
- It is noted that the Traffic Dept. Road Planning Division did not recommend refusal but sought clarification by way of further information. With regards to parking provision, a rate of 0.88 car parking spaces per apartment is appropriate for this inner-suburban location in Dublin City.
- In response to comments from DCC's Road Planning Division, the applicant has amended car parking spaces, footpaths, bicycle parking and bin storage areas.
- The proposal is designed to respect the church by virtue of its relatively low scale and choice of materials, while also providing a transition and remaining in keeping with the low scale of gable ended domestic architecture on Church Park Avenue.
- The overarching Government strategic aims, regarding the redevelopment of brownfield infill site, must be taken in to account when assessing the subject proposal.

The proposed development complies with the requirements set out in the Apartment Guidelines, 2020.

6.2. Planning Authority Response

- None.

6.3. Observations

- None.

6.4. Further Responses

- None.

7.0 Assessment

As part of the grounds of appeal, the appellant submitted revised proposals in response to the Planning Authority's reasons for refusal of planning permission and the items raised by the Transportation Planning Section in their commentary on the application. These revised proposals included the following amendments:

- Revisions to the car parking spaces, bicycle parking spaces and footpath provided to the front (north) of the development.
- Revisions to the materiality of the proposed building, sections of brick finish being replaced with stone cladding.

The applicants ask that they be read in conjunction with the original material submitted with the planning application. It is noted that the revised plans submitted with the appeal introduce no new elements or issues which may be of concern to third parties in the context of the proposed development. Accordingly, this assessment is based on the amended plans received by Dublin City Council on 22nd April 2021 as amended by further plans and particular received by the Board on 12th July 2021.

I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Principle of Development.
- Density, Scale & Height.
- Impact on Architectural Heritage/Visual Impact.
- Residential Amenity of Proposed Development.
- Residential Amenity of Adjoining Properties.
- Access, Traffic and Parking.
- Open Space Provision.
- Flooding.
- Other Matters.
- Appropriate Assessment.

7.1. Principle of Development

7.1.1. As previously discussed, the development site lies within an area of institutional and community zoned land, while the adjoining residences along Church Park Way and Church Park Avenue have a land use zoning objective 'Z1 - Sustainable Residential Neighbourhoods'. Section 14.8.14 of the Development Plan identifies 'residential' as 'open for consideration' under zoning objective Z15. Section 14.8.14 of the Development Plan outlines that, where there is an existing institutional and/or community use, any proposed development for 'open for consideration' uses on part of the landholding, shall be required to demonstrate to the planning authority how the proposal is in accordance with and assists in securing the aims of the zoning objective; how it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses; how it secures the retention of existing functional open space e.g. school playing fields; and the manner in which the nature and scale of the proposal integrates with the surrounding lands. It is considered that a masterplan may assist in demonstrating how these requirements are satisfied.

7.1.2. The Planning Authority's first reason for refusal to grant planning permission refers to the lack of submission of a masterplan, proposals for the provision of 25% of the lands for public open space and/or community facilities and a contribution to the strategic green network and contends that the proposed development is not in accordance with the zoning objective for the lands. The Planners Report expands on this point, stating that due to a Masterplan not being submitted and public open space, community facilities or links with the strategic green network not being proposed, the principle of development has not been established.

7.1.3. I would form a contrary view to the Planning Authority in relation to masterplan submission and provision of 25% of the lands for public open space. From my reading of Section 14.8.14 of the Development Plan, the mandatory requirement for preparation of a masterplan in the context of 'Z15' zoned land only applies in instances where it has been deemed that there is no longer a need for the existing institutional use featuring on the entire landholding and the proposed development involves a material contravention or variation to the development plan. This requirement is

therefore not applicable in the context of the subject application which involves a small infill development in the north-eastern corner of the 'Z15' zoned lands with the existing institutional land uses being maintained on the remaining part of the landholding. As discussed previously, in the context of 'open for consideration' use proposals on part of the landholding a masterplan is identified as being of assistance when it comes to assessment but is not a mandatory requirement.

7.1.4. A masterplan has not been submitted with the application/appeal, but rather the planning appeal includes a discussion on the existing institutional/community land uses featuring/being retained on the subject site and the history of the wider Mount Argus Church Grounds. The existing institutional/community land uses listed as being retained on site are as follows: - Mount Argus Church, the Houben House Family Hub, the supported accommodation quadrangle, the priest's monastery residence, the Passionate Community HQ and Conference Centre – St. Paul's Retreat, the private areas associated with the Monastery and the Church car park. It goes on to state that it is quite evident that the institutional buildings within the zone that have been preserved in institutional/community use represent more than 50% of the entire zoned area and that the Z15 zoning applied to these lands fails to have regard to the prior subdivisions which took place in earlier decades, prior to the adoption of the Dublin City Development Plans of 2011-2017 and 2016-2022, which saw the development of the extensive Mount Argus Park public amenity space which extends from Kimmage Road to the Church car park.

7.1.5. Having regard to the information provided, I am satisfied that the proposed development complies with the additional requirements of 'open for consideration' uses set out in Section 14.8.14 of the Development Plan and is in compliance with the zoning objective of the subject and adjoining sites. The subject site, at 841sqm, comprises c. 3.6% of the overall Z15 zoned land parcel (which comprises c. 22,940sqm). As outlined in the applicant's appeal submission and as observed on site, the remainder of the Z15 zoned land parcel consists of institutional/community buildings, their associated curtilages and established open space areas. Therefore, the main institutional and community uses are retained on the applicable Z15 zoned lands. It is also clear that the appeal site is very suitable for residential development and the provision of such on the subject lands is desirable having regard to the

surrounding context and the site's proximity to accessibility to public transport (the manner in which the nature and scale of the proposal integrates with the surrounding lands is considered in the subsequent sections of this report). I would consider that the use of the site for residential purposes is in keeping with the overall development objectives for residential development as set out under the City Development Plan and the National Planning Framework and to preclude a residential development at this location based on the Z15 zoning objective would not be in accordance with proper planning and sustainable development of the area. I note permission was not refused on the basis of material contravention of the zoning objective and residential development is open for consideration. On this basis, I would consider the provision of residential development is in accordance with the proper planning and sustainable development of the area is in keeping with the predominant established use type in the area.

7.2. Density, Scale & Height

7.2.1. National Policy Objective 35 contained in the National Planning Framework seeks an increase in residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights. National policy, including the Sustainable Residential Development in Urban Areas (2009), promotes residential densities in urban areas in close proximity to services and public transport. This sentiment is echoed in the Dublin City Development Plan, 2016–2022, with Policy SC13 promoting sustainable densities particularly in public transport corridors. In this regard, the appeal site is currently well served by public transport being proximate to Bus Routes No. 9 and 54A running along Kimmage Road Lower and Bus Routes No. 18, 83 and 83A running along Sundrive Road/Larkfield Avenue. Moving forward, the F Spine of the Bus Connects Network, more specifically routes F1, F2 and F3, are proposed to run along Kimmage Road Lower and Bus Routes S2 and 82 will run along Sundrive Road/Larkfield Avenue. In light of this, under the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, (the Apartment Guidelines), the site would be categorised as an 'Intermediate Urban Location'. Such locations are deemed to be suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise apartments, or

alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net).

7.2.2. The 8 apartments proposed on this 0.0841Ha site, equates to a density of 95 units per hectare. Given the site's location in a serviced residential area, its proximity to public transport services and the infill nature of the subject site, the proposed density is considered appropriate in this instance. The proposed density for the application site complies with the provisions of the Development Plan and Government policy seeking to increase densities and, thereby, deliver compact urban growth.

7.2.3. Section 16.5 and 16.6 of the Dublin City Development Plan identifies 'Plot Ratio' and 'Site Coverage' standards. Plot ratio is described as a tool to help control the bulk and mass of buildings and site coverage as a control for the purpose of preventing the adverse effects of overdevelopment, thereby safeguarding sunlight and daylight within or adjoining a proposed layout of buildings. For 'Z15' zoned lands the development plan sets indicative requirements of 0.5-2.5 for plot ratio and 50% for site coverage. Based on the accommodation schedule accompanying the application, the proposed development would equate to a plot ratio of 0.79 and a site coverage of 34%. Therefore, the proposal is compliant with Development Plan policy in this regard.

7.2.4. The proposed development extends to a maximum height of 10.987 metres. In terms of building height, Section 16.7.2 of the Dublin City Development Plan sets out policy and identifies areas in which low-rise, mid-rise and high-rise structures are permissible. In the case of the inner city, low rise is indicated as being up to 24 metres for residential development and up to 28 metres commercial development. The Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, also promotes increased heights in urban areas and require that, general building heights of at least three to four storeys, coupled with appropriate density, in locations which include suburban areas must be supported. The height of the structure proposed is consistent with Development Plan policy and national policy in relation to building heights and is considered to appropriately respond to the adjacent Protected Structure and residential dwellings.

7.3. Impact on Architectural Heritage/Visual Impact

7.3.1. The Dublin City Council Development Plan 2016-2022, at Policy CHC2, seeks to protect protected structures from any works that would negatively impact their special character/appearance. The Architectural Heritage Protection Guidelines for Planning Authorities (2011) require consideration of the effect of items in the curtilage or attendant grounds on the character and / or special interest of the main structure. The subject site comprises part of the grounds of Mount Argus Church (which is a designated Protected Structure, RPS no. 4260), more specifically the north-eastern corner of the church grounds immediately north-east of the church's apse and immediately north of the church burial grounds. The proposal entails the construction of a 666sqm 2-storey apartment building with dormer accommodation in the roof space on an 841sqm parcel of land, which historically formed part of the formal garden that was attached to the Mount Argus Monastery and Church. Currently, the subject site is devoid of buildings and currently comprises an area of hard standing.

7.3.2. Refusal reason 2 contends that the proposed development would seriously injure the architectural character and setting of the Protected Structure of Mount Argus Church, associated buildings within its curtilage and graveyard having regard to the siting, layout, scale, form and appearance of the proposed building and to the history of development on the wider site. To address concerns raised by the Planning Authority in this regard, the applicants have submitted amended plans with their appeal that include revisions to the materiality of the proposed building, sections of brick finish being replaced with stone cladding.

7.3.3. In considering the impact of the proposed development on the architectural heritage of Mount Argus Church, associated buildings and graveyard within its curtilage, I will have regard to the Conservation Impact Report submitted with the application, the Planning Authority's Planners Report and the Architectural Heritage Guidelines, 2011, as well as the relevant Development Plan Policies.

7.3.4. The proposal involves the construction of a part two-part three storey apartment block on the site fronting Church Park Way. The applicants submitted 3D perspective views, prepared by Peter Cassidy Architects, with both the application and the appeal

illustrating the visual impact from a number of views in the surrounding area, including a no. of views encapsulating Mount Argus Church. The overall design and architectural character of the proposed block is contemporary in nature, while at the same time incorporating materials, such as brick and stone cladding, a colour pallet and pitched roof form that echoes that of Mount Argus Church and the adjacent dwellings on Church Park Way and Church Park Avenue. The overall height of the building is 10.987 metres, which would be well within Development Plan maximum standards (24 metres) and considerably lower than the height of Mount Argus Church immediately east. The building adopts setbacks of between 9.38 metres and 13.63 metres from the church's apse.

7.3.5. I am satisfied that the proposed building would appear subservient to the host historic building as a result of the materials/colour palette, the proposed building height, the separation distances adopted from the apse and the development's positioning relative to the church. Mount Argus Church's principal vantage point is from the south, as one traverses the entry road off Kimmage Road Lower the church appearing before them. A secondary vantage point is provided from Mount Argus Road to the south-east. Currently, the roads flanking the subject site's northern and eastern boundaries offer only glimpses of the church's apse. In the context of the graveyard associated with Mount Argus Church, which is located immediately south of the proposed development, the existing established hedge/treeline which currently restricts views of this part of the landholding is to be maintained as part of the subject proposal. Further to this, planting will feature along the site's eastern boundary which will soften views of the proposed development from Church Park Avenue. Considering the aforementioned, I contend that the proposed development would not overwhelm or substantively interfere with the setting or character of the Protected Structure associated buildings and graveyard within its curtilage.

7.3.6. Turning to the potential visual impact on the wider area. At present, the subject site is devoid of buildings and currently comprises an area of hard standing enclosed by a concrete wall to the north, palisade fencing to the east and a row of established trees/hedging to the south. Under the subject proposal, the trees/hedges featuring along the southern boundary would be retained and the concrete wall and palisade fencing would be removed to make way for a part 2-storey part 3-storey apartment building to be developed on site. The proposed development would be orientated to

front Church Park Way to the north. The question that arises is whether the proposed development can be comfortably integrated with the development currently featuring on adjoining sites.

- 7.3.7. The existing streetscape to the immediately north and east of the site is characterised by double storey terraced and semi-detached dwellings. More broadly, an infill residential development, comprising 8 no. residential buildings ranging in height from 3 to 5 storeys over basement car park (approved under Reg. Ref. 2966/10/Appeal Reference PL29S.237974), have been recently introduced to the south of the Church Park Estate at the end of Church Park Avenue.
- 7.3.8. As illustrated in the plans and 3D perspective views, prepared by Peter Cassidy Architects, accompanying the application/appeal, the tallest built form elements are positioned to the rear of the site shielded from view by the established hedgerow/planting being retained along the site's southern boundary, while views of the proposed development from Church Park Avenue will be softened by planting proposed along the eastern boundary. The height and massing of the building has been broken down where the building faces the existing dwellings on Church Park Way through the use of different materials/finishes and modulation of the roof profile. The proposed development is setback a minimum of 22.037 metres from the terrace of houses featuring on the opposite side of Church Park Way and 18.68 metres from the terrace of houses featuring on the opposite side of Church Park Avenue.
- 7.3.9. I acknowledge that the proposed building would occupy an area currently devoid of development and would be visible within the surrounding streetscape. Notwithstanding this, considering the built form, scale, siting and materiality of the subject proposal, I am satisfied that the proposed development would sit comfortably in the context of the existing Church Park Way and Church Park Avenue streetscapes and would have sufficient respect and regard for the established pattern and character of development in the streetscape and wider area. Accordingly, permission should not be refused for reasons relating to the design and visual impact of the proposed development in the context of surrounding area.

7.4. Residential Amenity of Proposed Development

7.4.1. Having regard to the floor areas, layouts, configurations, aspect and floor to ceiling heights, while being cognisant of the standards within the New Apartment Guidelines (2020), I am satisfied that the proposed development would provide for a suitable and acceptable form of accommodation for future occupants of the proposed apartments.

7.4.2. The proposal would entail the provision of 8 no. apartments (consisting of 4 no. 1-bed units, 1 no. 2-bed (4P) unit and 3 no. 3-bed (5P) units). As detailed in the accommodation schedule accompanying the application, the 1-bed units would have a floor area of between 50.03sqm and 50.25sqm, the 2-bed unit would have a floor area of between 80.06sqm and the 3-bed units would have a floor area of between 90.08sqm and 94.94sqm. With respect to minimum floor areas, Appendix 1 of the Apartment Guidelines (2020) state that one-bed, two-bed (4P), and three-bed units should have minimum gross internal floor areas of 45, 73, and 90 sqm, respectively. The proposed apartments exceed the minimum overall apartment floor areas specified as well as complying with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. Further to this, having reviewed the proposed floor plans, I am satisfied that the apartments are suitably laid out internally to provide an adequate level of residential amenity to future residents.

7.4.3. Specific Planning Policy Requirement 4 requires that a minimum of 33% of apartments proposed are dual aspect units in more central and accessible urban locations and Specific Planning Policy Requirement 5 requires that ground level apartment floor to ceiling heights shall be a minimum of 2.7 metres. All proposed apartments are dual or triple aspect and the floor ceiling height at ground floor level would be 2.7 metres, thus complying with the applicable standards. The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. The BRE standards state that numerical targets should be applied flexibly (specifically average daylight factor values of 1% to bedrooms, 1.5% to living rooms and 2% to kitchens) and that natural light is only one factor to be considered in layout design. While I acknowledge that the applicant has not carried out their own assessment of the numerical targets for daylight and sunlight in the

proposed apartments, I am satisfied that considerations of daylight and sunlight have informed the proposed layout and design in terms of separation distances, scale, window sizing and the aspect of units. As previously discussed, all of the proposed apartments are dual or triple aspect with floor to ceiling heights greater than the minimum standards, maximising available light and ventilation to each apartment.

7.4.4. Under Appendix 1 of the Apartment Guidelines, a minimum of 3, 6 and 9 sqm of storage space would be required to serve one-bed, two-bed (4P), and three-bed units, respectively. As detailed in the accommodation schedule accompanying the application, the 1-bed units would be provided with between 3.03sqm and 4.13sqm of storage, the 2-bed unit by 9.35sqm of storage and the 3-bed units by between 9.08sqm and 9.35sqm of storage, which complies with the requirements.

7.4.5. Turning to private amenity space, under Appendix 1 of the Apartment Guidelines, a minimum of 5, 7 and 9 sqm of private amenity space would be required to serve one-bed, two-bed (4P), and three-bed units, respectively. Further to this, paragraph 3.37 of the Apartment Guidelines states that balconies should have a minimum depth of 1.5 metres. As detailed in the accommodation schedule accompanying the application, the 1-bed units would be served by balconies of between 6.21sqm and 7.51sqm, the 2-bed unit by a 7.07sqm balcony and the 3-bed units by balconies of between 9.02sqm and 10.31sqm and all of which have a minimum depth exceeding 1.5 metres, thus complying with this aspect of the requirements.

7.4.6. Pursuant to Specific Planning Policy Requirement 2, the housing mix specified under Specific Planning Policy Requirement 1 of the Apartment Guidelines, is not applicable where up to 9 residential units are proposed in building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha. Similarly, as outlined in Paragraph 4.12 of the Apartment Guidelines, a relaxation in standards pertaining to communal amenity space can be granted to urban infill schemes on sites of up to 0.25 hectares, which I consider the subject site to constitute. Under Appendix 1 of the Apartment Guidelines, a minimum of 54 sqm would be needed to serve the proposed apartments. The Planning Report, prepared by Simon Clear & Associates, accompanying the planning application states that the proposed development is not served by communal amenity space. Having regard to the subject site's proximity to

Eamonn Ceannt Park and Mount Argus Park, the absence of communal amenity space is considered appropriate in this instance.

7.4.7. Paragraph 3.37 of the Apartment Guidelines states that *'provision shall be made for the storage and collection of waste materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/lift core and designed with regard to the projected level of waste generation and types and quantities of receptacles required'*. The Planning Authority's third refusal reason contends that the lack of details regarding servicing arrangements, among other things, it has not been demonstrated that the proposed development would be acceptable in terms of access and impact on the streetscape. Upon review of the plans submitted with the application and the appeal, bin stores are proposed at ground floor in the north-western corner of the site to serve the future residents of the apartments. The bin storage area is enclosed by a 1.8 metre high timber fence. With regards to collection of waste stored therein, the appeal submission has also provided clarification in relation to bin collection stating that bin collection will be carried out by a licenced waste management company that already collects refuse in the estate, without diversion from their normal routes. I am satisfied that the proposed bin storage areas is appropriately sized to serve the proposed development, appropriately tucked away/screened to reduce visibility from the adjacent public street and the proposed collection arrangements are appropriate.

7.4.8. In conclusion, I am satisfied that the proposed development would provide quality apartments, meeting the relevant design standards and providing a suitable level of amenity and services for future residents.

7.5. Residential Amenity of Adjoining Properties

7.5.1. The subject site's southern boundary is flanked by the burial ground associated with Mount Argus Church. The subject site's northern and eastern boundaries are flanked by Church Park Way and Church Park Avenue, respectively. Given the height/scale of the proposed development, the orientation of adjacent dwellings and the separation distances that exist between the proposed development and the dwellings featuring on the opposite side of Church Park Way and Church Park Avenue, I do not consider the proposed development would result in any negative impacts on the residential amenity of adjacent properties by way of overlooking, overshadowing or overbearing.

7.5.2. The subject site's western boundary is currently flanked by the grounds of Mount Argus Church. As discussed previously in Section 4.2 of this report, the part of the church grounds immediately west of the subject site was the subject of a recent application under Reg. Ref. 2643/21 (subsequently appealed under ABP Ref. PL29S.312274). Permission was granted by Dublin City Council in November 2021 for part 3/4 storey apartment building, providing 19 no. 1-bed units. Consideration of potential impacts on the residential amenity of these approved apartments is required in the context of the subject proposal. Given the height/scale of the proposed development and the separation distances that exist between the proposed development and the development approved under Reg. Ref. 2643/21, I do not consider the proposed development would result in any negative impacts on the residential amenity of the approved development by way of overlooking, overshadowing or overbearing.

7.6. Access, Traffic and Parking

7.6.1. The Planning Authority's third reason for refusal relates to access and parking concerns, more specifically that the proposed development would be unacceptable in terms of access and impact on the streetscape having regard to the proposed layout of parking relative to the pedestrian footpath, the inadequate provision of pedestrian facilities and the lack of details of servicing arrangements. This echoed the concerns raised by the Road Planning Division who recommended that further information be requested in relation to the location of the proposed car parking spaces, bin storage and collection, resident and visitor cycle parking spaces and adjacent taken in charge areas, as discussed previously in Section 3.2.2 of this report. More specifically, in the context of the proposed car parking spaces, the Road Planning Division asked that the location of the car parking be positioned beyond a minimum 1.8m wide public footpath to provide suitable pedestrian facilities and also to protect the area, bounding the site which is currently taken in charge by DCC Environment and Transportation. The footpath should bound the site to the north and east and an uncontrolled crossing of Church Park Avenue should also be facilitated on the south-eastern corner of the site.

- 7.6.2. To address the access and parking concerns raised, the applicants have submitted amended plans with their appeal that include revisions to the car parking spaces, bicycle parking spaces and footpath provided to the front (north) of the development. More specifically, the car parking spaces have been repositioned immediately adjacent to the building's front façade with a 1.8 metre wide public footpath provided to the north of this and the visitor bicycle parking spaces have been relocated to the west of the proposed building entrance tight to the building's front façade. On foot of these amendments, I consider proposed development would be acceptable in terms of access and associated impact on the streetscape.
- 7.6.3. It is noted that the footpath along the eastern boundary and uncontrolled crossing at the south-eastern corner of the site requested by the Road Planning Division has not been encapsulated in the revised plans accompanying the appeal. Given the absence of a footpath along the western side of Church Park Avenue south of the subject site, I consider it appropriate to forego the provision of a footpath along the eastern boundary and maintain the proposed screening planting along this boundary. However, I would share the view of the Road Planning Division that an uncontrolled crossing of Church Park Avenue should be provided. In the interest of retaining the proposed planting along the eastern boundary, this should be provided in the north-eastern corner of the site. Therefore, it is recommended that the Board, if so minded to grant permission, include a condition requiring that an uncontrolled crossing of Church Park Avenue be provided in the north-eastern corner of the site.
- 7.6.4. In terms of car parking provision, the proposed development achieves a car parking rate of 0.88 car parking spaces per apartment. The site is located within Area 3, as identified within Map J of the Dublin City Development Plan 2016-2022, and a maximum of 1.5 car parking spaces per residential unit is outlined in Table 16.1 for this area. The proposed car parking rate is considered appropriate at this location given the subject site's central location and the proximity to Dublin Bus services running along Kimmage Road Lower/Sundrive Road.
- 7.6.5. With regards to bicycle parking provision, the development is served by 23 no. bicycle parking spaces, comprising of 8 no. visitor spaces and 15 no. resident spaces. The quantum of bicycle parking provided is in excess of the Apartment Guidelines (2020) standards, which require 1 no. resident cycle space per bedroom and 1 no. visitor

cycle space for every 2 no. units, and the standards set out in Table 16.2 of the Development Plan, which require a minimum of 1 no. cycle space per unit. The proposed visitor spaces are located adjacent to the development entry and the resident spaces are located to the side (west) of the proposed building behind a gated entry point, which are considered to be appropriate locations in terms of accessibility and passive surveillance. In terms of design, upon review of the drawings submitted with the application and the appeal, it would not appear that the resident cycle storage area is sheltered. I am satisfied however, that this matter can be appropriately dealt with by way of condition of planning permission, requiring the resident cycle parking area to be enclosed/suitably designed, should the Board be so minded to grant permission for the proposed development.

7.7. Open Space Provision

7.7.1. The Planning Authority's first reason for refusal to grant planning permission refers to the lack of provision of 25% of the lands for public open space and/or community facilities and a contribution to the strategic green network and contends that the proposed development is not in accordance with the zoning objective for the lands. The Planners Report expands on this point, stating that due to public open space, community facilities or links with the strategic green network not being proposed, the principle of development has not been established.

7.7.2. Section 16.10.3 of the Development Plan states that '*the design and quality of public open space is particularly important in higher density areas*'. Section 16.3.4 of the Development Plan requires that 25% of Z15 zoned lands shall be reserved for accessible open space and/or provision of community facilities, which is greater than the 10% requirement specified for all residential schemes in Section 16.10.1. Section 16.3.4 goes on to state that in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).

7.7.3. The proposed development is devoid of public open space. This is considered appropriate in this instance given the small size of the subject site and its proximity to

a no. of public open space areas, including Mount Argus Park and Eamonn Ceannt Park. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring payment of a financial contribution in lieu of public open space provision.

7.7.4. With regards to contribution to the strategic green network, Sections 4.5.2 and 10.4 of the development plan seek to establish a strategic network of green corridors across the city area. Section 14.8.14 of the development plan asks that, in the context of development proposal on Z15 lands, consideration should be given to their potential to contribute to the development of a strategic green network. Fig. 14, included in Chapter 10 of the Development Plan, shows the desired strategic green network routes.

7.7.5. Given this and noting the sites inner city context/small size, it is my view that this site does not have the potential to contribute to the development of a 'Strategic Green Network' as envisaged in the Development Plan. Therefore, the absence of green infrastructure provision in the proposed scheme is not considered to warrant refusal of planning permission in this instance.

7.8. **Flooding**

7.8.1. In terms of assessing a potential flood risk, I would note that the Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009) which sets out a sequential test for assessing flood impact. The appeal site is located in an area designated Flood Zone C in accordance with these guidelines. The proposed residential development is a highly vulnerable development in accordance with the Table 3.1 of the guidelines and having regard to Table 3.2 of the guidelines the proposed residential development would be appropriate on the appeal site which is situated in Flood Zone C.

7.8.2. The application is accompanied by a Flood Risk Assessment, prepared by Mulhall Consulting, which identifies the subject site as being located in a Flood Zone C area and concludes that the site is at low risk of fluvial flooding/pluvial flooding, tidal/coastal flooding along the east coast/along the River Liffey does not impact the site and the flood risk represented by ground water is negligible. Having examined the OPW

website (www.floodinfo.ie), I note that the subject site is I have reviewed the website www.floodmaps.ie and there is no recorded history of flooding on the appeal site. The nearest recorded flood event to the appeal site was flooding at Kimmage Mount Argus, on the 10th June 1963. This flood event was localised.

7.8.3. I am satisfied that, given its small scale and location within an established residential area in a Flood Zone C area, the proposed infill development would not give rise to an increased risk of flooding on the site or other properties in the vicinity.

7.9. Other Matters

7.9.1. *Development Contributions* – I refer to the Dublin City Development Contribution Scheme 2020-2023. The proposed development does not fall under any of the categories of exemption listed in the development contribution scheme. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000. In relation to the Section 49 Supplementary Development Contribution Schemes (Luas Docklands Extension and Luas Cross City) it is noted that the subject site is located outside the applicable catchment areas.

7.9.2. *Archaeology* - Based on Development Plan mapping, the site is in close proximity to the zones of archaeological potential for the Recorded Monuments DU018-04302 (weir) and DU018-04304 (watercourse) while Mount Argos Church, a Protected Structure (RPS Ref: 4260), is located to the immediate south-west and a 19th-century graveyard to the immediate south of the subject site. The City Archaeologist contends that the proposed design does not adequately consider the potential visual impact on the Mount Argos Church or the possible impact on the historic graveyard. They recommend that a condition requiring an Archaeological Impact Assessment be attached to any grant of planning permission for this application in order to assess the boundary between the historic graveyard and the subject site. I consider this approach to be reasonable, given the site context and the limited extent of excavation that would be required for the foundations and services associated with the development. In conclusion, should the Board be minded to grant permission, I recommend the condition outlined by Dublin City Council's City Archaeologist be attached.

7.9.3. *Part V* - I acknowledge the changes which have arisen to Part V of the Planning and Development Act, 2000 (as amended) by the Affordable Housing Act, 2021. Notwithstanding the foregoing, I note that a Social Housing Exemption Certificate is included with the planning application. As such, in the event planning permission is granted, I consider that the requirements of Part V of the Act do not apply to the proposed development.

7.10. **Appropriate Assessment**

7.10.1. Having regard to the nature and scale of the proposed development (a small infill apartment building within an established urban area), the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 **Recommendation**

8.1. Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

Having regard to the land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022, to the nature, layout, scale and design of the proposed development and the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would appropriately introduce residential uses onto this centrally located infill site, would not detrimentally impact on the architectural heritage of the area including the character or setting of adjacent Protected Structures, would be acceptable in terms of design, height, layout and scale of development, would provide a suitable level of accommodation and amenity for future occupants, would not seriously injure the amenities of the area or of properties in the vicinity, would be

acceptable in terms of traffic/pedestrian safety and would comply with the provisions of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (Department of Housing, Planning and Local Government, 2020) and the Architectural Heritage Protection: Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 12th July 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> a) An uncontrolled crossing of Church Park Avenue shall be provided in the north-eastern corner of the site. b) The resident cycle parking area adjacent to the western boundary to be enclosed/suitably designed. <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of pedestrian safety and residential amenity.</p>

3.	<p>Prior to the commencement of development, details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing by the Planning Authority.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
4.	<p>The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the apartments are made available for occupation.</p> <p>Reason: In the interest of residential and visual amenity.</p>
5.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <ul style="list-style-type: none"> (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

	<p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
6.	<p>The parking areas, footpaths and kerbs serving the proposed development shall comply with the detailed standards of the planning authority for such road works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
7.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
9.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility.</p>
10.	<p>(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company</p> <p>(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the</p>

	<p>planning authority before any of the residential units are made available for occupation.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
11.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
12.	<p>(a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
13.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
14.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the</p>

	<p>area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
15.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in lieu of public open space provision. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
16.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and</p>

	<p>maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
17.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Margaret Commane
 Planning Inspector

23rd March 2022