



An
Bord
Pleanála

Inspector's Report

ABP-311887-21

Development	Construction of 3 dwellings, all with associated private garden and screened terrace at first floor level to the rear, off-street car parking with access from Church Avenue.
Location	6-8 Church Avenue, Dublin 6, D06 P2T7
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2527/21
Applicant	James Meagher
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Orla Hegarty Selected residents of Church Lane, Church Avenue, Church Gardens and Kingsdeen Ltd. t/a John Hayes Cars and Sinnott Solicitors
Observers	None

Date of Site Inspection

3rd March 2022

Inspector

Margaret Commane

1.0 Site Location and Description

- 1.1. The site at No. 6-8 Church Avenue, Dublin 6, is located to the south of Rathmines Key District Centre, c. 275 metres of the quality bus corridor that runs through Rathmines Key District Centre and c. 650 metres of the Beechwood Luas Station. The area surrounding the subject site features a mix of residential and commercial uses. There is a mix of two and three storey dwellings and commercial buildings in the vicinity of the site in a variety of architectural styles.
- 1.2. The site comprises a 0.0381Ha regular shaped brownfield site on the southern side of Church Avenue which is an east/west route that runs between Palmerston Road and Rathmines Road Upper (R820). The focal point of Church Avenue is Holy Trinity Church, which lies in an island site towards the mid-point of the Avenue, to the east of the application site. The site is presently in use as a car sales yard, known as John Hayes Cars, which features a single storey temporary structure in use as a sales office in the south-eastern corner, a separate structure with canopy used for car washing in the south-western corner (these structures occupying a total floor area of c. 90sqm) and car parking elsewhere, accessible via two vehicular access points on to Church Avenue. There is one large established street tree in the footpath immediately west of the subject site.
- 1.3. The site's southern and western site boundaries feature a stone wall. To the immediate south of this wall, is a terrace of three storey dwellings, at Nos. 3-7 Church Lane, with garages fronting to Church Lane to the east of the site and rear gardens to the west of the site proximate to the subject site. To the immediate west of this wall is a car parking yard, beyond which are Nos. 56 & 58 Rathmines Road Upper (both protected structures). To the east, the site is bounded by the 2-storey rear façade of a part single part two storey commercial building, occupying Nos. 1 & 2 Church Lane, which fronts Church Lane. This building is occupied by a solicitor's firm. To the north of the subject site, on the opposite side of Church Avenue is a recently constructed infill residential scheme known as Whitfield Grove.

2.0 Proposed Development

- 2.1. Planning permission was sought for: - construction of 3 no. residential dwellings (with a total area of c. 447.3 sqm), consisting of 3 no. 3-storey 3-bedroom townhouses, all

with associated ground floor private garden and first floor screened rear terrace, off-street car parking for one car per dwelling accessible from Church Avenue, landscaping works, site services and associated site development works. The proposed development will be contemporary in design and materials/finishes will consist of brick, frosted glass screening and slate.

2.2. Foul waste and water supply will connect to the existing Irish Water infrastructure on Church Avenue. SUDS measures are incorporated within the development.

2.3. The proposal was revised in response to a further information request. The revisions made resulted in the following amendments to the proposed development:

- Rebuilding of the existing stone wall, laid in lime mortar to match the random rubble of the remaining wall to the west, and its incorporation into the front facades of the proposed dwellings.
- Reconfiguration of the internal layout of the proposed dwellings to reposition all bedrooms/studies to the front of the site and revise the location of the ground floor garden area/first floor terrace serving Houses A and B.
- An increase in the size of the car parking area provided at ground floor level, from 4.79m x 3.7m to 5.125m x 3.7m and relocation of House A and B's carparking access.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council granted planning permission subject to 14 conditions.

Condition No. 6 stated the following:

6. *The frosted glazed screens on the south side of the 1st floor terraces, adjacent to No. 3 Church Lane, shall be 1.8metres in height as measured from the ground level of the terrace.*

Reason: In the interests of privacy and amenity.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Initial Planners Report (27th May 2021)

- Residential use is consistent with the Z1 zoning of the site. The principle of development is therefore considered acceptable, subject to other relevant considerations including design, conservation and visual amenity, residential standards, neighbouring amenity and transport.
- The proposed plot ratio of 1.17 and site coverage of 90.81%, exceed the standards set out in the Development Plan. High densities can be supported where a proposed development relates successfully to its surroundings, provides good quality residential accommodation, protects neighbouring amenity and is acceptable with regard to transport and environmental impacts.
- It is likely that the existing stone boundary wall of the site fronting Church Avenue was the original boundary wall of No. 56 Rathmines Road Upper. Church Avenue forms an axial route to Holy Trinity Church, a protected structure which provides the focal point of the residential neighbourhood. The site is prominent in this route and the existing boundary wall, together with that opposite on the northern side of Church Avenue contribute to the character of the area (which includes residential conservation areas) and setting of the nearby protected structures. Consequently, it is not considered that the level of intervention to the existing boundary wall to Church Avenue, albeit partially reused in the elevations, has been justified. Notwithstanding the concern raised above with regard to the boundary wall, having regard to the siting, scale, form and appearance of the proposed dwellings, it is considered that they would be appropriate to the context, subject to agreement of the final materials specification.
- The gross floor areas of the proposed dwellings would exceed the required floor area set out for 4bed, 7 person three storey dwellings, in the Quality Housing for Sustainable Communities Guidelines, 2007. The combined living areas falls short of the 40sqm required, though it is noted that the living room would meet the minimum requirement of 15sqm, that the utility room (2.8sqm) could be

incorporated into the kitchen and that the layout of the rooms is regular, allowing for efficient use of the spaces. It is also noted that the external steps from the garden to terrace could be omitted, enabling a larger living room to be created. All bedrooms are shown with storage space and there is also a walk in wardrobe, utility room and understair storage. The living rooms would face east towards a single/two storey wall at a distance of 3.6m, however it is considered that this would allow for adequate outlook and daylight, having regard to the infill and urban nature of the site. The kitchen window would be close to the footpath on Church Avenue, though a small setback is incorporated and this relationship is not considered unusual in the urban context.

- The total private amenity space provision of 40.7sqm would fall significantly short of the Development Plan requirement. However, given the location of the site adjacent to a number of public parks and amenity spaces, the shortfall in private open space is considered acceptable.
- At first floor level, 2 of the proposed bedroom windows would result in an unacceptable degree of overlooking of No. 3 Church Lane. This could not be resolved by the specification of obscure glazing as, notwithstanding the rooflight, this would result in loss of outlook to the rooms. Windows at second floor facing south would serve landings and are not considered to raise a significant issue with regard to overlooking. In the context of the proposed 1st floor terraces, the obscure glazed balustrading and offset from the boundary with No. 3 Church Lane is considered sufficient to achieve adequate privacy for existing and future occupiers.
- In the context of overbearing/overbearing and No. 3 Church Lane, the offsetting from the boundary at upper levels and the roof form, are considered to sufficiently moderate massing and consequently it is not considered that an impact in terms of overbearance would arise. As the site is located north of No. 3 Church lane, it is not considered that material harm would arise in terms of overshadowing.
- The scheme reserves an access way along the boundary with Nos. 1-2 & 3A Church Lane. The proposed units would not have direct access to this space,

which seems to be retained to service the neighbouring properties, but should be clarified with the applicant.

- The proposed new boundary would be 2m in height to the rear of No. 3A Church Lane, which is considered acceptable to provide light to that premises. Nos. 1-2 Church Lane includes 4 no. windows facing towards the application site. It is noted that, as the ground floor windows are on the boundary, they could be impacted by temporary structures, parking etc in the existing condition. Nonetheless, in the proposed situation, the flank wall of the closest new dwelling would impact on natural light to all 4no. windows on the western elevation of Nos 1-2. The applicant should be requested to demonstrate that the proposal will not have a detrimental impact on daylight to this property.

The report recommends a request for further information in respect of the following:

- Item 1: Concerns are raised in relation to the extent of intervention to the existing stone boundary wall on Church Avenue. The applicant is therefore requested to provide clarification of the heritage significance of the boundary wall and justification for the extent of any alteration to it, having regard to consequent impacts on the overall character of the axial route to the church's main elevation as well as on the setting of the protected structures adjacent.
- Item 2: Concerns are raised in relation to overlooking of the private amenity space of No. 3 Church Lane from windows of the study/single bedroom of the westernmost 2no. proposed dwellings. The applicant is requested to submit revised plans that address this issue.
- Item 3: The applicant is requested to submit a revised plan drawing indicating a minimum vehicular access width of 2.5m with a minimum car port dimension of 2.5m wide by 5.0m long. The updated plan drawings shall indicate the exact location of the adjacent street tree, indicate that all works to the public footpath are outside the 4m buffer zone, indicate the location of the existing vehicular dishing of the public footpath and outline if it is to be utilised in the proposed development.
- Item 4: The applicant is requested to explain the reason for retention of an access way along the eastern boundary of the site, adjacent to Nos. 1-2 & 3A

Church Lane, and confirm the purpose of this space, who will have access to it and how it will be maintained.

- Item 5: Concerns are raised in relation to natural light that will be received by Nos. 1-2 Church Lane's 4 no. windows which face west towards the application site. The applicant is therefore requested to demonstrate that the proposal will not have a detrimental impact on daylight to this property.

Subsequent Planners Report (12th October 2021)

The Planners report dated 12th October 2021 recommends a grant of permission subject to conditions. The following provides a summary of the points raised:

- In the context of FI Item 1: - A letter report from a Conservation Architect has been submitted and amendments have been made to the proposed drawings to show the existing stone wall rebuilt as part of the front elevations of the proposed dwellings. It is considered that the revisions to the scheme in this regard are successful in retaining the character of the axial route, preserving the setting of Holy Trinity Church and is appropriate to the historical significance of the wall itself. The further information submitted is satisfactory in response to this item.
- In the context of FI Item 2: - The layout of the dwellings has been amended in response to concerns raised in relation to overlooking of the private amenity space of No. 3 Church Lane. The study has been moved to attic level at the front and the former study area at first floor level to the rear is now proposed as an ensuite bathroom, with frosted window. As a result, the only rear-facing windows above ground level serve the ensuite and stairs. In addition, the external stairs to the rear of each dwelling has been omitted. The rear boundary with No. 3 Church Lane would be raised, comprising of a brick wall with timber louvres/frosted screen above. The frosted screen would be installed to the rear of the terraces, to prevent overlooking. A height of c. 1.5m above terrace floor level is indicated. This should be increased to 1.8m. Between the terraces, timber louvres are indicated on top of the wall, giving a total height of c. 4.7m on the boundary. The timber louvres would provide some openness on the boundary, whilst maintaining adequate privacy and is considered an

appropriate solution in this urban context. It is considered that the further information submitted has addressed this item.

- In the context of FI Item 3: - The revised layout shows car port dimensions measuring 2.5 m by 5.1 m. The applicant has confirmed that the path is already dished adjacent to the existing street tree and that no change to this dishing is proposed. Furthermore, a 6.9 m buffer between the street tree and existing dishing to facilitate access to Unit C carport is detailed. The response is acceptable.
- In the context of FI Item 4: - The submitted covering letter explains that the access route is retained for two reasons: firstly, to provide some separation distance adjacent to the windows in the boundary wall of 1-2 Church Lane; and secondly, to allow for a future access/bin storage area to No. 3a Church Lane (which is also in the applicant's ownership). It is stated that the area will be maintained by the owner of No. 3a Church Lane. It is an unusual situation and it is accepted that the arrangement indicated is a reasonable approach.
- In the context of FI Item 5: - The applicant has submitted a Daylight Access Analysis in response. Based on reference to drawings for No. 1-2 Church Lane submitted under application reference 6733/06, the report notes that the windows facing the application site serve a small room (likely storage), a stairwell and an office. Of these, the window serving the office would not be affected by the proposed development. In line with the BRE Guidance, stairwells and storage areas do not have a special requirement for daylight. It is considered that the impact on these rooms is acceptable, having regard to their use, the urban context, the buffer zone provided by applicant and in the interests of making the most efficient use of land. The report shows that the level of impact on other windows in No. 1-2 Church Lane will be imperceptible. It is considered that the applicant has addressed this further information request item.

3.2.2. ***Other Technical Reports***

Transportation Planning Division (initial report dated 20/05/2021): Recommended that further information be requested regarding the proposed vehicular entrance width,

internal carport layout, street tree positioning and the location of existing vehicular dishing.

Transportation Planning (subsequent report dated 5/10/2021): In light of the revisions/information included in the further information response, no objection, subject to conditions.

Drainage Division (20/04/2021): No objection, subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

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

- Overdevelopment, exceeds site coverage standards and density considered excessive
- Visually obtrusive, will detract from adjacent Z2 lands and protected structures.
- Loss of stone wall.
- Will dominate streetscape and impact on key view identified in the Rathmines Local Action Plan 2009.
- Traffic hazard created by accesses.
- Loss of amenity and privacy to units on Church Lane.
- Privacy of future occupiers, proximity to street.
- Northwest facing orientation of kitchen/dining rooms and bedrooms.
- Substandard gardens: size, usability and light.
- There is a no. of inconsistencies in the drawings.
- Proposal fails to meet requirements for infill housing.
- Mature trees should be protected.
- Notices do not state that the site is within the curtilage of a protected structure

- Proposed dwellings are 4 bed houses.
- Increased traffic.
- Impact on light to adjoining offices.
- Site notice not easily visible and an insufficient no. used in light of no. of entrances to site.
- Development inaccurately described in application material and incorrect address used to identify site.
- Proposed garages appear small.
- Sign on left hand gable of Sinnotts solicitors building will be obscured.
- Loss of views.
- Impact on architectural heritage.
- Inconsistent with Development Plan objectives and standards.

4.0 Planning History

4.1. Subject Site

4.1.1. There have been no previous applications pertaining to the subject site of relevance.

4.2. Sites in the Vicinity

4.2.1. There have been 3 recent applications pertaining to sites in the immediate vicinity of the subject site that are pertinent to the current proposal. These are summarised below/overleaf.

Rear of 64-66 Rathmines Road Upper (now known as 5, 6 & 7 Church Lane which lie south of the subject site)

PA Reg. Ref. 2424/04

Planning Permission granted in July 2004 for the demolition of existing warehouse structure and construction of 3 no. three-storey mews houses with off-street parking and first-floor terraces to rear.

Rear of 60 & 62 Rathmines Road Upper, Dublin 6 (now known as 3 & 4 Church Lane which lie south of the subject site)

PA Reg. Ref. 1684/05

Planning permission was granted in April 2005 for demolition of existing commercial structures and construction of 2 no. three storey mews houses with off street parking, first floor terraces to rear and first and second floor balconies to front.

Corner of Church Avenue and Church Gardens, Dublin 6 (on the opposite side of Church Lane)

PA Reg. Ref. 3766/14 (Appeal Reference PL29S.245849)

This application relates to the construction of a new residential development and a new lane accessed from Church Avenue. The development comprised 16 no. residential units, including 9 no. 3 storey, 3-4 bed houses, each with rear garden and west facing terrace (with opaque glazed screen) at 2nd floor; and a 4 storey apartment block (with roof garden) comprising 1 no. 1-bed (with study), 5 no. 2-bed and 1 no. 3-bed apartments. Off-street parking (20 no. spaces) and bicycle parking. Works to and repair of existing stone wall on Church Avenue.

Permission was granted by Dublin City Council in November 2015. The Planning Authorities decision was appealed to An Bord Pleanála by a third party (Appeal Reference PL29S.245849). The Board granted permission in April 2016.

Rear of 38 / 42 Upper Rathmines Road, Dublin 6

PA Reg. Ref. 2332/15

Planning permission was granted in December 2015 for a development consisting of a terrace of 4 no. part 2 part 3 storey three-bedroom residential dwellings, served by west facing rear gardens and private terrace at second floor level and accessed off Church Avenue through an adjoining site which is under separate planning application Reg. Ref. 3766/14. All dwellings include in curtilage front driveway car parking and an additional three visitor car parking spaces will be provided.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

5.1.1. Land Use Zoning

The site is zoned 'Z1' - Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2016-2022 with a stated objective '*to protect, provide and improve residential amenities.*'

5.1.2. Other Relevant Sections/Policies

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 4.5.9 – 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 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 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.’*

Section 16.3.3 Trees - Existing trees and their protection

‘The design of vehicular entrances that impact on adjacent trees will need to be considered to avoid conflicts with street trees’.

Section 16.5 Plot Ratio

For ‘Z1’ zoned lands, the development plan sets indicative requirements of 0.5-2.0 for plot ratio

Section 16.6 Site Coverage

For ‘Z1’ zoned lands, the development plan sets indicative requirements of 45%–60% for site coverage.

Section 16.7.2 Building Heights

In the case of the low rise outer city, a maximum height of 16 metres is specified for residential development and commercial development.

Section 16.10.2 Residential Quality Standards – Houses

Section 16.38 Car Parking Standards

A maximum car parking rate of 1 space per residential unit is specified for sites located within Area 2 as identified within Map J of the Dublin City Development Plan 2016-2022.

Section 16.39 Cycle Parking Standards

A minimum bicycle parking rate of 1 one space per residential unit is specified for residential developments.

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 concluded on 14th February 2022.

5.3. Regional Policy

5.3.1. Regional Spatial and Economic Strategy for the Eastern and Midlands Area, 2019

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. The following Regional Policy objectives are noted in particular:

RPO 3.2 Promote compact urban growth - targets of at least 50% of all new homes to be built, 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 urban areas.

RPO 4.3 Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

5.4. National Policy/Section 28 Ministerial Guidelines

5.4.1. Project Ireland 2040 National Planning Framework

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

NPO 3(a) Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

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

NPO 35 To increase densities 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.

5.4.2. Housing for All – A New Housing Plan for Ireland to 2030 (2021)

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price.
- built to a high standard and in the right place.
- offering a high quality of life.

5.4.3. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual

These guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50 / ha in such corridors, subject to appropriate design and amenity standards. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger

residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution in lieu of public open space within the development.

5.4.4. Urban Development and Building Heights - Guidelines for Planning Authorities (2018)

These guidelines set out national planning policy guidance on building heights in relation to urban areas. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. Building height is identified as an important mechanism to delivering compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

There is therefore a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.

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 South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and South Dublin Bay SAC (Site Code 000210), both located c. 3.9 kilometres east.

5.6. EIA Screening

5.6.1. 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

Two third-party appeals have been submitted. The first appeal is from Orla Hegarty and the second is from Brock McClure Planning & Development Consultants on behalf of a selected residents of Church Lane, Church Avenue, Church Gardens and Kingsdeen Ltd. t/a John Hayes Cars and Sinnott Solicitors. The appeal submitted by Brock McClure Planning & Development Consultants was accompanied by an Architectural Heritage Impact Assessment, prepared by Cathal Crimmins Architect. The main points raised may be summarised as follows:

- In principle the site is suitable for an appropriate housing development which is in accordance with the Development Plan objectives and standards and provides appropriate standards of space and amenity. The subject proposal does not constitute such a development. The subject proposal is not in accordance with the Development Plan objectives and standards, in particular those pertaining to site coverage and infill housing.

- The close proximity of the first floor roof terraces to the boundary will result in a loss of privacy and amenity to neighbouring properties and the screening provided is inadequate.
- The proposed vehicular entrances will have a negative impact on pedestrian safety. Also, the presence of gates at their entry will result in vehicles queuing on the road awaiting access, while the parking spaces provided are inadequately sized.
- The choice of materials and external detailing, fenestration and finish is unsuitable given the subject site is bound by an Architectural Conservation Area.
- Mature trees will be damaged as a result of the proposed development.
- The proposed development falls short of the standards set out in the Quality housing for Sustainable Communities: Design Guidelines, including those pertaining to gross floor areas, aggregate living area, aspect/natural light/ventilation, storage space, defensible space and outdoor amenity areas.
- The ground floor entrance/front door/hallway/arrangements of internal doors is not in compliance with Part M of the building regulations.
- There are a no. of inaccuracies/omissions in the application, including the absence of a Part V Exemption Certificate, incorrect address referenced in the Design Statement, the notices/application form do not make reference to the site being within the curtilage of a Protected Structure and the proposal is incorrectly described as proposing 3-bed houses.
- In deciding to grant permission, the Planning Authority has largely disregarded and failed to recognise the valid concerns put forward by local residents and business owners.
- The amenities currently enjoyed by neighbouring properties will be directly adversely affected by the proposed development, including by way of overbearing, overshadowing, loss of privacy/overlooking and noise intrusion.
- The proposal adopts minimal setbacks from Nos. 1, 2 and 3A Church Lane and will therefore block access to sunlight/daylight through the existing ground and

first floor windows of these commercial premises. The applicant has not demonstrated that the proposal will not have a detrimental impact on these properties in the daylight assessment accompanying the application. The current use of Nos. 1 and 2 Church Lane may not be able to continue if the proposed development is approved, as currently all windows are utilised for lighting of workspaces.

- The proposed development would obscure views of signage featuring on the rear façade of Nos. 1 and 2 Church Lane, associated with Sinnott Solicitors.
- The Planning Authority has wholly failed to make an adequate assessment of the proposal in the context of architectural heritage, in particular the wall featuring on site. The Council's Conservation Division was not consulted despite the removal of heritage fabric in a proposed Architectural Conservation Area. The proposed works to the heritage wall are totally inappropriate and contravene the Z1 zoning objective.
- The proposed development represents significant overdevelopment that is entirely inappropriate for this small infill site. As the proposal will be constructed to the street edge, little or no visual relief is provided from the street.
- By virtue of its scale, form, design and orientation, the proposed development will seriously injure the residential amenity of privacy of existing and future residents.
- The proposal, if granted, would set an undesirable precedent for similar residential development, particularly on the adjoining site to the west.
- Third parties were not afforded the opportunity to comment on the FI response material as it was not re-advertised.
- The proposed dwellings, due to the nature of the shallow site and the overdevelopment of the same, will provide a poor level of privacy/amenity for future residents of the development. The lack of separation from the street and northerly orientation of the bedroom and kitchen windows will also result in an undesirable living environment.
- The proposal is contrary to the development plan objective that the Pembroke Estate/Rathmines Lower and Upper/Belgrave Square area will be assessed for

Architectural Conservation Area designation. The proposed development is also contrary to the Rathmines Local Area Plan/Action Plan.

6.2. Applicant Response

The applicant's response to the appeal can be summarised as follows:

- The applicants concur with the underlying conclusion of the planning authority that the nature and scale of the proposed development will not adversely affect the character of the area and, contrary to the assertions of the appellants, will not seriously injure the amenity of immediately adjacent properties. Further to this, it is submitted that the proposed development, as amended by the response to the request for further information substantially addressed the issues that form the grounds of appeal.
- The proposed site coverage, at 41.73% (or 57% if the area above the car parking space is included), complies with the development plan requirements contrary to the suggestion made by the appellants. Irrespective of the calculation, it is submitted that the site coverage is appropriate as the development will facilitate the redevelopment of a site in need of urban renewal and the maintenance of the existing streetscape.
- The approved development, which includes screening to a height of 1.8 metres, will ensure that the loss of privacy and amenity to adjoining properties claimed by the appellants will not arise.
- The proposed development complies with the criteria for infill housing outlined in Section 16.10.10 of the development plan, the design of the houses having been carefully considered having regard to the surrounding context and surrounding dwellings and incorporate a rebuilt portion of the existing rubble wall into the front façade as well as materials informed by surrounding properties. Further to this, the proposed development complies with the minimum habitable room size requirements and provides a safe access/egress to the site, contrary to the views expressed by the appellants.
- The design and scale of the proposed development respects and enhances its context and is well integrated with its surroundings. Further to this, the proposed

development is on an infill site and will make the most sustainable use of land/urban infrastructure in the area.

- The applicant refutes the appellants contention that the proposed development is visually obtrusive, dominant in the streetscape and detracts from the Holy Trinity Church/Protected Structures on Rathmines Road Upper and that the proposals for the heritage boundary wall are wholly inappropriate. Referring to a report, prepared by Blackwood Associates Architects (Grade 1 Conservation Architects), accompanying the further information request response, which highlights that the framing of the vista towards the Holy Trinity Church is already significantly compromised from its original form by the development of Whitfield Grove as well as the three storey houses now featuring on Church Lane. The applicant's response to the third party appeals is accompanied by a statement, prepared by Blackwood Associates Architects, which responds to aspects of the appeals pertaining to architectural heritage. This report concludes that the existing presentation of this part of Church Avenue and its role as the setting for the vista towards Holy Trinity Church is already fundamentally altered from its historic origins in multiple respects.
- The applicant notes that the designation of the Pembroke Estate/Rathmines Lower and Upper/Belgrave Square area as an Architectural Conservation Area has not occurred, and the area is not one of the 15 priority areas identified in the Draft Dublin City Development Plan 2022-2028. It is therefore submitted that the assessment of the application should be confined to the applicable policies of the current Development Plan.
- The contemporary design approach employed in the proposed development, its relationship and distance from the Holy Trinity Church and its perpendicular relationship to the adjoining protected structures fronting Rathmines Road Upper achieves and appropriate architectural contrast that will not detract from the character of the area of the setting of the protected structures.
- The appellants contentions regarding the proposed developments impact on daylight/sunlight to neighbouring properties have been examined and responded to in the Response to Third Party Appeal – Sunlight & Daylight Impact, prepared by ARC Architectural Consultants Ltd., which accompanies

the applicant's appeal response. This report concludes that in a number of respects, the appellant's contentions are incorrect.

- In response to concerns raised by the appellants regarding the daylight environment of the proposed dwellings, the Response to Third Party Appeal – Sunlight & Daylight Impact, prepared by ARC Architectural Consultants Ltd., includes an assessment of the likely daylight access within the proposed units. The assessment predicts that all sample rooms within the proposed development will achieve levels of daylight at or above the minimum ADF recommended by the BRE Guide.
- It is submitted that the appellants' contention that the proposed development will result in a hazardous access arrangements/compromise pedestrian safety is alarmist and inflates the impact of the proposed development considerably. It is submitted the additional vehicle movements will not compromise road safety. It is argued that the proposed development will result in a noticeable reduction in traffic movements on Church Avenue associated with existing use of the subject site as a motors sale operation.
- References made to a Rathmines Local Area Plan are factually incorrect. The City Council did adopt a Rathmines Local Action Plan in November 2009 in accordance with an objective of the 2005-2011 City Development Plan. As the Local Action Plan has not been extended, the 2005-2011 City Development Plan has been superseded twice and national guidelines have been updated/expanded in the interim, it is submitted that its provisions are no longer a material consideration in the context of development proposals in the area.
- With regards to the concerns raised by the appellants regarding deficiencies in the application, the applicant notes that the City Council is charged with ensuring the validity of planning applications and in this instance it found no grounds to invalidate the application. Irrespective of this, the applicant includes discussion in this regard. The applicant refutes the suggestion that the notices are deficient in that they don't refer to the site being within the curtilage of a protected structure. As set out in the reports accompanying the FI response, the original use of the application site as a garden serving 56 Rathmines Road Upper has long gone and given the long standing absence of a functional

relationship, it is submitted that the subject site is no longer within the protected structure's curtilage. With regards to the address used to identify the site, the applicant notes this was informed by the Eircode database and the occupiers website. Further to this, the applicant notes that the Council deemed the notices to be appropriately located/drafted and found the application to be valid. Finally, a Social Housing Exemption Certificate was issued by DCC in April 2021.

- With regards to the supposed obscuring of the Sinnotts Solicitor signage, the applicant contends that the presence of a sign is not a material consideration in the assessment of the proposed development and also notes that there is no record of planning permission for such a sign being granted on the Council Planning Register so it may be unauthorised in any event.

As discussed above, as part of the applicant's response to the appeal, they have submitted a Conservation Observation on 3rd Party Appeal, prepared by Blackwood Associates Architects (Grade 1 Conservation Architects), and a Response to Third Party Appeal – Sunlight & Daylight Impact, prepared by ARC Architectural Consultants Ltd. Further to this, they have submitted 3D visualisations of the proposed scheme as approved by Dublin City Council, additional plans outlining site coverage/minimum habitable room size calculations and a detailed study of the proposed front elevation, prepared by Noonan Moran Architecture.

The applicants ask that they be read in conjunction with the original material submitted with the planning application. Accordingly, this assessment is based on the plans and information received by Dublin City Council on 1st April 2021, the further information response material received by Dublin City Council on 20th September 2021 and the plans and particulars received by the Board on 6th December 2021.

6.3. Planning Authority Response

The Planning Authority did not respond to the appeal.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

As part of the grounds of appeal, the appellant submitted additional information and drawings in response to the third-party appeals lodged. This additional information and drawings included the following:

- A Conservation Observation on 3rd Party Appeal, prepared by Blackwood Associates Architects (Grade 1 Conservation Architects);
- A Response to Third Party Appeal – Sunlight & Daylight Impact, prepared by ARC Architectural Consultants Ltd;
- 3D visualisations of the proposed scheme as approved by Dublin City Council, prepared by Noonan Moran Architecture;
- Plans outlining site coverage/minimum habitable room size calculations, prepared by Noonan Moran Architecture; and
- A detailed study of the proposed front elevation, prepared by Noonan Moran Architecture.

The applicants ask that they be read in conjunction with the original reports/plans submitted with the planning application and the response to the further information request. 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 plans and information received by Dublin City Council on 1st April 2021, the further information response material received by Dublin City Council on 20th September 2021 and the plans and particulars received by the Board on 6th December 2021.

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Principle of Development.
- Density, Layout and Height.

- Residential Amenity of Proposed Development.
- Amenity of Adjoining Properties.
- Access, Traffic and Parking.
- Impact on Architectural Heritage.
- Visual Impact.
- Impact on Street Trees.
- Other Matters.
- Appropriate Assessment.

7.1. Principle of Development

7.1.1. As previously discussed, the development site lies within an area of suburban residentially zoned land. Under this land use zoning objective, residential development is generally acceptable in principle subject to the proposed development being acceptable in terms of its impact on the visual amenities of the area and the established residential amenities of properties in its vicinity. These matters are considered in turn below.

7.2. Density, Layout and Height

7.2.1. The appellants argue that the proposed development represents significant overdevelopment that is entirely inappropriate for this small infill site and that the subject proposal is not in accordance with the Development Plan objectives and standards, in particular those pertaining to site coverage and infill housing. The applicant contends that the design and scale of the proposed development respects and enhances its context and is well integrated with its surroundings. Further to this, they are of the view that the proposed development is on an infill site and will make the most sustainable use of land/urban infrastructure in the area. The applicant submits that the proposed site coverage/scale of development is appropriate as the development facilitates the redevelopment of a site in need of urban renewal and the maintenance of the existing streetscape.

- 7.2.2. With regards to density, 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 the quality bus corridor that runs through Rathmines Key District Centre and Beechwood Luas Station. Moving forward, Bus Route 80 of the Bus Connects Network will run along Rathmines Road Upper and the A Spine, more specifically routes A1, A2, A3 and A4, are proposed to run along Rathgar Road.
- 7.2.3. The 3 houses proposed on this 0.0381Ha site, equates to a density of 78 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.
- 7.2.4. In terms of consistency with 'Plot Ratio' and 'Site Coverage' standards, based on the plans submitted with the further information request response, I would calculate the proposed development to equate to a plot ratio of 1.22 and a site coverage of 77%. Therefore, the proposal is compliant with Development Plan policy with regards to plot ratio but the proposed site coverage exceeds the indicative site coverage set out in the Development Plan. While the proposed development may exceed the indicative site coverage permissible under the Z1 zoning objective set out in the development plan, I would emphasise that these standards are indicative only and to some extent have been superseded by national policy in relation to development standards which emphasises the need to adopt a more flexible approach in relation to developing sites based on quality of design rather than a strict and rigid interpretation of standards. With regards to the other criteria set out in the Development Plan to justify higher site coverage standards, I consider that this underutilised/vacant site is in need of renewal

and that the proposed development would be consistent with the existing Church Avenue streetscape profile as well as recent infill dwellings introduced along Church Lane to the east.

7.2.5. Having regard to the foregoing, I do not consider that the proposed development in this instance constitutes an overdevelopment of the site having regard to national policy which seeks to maximise the efficient use of existing physical and social infrastructure within built up areas. Having regard to its zoning, inner-city location, and convenience in relation to public transport and other services, I consider that the site is suitable in principle for residential development at a higher level of density, plot ratio and site coverage. The suitability of the proposed density, height, and scale will be further assessed on the basis of visual amenity, residential amenity and impacts on surrounding properties.

7.2.6. The proposed development extends to a maximum height of 9.833 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 outer city, low rise is indicated as being up to 16 metres for residential and 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 Structures and residential dwellings.

7.3. Residential Amenity of Proposed Development

7.3.1. The appellants contend that the proposed dwellings, due to the nature of the shallow site and the overdevelopment of the same, will provide a poor level of privacy/amenity for future residents of the development. They also express the view that the lack of separation from the street, the northerly orientation of the bedroom and kitchen windows, as well as the proposed development falling short of the standards set out

in the Quality Housing for Sustainable Communities (2007), will also result in an undesirable living environment.

7.3.2. Each of the proposed dwellings have a total floor area of 155.8sqm across 3 floors which is well in excess of the minimum requirements set out for 3 Bed/6P Houses (3 storey) in relation to gross floor area, main living room, aggregate living area, aggregate bedroom area and storage in the Quality Housing for Sustainable Communities, 2007 (I note that the proposed study cannot be considered a bedroom due to the absence of a second point of egress/means of escape required by the Building Regulations).

7.3.3. With regards to outlook, the living rooms associated with Houses A and B would look westwards and House C eastwards towards a brick wall topped with a glazed screen, extending to a height of c. 4.9 metres, located c. 3.6 metres from the room's patio doors. However, having regard to the infill and urban nature of the site and the extent of glazing proposed, it is considered that this would allow for adequate outlook and daylight, having regard to the infill and urban nature of the subject site. The kitchen window would be located close to the footpath on Church Avenue, incorporating just a small setback, while the window serving the dining room is slightly more recessed and incorporates planting and an aluminium fin privacy wall. The relationship between the proposed dwellings and Church Avenue at ground floor level is not considered unusual in the urban context. The windows serving habitable room windows at upper floor levels have been orientated northwards towards Church Avenue. These windows are considered to be of a suitable size to allow adequate ventilation and daylight to these rooms while protecting the residential amenity of neighbouring properties (as will be discussed in the subsequent section). In response to concerns raised by the appellants regarding the daylight/sunlight being received by the proposed north facing windows, the applicant's appeal response is accompanied by a Response to Third Party Appeal – Sunlight & Daylight Impact, prepared by ARC Architectural Consultants Ltd, which includes an assessment of the likely daylight access to the proposed units. A suitable sample of the north facing windows (lowest level windows) were studied and found to exceed the minimum Average Daylight Factor recommended by the BRE guide for living rooms.

7.3.4. Having reviewed the proposed floor plans and having regard to the subject site's inner-city context, I am satisfied that the house is suitably designed and adequately sized internally to provide an adequate level of residential amenity to future residents.

7.3.5. Section 16.10.2 of the Development Plan requires that a minimum standard of 10sq.m of private open space per bedspace is applied in the context of new dwellings, save for in the context of proposals for house(s) within the inner city where a standard of 5–8sq.m of private open space per bedspace will normally be applied. The proposed dwellings are provided with 45.7sqm of private open space (in the form of a 24.7sqm ground floor garden and 21sqm first floor terrace). Given the subject sites inner city context, the quantum of private open space provided is considered appropriate in this instance. With regard to the quality of private open space provided, despite the constrained nature/size of the subject site, I think the proposed private open space area has been designed in such a way as to maximise its amenity levels for future residents. All three private open space areas are south facing and split across ground and first floor levels to maximize solar access. In the context of the ground floor private open space areas serving House A, this has been positioned adjacent to the western boundary to reduce potential impacts from the party wall associated with No. 3 Church Lane (the party wall reducing in height as you move westwards). In the context of the ground floor private open space areas serving Houses B and C, these have been positioned adjacent to No. 3 Church Lane's rear amenity space area. The quality of the private open space areas proposed is considered appropriate, particularly given the subject site's inner city context and brownfield nature.

7.3.6. Section 16.10.3 of the Development Plan requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. 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). The proposed development is devoid of public open space. This is considered appropriate in this instance given the small size of the subject site. It is

recommended that the Board attach a suitably worded condition requiring payment of a financial contribution in lieu of public open space provision.

7.4. Amenity of Adjoining Properties

Nos. 3, 4, 5, 6 and 7 Church Lane, Rathmines, Dublin 6 (some of which comprise the appellant's houses)

7.4.1. The appellants' have raised a number of concerns in relation to the potential of the proposed development, if permitted, to give rise to serious injury of their established residential amenities by way of overlooking/loss of privacy, overbearing, overshadowing and noise proliferation. Each of these matters will be considered in turn below.

7.4.2. Prior to assessing potential amenity impacts, I think it beneficial to discuss the subject site in the context of its interface with the neighbouring properties at Nos. 3-7 Church Lane. As previously discussed in Section 1.0, the subject site is a 0.0381ha regular shaped brownfield site on the southern side of Church Avenue. Its common boundary with Nos. 3-7 Church Lane currently features a stone wall. Nos. 3-7 Church Lane comprise a row of 5 no. three-storey mews houses which are located to the south of the subject site, fronting Church Lane. These dwellings feature garages fronting Church Lane to the east of the site and rear gardens/first floor terraces to the west of the site proximate to the subject site. Of these dwellings, No. 3 Church Lane immediately abuts the subject site.

Overlooking/Loss of Privacy

7.4.3. There are two aspects in relation to potential overlooking of these properties that need to be considered in the context of the subject proposal: - upper floor windows and the first floor terrace proposed. Each of these aspects of the proposed development will be considered, in terms of potential overlooking/loss of privacy, in turn below/overleaf.

7.4.4. In the plans originally lodged with the application to Dublin City Council, the proposed dwellings featured 2 no. south-facing windows at upper floor windows. The Planning Authority had concerns about potential overlooking from one of these, the window associated with the study/single bedroom and in particular those featuring in the

westernmost of the proposed dwellings (Dwellings B and C). In response to Item No. 2 of the further information request issued by the Planning Authority, the layout of the proposed dwellings was amended, with the study being moved to attic level at the front of the building and the former study area at first floor level replaced by an ensuite bathroom, with frosted window, serving the master bedroom. As a result of these amendments, the only south-facing windows now proposed above ground floor level serve an en-suite and a stairwell which feature frosted glazing and serve a non-habitable space, respectively. I share the same view as the Planning Authority that, in light of the amendments made in response to the further information request, the proposed dwellings do not facilitate potential overlooking of adjacent open space areas to the south from upper floor windows.

7.4.5. The appellants are concerned about overlooking of their adjacent private amenity space from the proposed first floor terraces which are located immediately adjacent to the common boundary with No. 3 Church Lane. In response to concerns raised at further information stage, the applicant has omitted the stairs previously proposed adjacent to the common boundary, increased the height of the brick wall proposed adjacent to the common boundary and introduced timber louvres/frosted glazed screens atop this wall. Further to this, frosted glazed screens are to be installed along the side boundaries of the proposed terraces. The timber louvres being introduced atop the wall result in a total height of c. 4.7 metres on the boundary. They would provide some openness on the boundary, whilst maintaining adequate privacy and is considered an appropriate solution in this urban context.

7.4.6. In the context of the frosted glazed screens proposed along the southern boundary, a height of c. 1.5m above terrace floor level is indicated on the drawings. The Planning Authority, having deemed that the proposed frosted glazed screens could still give rise to adverse overlooking impacts on adjacent rear gardens, included a condition (Condition No. 6) which required that the frosted glazed screens featuring on the south side of the 1st floor terraces, adjacent to No. 3 Church Lane, be increased to 1.8 metres in height as measured from the ground level of the terrace. Having reviewed the plans submitted with the further information request, I would share the concerns of the Planning Authority regarding potential overlooking from the first floor terraces associated with Dwellings B and C as proposed. However, I am satisfied that potential

overlooking of adjacent gardens, including that of No. 3 Church Lane, could be addressed by way of an increase in the height of proposed frosted glazed screening. Therefore, it is recommended that if the Board sees fit to grant permission that the applicant be required to increase the frosted glazed screens featuring on the south side of the 1st floor terraces, adjacent to No. 3 Church Lane, be increased to 1.8 metres in height as measured from the ground level of the terrace, to protect the residential amenity of adjacent residences.

Overbearing

7.4.7. With regards to overbearing, the appellants contend that the proposed development, due to its three storey height, proximity to the common boundary with No. 3 Church Lane and the screening proposed adjacent to the common boundary, will be visually obtrusive and have overbearing impacts on the adjacent private amenity space areas.

7.4.8. No. 3 Church Lane's rear garden is c. 28.7 metres deep. The subject site flanks the rear garden for a length of c. 13.5 metres, the eastern part of the subject site flanking No. 3 Church Lane's northern façade and first floor terrace, which features a 2 metre wall/chimney along the common boundary with the subject site. The c. 13.5 metres stretch of boundary shared with No. 3 Church Lane's rear garden currently features a c. 2 metre high stone wall. It is proposed to retain this wall as part of the proposed development and introduce a brick wall between 3.49 and 3.77 metres in height immediately adjacent which will feature timber louver and frosted glazed screens atop (resulting in an overall height of between 4.59 and 4.87 metres. The massing of the proposed dwellings has been focussed in the northernmost part of the site, immediately adjacent to the Church Avenue frontage. The footprints of the proposed dwellings extend to the common boundary only at ground floor level, at first floor level the dwellings rear facades adopt a setback of 4.8 metres from the common boundary (with only the first floor terraces projecting beyond this) and the same setback is adopted at second floor level. At second floor level, the section of roof above Bedroom 2 is angled quite steeply in a northern direction. Having regard to the overall scale, siting, design and proximity of the proposed development relative to these neighbouring sites and having considered the existing site context as well as the subject site's inner city location, it is my opinion that the proposal is neither out of scale

nor excessive and will not result in unreasonable overbearing impacts on Nos. 3-7 Church Lane's rear amenity spaces.

Overshadowing

- 7.4.9. Due to the orientation of the subject site to the north of Nos. 4, 5, 6 and 7 Church Lane, Rathmines and the separation distance (a minimum of 4.73 metres) adopted from the common boundary at upper floor level, it is not considered that significant overshadowing issues arise in the context of this neighbouring property.

Noise

- 7.4.10. The appellants are concerned that there will be noise pollution from the proposed development to their rear amenity spaces, particularly from the first floor terrace due to its elevated nature. Given the building is being used for residential purposes and the wall currently featuring/wall and screening proposed along the common boundary, it is not anticipated that the proposed development and in particular the first floor terrace will result in an unreasonable increase in noise pollution to the surrounding area, including the rear amenity spaces associated with Nos. 4, 5, 6 and 7 Church Lane.

Appellants' Commercial Premises (Sinnott Solicitors, at the corner of Church Lane and Church Avenue, Rathmines, Dublin 6)

- 7.4.11. The appellants' have raised a number of concerns in relation to the potential of the proposed development, if permitted, to give rise to serious injury of the established amenity of the commercial premises abutting the subject site's eastern boundary.

- 7.4.12. In response to concerns raised in the Planning Authority's further information request regarding the proposed developments impact on the level of natural light received by the 4 no. windows associated with Nos. 1-2 Church Lane facing west towards the application site, the applicants submitted a Daylight Access Analysis, prepared by ARC Architectural Consultants Limited. Having assessed the plans for No. 1-2 Church Lane which formed the basis of the previous planning application under Reg. Ref. 6733/06 (which identify the applicable west-facing windows as serving a small room (likely storage), a stairwell and an office) in the context of the existing and resultant vertical sky component, this analysis concluded that the proposed development will have little or no impact on daylight access within the principal office

spaces within Nos. 1-2 Church Lane and that the potential impact on daylight access within the applicable work spaces/office space will be none to 'imperceptible'.

7.4.13. The appellants refute these findings claiming that the applicant has not demonstrated that the proposal will not have a detrimental impact on daylight to No. 1-2 Church Lane and claim that regard should be had to the design of the window/the depth and layout of the room and not just the vertical sky component. Further to this, they note that a no. of the applicable windows were incorrectly identified as storerooms in the analysis and that the subject site has failed to have regard to the further redevelopment potential of this neighbouring site. In light of this aspect of the comments raised by the appellants in the third party appeal submission, the applicant's appeal response is accompanied by a Response to Third Party Appeal – Sunlight & Daylight Impact, prepared by ARC Architectural Consultants Ltd, which specifically responds to the various concerns raised by the appellants regarding daylight/sunlight access to No. 1-2 Church Lane. Among other things, this response outlines that the purpose for which the room was used has no bearing on how the impact was assessed with the same test being used on all rooms and reference to the assumed use only included to inform the Planning Authority.

7.4.14. The proposed development adopts a 2.6 metre separation distance from the west facing windows associated with No. 1-2 Church Lane which I consider to be appropriate having regard to the results/comments of the various daylight assessments accompanying the application/appeal and the site context. Having visited the appeal site, I would contend that the design of No. 1-2 Church Lane has failed to take advantage of its location on a corner, the first floor level being devoid of windows on its northern façade, and instead relies heavily on westerly daylight access. In light of this, I would consider it inequitable to limit the development potential of the appeal site by requiring a great separation distance be provided.

7.5. Access, Traffic and Parking

7.5.1. The proposed development looks to provide 3 no. vehicular accesses off Church Avenue. The appellants contend that the subject proposal will have a negative impact on pedestrian safety and that the presence of gates at the entry to the undercroft

parking spaces will result in vehicles queuing on the adjacent road awaiting access. Further to this, they contend that the parking spaces provided are inadequately sized.

- 7.5.2. The initial report from the Planning Authority's Transportation Planning Division raised concerns about the extent of vehicular dishing of the public footpath proposed, as well as the width of the vehicular accesses/the size of the proposed carports, and recommended that further information be requested, including in relation to the extent of vehicular dishing of the public footpath proposed, vehicular entrance width and internal carport layout. In response to the further information request subsequently issued by the Planning Authority, the applicant submitted revised plans that indicated the existing extent of footpath dishing featuring to the front of the site/the amendments to the same required to facilitate the proposed development, increased the width of the vehicular entrance to 2.5 metres and internal dimensions of the carport to 3.7 metres x 5.125 metres. Upon review, the Planning Authority/Transportation Planning Division deemed the vehicular accesses/undercroft car parking areas serving the proposed dwellings to be acceptable. I would share the same view as the Planning Authority.
- 7.5.3. With regards to the proposed development's potential impact pedestrian safety, the subject site is currently in use as a car sales yard, known as John Hayes Cars, which is accessible via two vehicular access points on to Church Avenue. Given the existing use operating on site, the residential nature of the proposed development, the limited no. of car parking spaces proposed as part of the development and the visibility afforded drivers along this stretch of footpath, I do not consider the proposed development will negatively upon pedestrian safety as suggested by the appellants.
- 7.5.4. In terms of car parking provision, the proposed development achieves a car parking rate of 1 car parking space per dwelling, which complies with the 1 car parking space per residential unit 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 the quality bus corridor that runs through Rathmines Key District Centre and the Beechwood Luas Station.
- 7.5.5. With regards to bicycle parking provision, bicycle parking spaces have not been delineated on the drawings. However, the undercroft car parking space is open to the

rear garden and it is considered there is ample space therein or within the undercroft car parking area to accommodate bicycle parking.

7.5.6. The potential impact of the proposed vehicular entrances on adjacent street trees is considered separately in Section 7.8 of this report.

7.6. Impact on Architectural Heritage

7.6.1. The subject site is located to the west of Holy Trinity Church and to the east of Nos. 56 and 58 Rathmines Road Upper, which are Protected Structures (RPS No. 1520, 7267 and 7268, respectively) under the Dublin City Development Plan 2016-2022. The stone wall featuring on the appeal site's northern boundary is likely to have originally formed part of the boundary of No. 56 Rathmines Road Upper. Further to this, the stone wall, together with the stone boundary wall on the opposite side of Church Avenue, contributes to the setting of Holy Trinity Church and the character of the wider area. The Dublin City Council Development Plan 2016-2022, at Policy CHC2, seeks to ensure that the special interest of protected structures is protected.

7.6.2. Extensive alterations to the stone wall featuring along the site's northern boundary were originally proposed as part of the subject development. However, in response to Item 1 of the Further Information Request issued, amendments were made to the proposed development involving the rebuilding of the existing stone wall (reusing the original stone and lime mortar to match the random rubble of the remaining wall to the west)/its incorporating into the front elevations of the proposed dwellings. The proposed reconstruction will be overseen by a RIAI Grade 1 accredited Conservation Architect. Further to this, a letter (dated 30th August 2021), prepared by Blackwood Associates Architects and Building Conservation Consultants, accompanied the Further Information Request Response. This letter confirms that the existing wall originally formed the garden wall of No. 56 Rathmines Road Upper but this association has long been lost as a result of the subject site being excised from the original garden and modifications to the wall that have occurred over time, such as the original harling being removed, the loss of sections of wall to accommodate vehicular entrances and the introduction of modern features, including gate posts. This letter also acknowledges that the stone walls either side of Church Avenue are historic features of the early 19th century townscape which contributed to the historic character of

Church Avenue with Trinity Church as the focal point. They note that the stone boundary on the opposite side of Church Avenue was recently rebuilt as part of the new Whitfield development, replacing the original wall, and no longer displays the traditional construction. In light of this, they contend that the proposed development will complement the historic urban setting with the loss of historic fabric being counterbalanced by the positive provision of quality housing, replacing a parking area.

7.6.3. The Planning Authority considered that this aspect of the revisions to the scheme was successful in retaining the character of the axial route, preserving the setting of Holy Trinity Church and is appropriate to the historical significance of the wall itself. In recommending that permission be granted, the Planners Report recommended that a condition regarding this aspect of the proposed development be included requiring that a methodology prepared by a conservation expert for the removal, treatment, temporary storage, and reconstruction of the wall as part of the proposed dwellings, be submitted to and agreed in writing with the Planning Authority.

7.6.4. The appellants contend that the Planning Authority has wholly failed to make an adequate assessment of the proposal in the context of architectural heritage, in particular the wall featuring on site, and have raised a number of concerns in relation to the proposed development's impact on architectural heritage, as well as the visual amenity of the area. More specifically, they are of the view that proposed works to the heritage wall are totally inappropriate and contravene the Z1 zoning objective and that the choice of materials and external detailing, fenestration and finish is unsuitable given the subject site is bound by an Architectural Conservation Area. In the context of the heritage wall, the appellants argue that although altered over the years this wall still retains its original 19th century character and has a significant connection to the Protected Structures and contend that as a result of the proposed incorporation of the historic wall into the building's front façade, the wall will no longer be a 'wall' but rather a material plastered upon the proposed dwellings' front facades and will not have the character/extent of stonework to retain the historical and visual character of the walls of the Protected Structure or make a meaningful/strong connection with the Church. The appeal submitted by from Brock McClure Planning & Development Consultants was accompanied by an Architectural Heritage Impact Assessment, prepared by Cathal Crimmins Architect, which concludes that the proposal, despite its intention to

reface the small sections of the house walls with original stone, will not make an adequate contribution to the views to both Holy Trinity Church and Rathmines Road Upper.

7.6.5. In response to the grounds of appeal raised, the applicant has submitted a further letter (dated 26th November 2021), prepared by Blackwood Associates Architects and Building Conservation Consultants, which deals with the specific issues raised in regards to the wall in the appeal submitted by Brock McClure Planning Consultants. It argues that the heritage value of the wall as it contributes to the historic setting is already fundamentally compromised as a result of the modifications that have occurred in the intervening period and that the framing of the vista to Holy Trinity Church has already been significantly compromised from its original form by the development of Whitfield and the 3 storey townhouses along Church Lane and the subject proposal will not erode the setting any further. It concludes that the proposed dwellings are respectful of the historic setting/context and makes a positive contribution to the public realm.

7.6.6. Having regard to the proximity of the proposed dwellings to the Protected Structures (the subject site being slightly removed from both Holy Trinity Church and Nos. 56 and 58 Rathmines Road Upper), the modifications that have been made over the years to the applicable wall and the rebuilding of the wall featuring on the opposite side of Church Avenue that has taken place in conjunction with the Whitfield residential development, the approach adopted in relation to the wall as part of the proposed development is considered appropriate in this instance. Although the remaining original components of the wall are to be removed, the rebuilding of the wall in a suitable manner/finishing and its incorporation into the front façade design of the proposed dwellings will ensure its continued contribution to the areas architectural heritage/maintain the Holy Trinity Church as the focal point for drivers/pedestrians traversing Church Avenue. I, therefore, have no objections to the proposed development in terms of potential impact on architectural heritage. I consider the proposed development would be consistent with Policy CHC2 included in the Dublin City Council Development Plan 2016-2022, as the special interest of applicable wall will be appropriately maintained/protected. To ensure the works to the existing stone boundary wall on Church Avenue are carried out as described/the walls continued

contribution to the historic context of the area is maintained, it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring that a methodology prepared by a conservation expert for the removal, treatment, temporary storage, and reconstruction of the wall as part of the proposed dwellings, be submitted to and agreed in writing with the Planning Authority.

7.7. Visual Impact

- 7.7.1. Consideration is also needed in relation to the proposed developments potential visual impact on the immediately surrounding residential area. At present, the subject site comprises an area of hard standing and 2 no. low-rise temporary structures enclosed by concrete/stone walls to the north, south and west. Under the subject proposal, 3 no. 3-storey dwellings would be developed on site. The proposed dwellings would be orientated to front Church Avenue to the north. It is noted that along this section of Church Avenue and the immediately adjacent streets of Church Lane and Rathmines Road Upper feature development varying in design and scale, having been developed over different periods of time. The appeal site is positioned mid-way along the stretch of Church Avenue joining Rathmines Road Upper and Church Lane. To the immediate east, are Nos. 1-2 and 3A Church Lane which comprise 1-2 storey commercial premises. To the immediate south, are Nos. 3-7 Church Lane which comprise a row of 3-storey mews dwellings. Immediately north, on the opposite side of Church Avenue, is the recently constructed Whitfield residential development which comprises 3-storey townhouses and a 3-storey apartment block. Further west are Nos. 56 and 58 Rathmines Road Upper, which comprise of 3-storey over basement Georgian Houses.
- 7.7.2. I acknowledge that the proposed 3-storey dwellings 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 Avenue streetscape and would have sufficient respect and regard for the established pattern and character of development in the streetscape and wider area. The proposed dwellings will provide for a modern insertion in this streetscape, which is of a scale and design appropriate to the site and will not significantly detract from the visual amenity of this area.

7.7.3. As previously discussed, the appeal site is highly accessible and well served by public transport, while also being within walking distance of a range of services and employment opportunities. The proposal is in line with National policy guidance in relation to density and utilising infill sites to support the growth of cities versus their outward expansion, which must be balanced against the evolving character of an area and the existing community. I consider that these three storey dwellings can be accommodated without detrimentally impacting on the character and visual amenity of the area.

7.8. Impact on Street Trees

7.8.1. As discussed previously in Section 1.0 of this report, there is one large established street tree in the footpath immediately west of the subject site. The appellants have raised concerns that this mature tree will be damaged as a result of the proposed development.

7.8.2. Upon initial review of the application, the Planning Authority also expressed some concerns regarding this street tree and saw fit to ask, as part of their further information request, that the applicant provide updated plan drawings indicating the exact location of the adjacent street tree and indicate that all works to the public footpath are outside the 4 metre buffer zone, measured from the tree trunk of the existing street tree. In response to this aspect of the further information request, the applicant submitted a revised Site Layout Plan (Drawing No. 21-273-PD-101 _Rev A, prepared by Noonan Moran Architecture), which detailed the position of the applicable street tree relative to the proposed development and illustrated that a 6.9 metre buffer exists between the street tree and existing kerb dishing which facilitates access to House C's carport. Upon review, the Planning Authority deemed the proposal acceptable in the context of this existing street tree.

7.8.3. Given the existing site context and the vehicular access arrangements proposed in the context of House C's carport, I am satisfied that the proposed development will not unreasonably impact upon the existing street tree featuring to the immediate west of the proposed development.

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. *Part M Compliance* – One of the appellants argues that the ground floor entrance/front door/hallway/arrangements of internal doors is not in compliance with Part M of the building regulations. Matters related to building regulations, including Part M compliance, are not matters to which the Board have regard in the context of this appeal.

7.9.3. *Procedural Issues* - I note that there are a number of procedural issues raised within the grounds of appeal regarding the validity of the application. More specifically, the appellants contend that the application is invalid having regard to the absence of a Part V Exemption Certificate, the address referenced in the application material including the inaccurate address referenced in the Design Statement accompanying the application, the notices/application form not making reference to the site being within the curtilage of a Protected Structure, insufficient site notices being erected on site/the site notices being in an inconspicuous location and the proposal being incorrectly described as proposing 3-bed houses. In terms of procedural issues and the alleged insufficiencies of the development description, site notices and application inclusions, I note that the address, development description and notice positioning/number thereof were considered acceptable by the planning authority and the application was deemed valid. Having considered the matter of the address used, development description and notice positioning/number thereof, I note that based on the quantity of third-party submissions it is evident that the local public were well informed of the application on the site and as evidenced by the submissions received

and the subsequent appeals have not been disenfranchised from taking part in the planning process. With regards to the appellants' suggestion that the application is invalid as it does not reference that the proposed development is within the curtilage of a Protected Structure, I note that the Dublin City Development Plan 2016–2022 Record of Protected Structures makes no reference to this boundary wall in the description provided for No. 56 Rathmines Road Upper. In this regard, the applicant contends that the original use of the application site as a garden serving No. 56 Rathmines Road Upper has long gone and given the long-standing absence of a functional relationship, it is submitted that the subject site is no longer within the protected structure's curtilage. I would concur with this conclusion. I further note that the Planning Authority were satisfied with the material accompanying the application and the detail contained therein. I therefore do not consider that the material submitted with the planning application are inadequate for the purposes of determining the proposal before the Board. I would therefore concur with the Planning Authority that the level of detail submitted with the planning application is appropriate and that the information supplied is on the whole clear and unambiguous and is not of a sufficient nature to warrant an invalidation of the application as suggested in the grounds of appeal.

7.9.4. *Impact on Existing Signage* - The grounds of appeal raise a concern that the proposed development would obscure views of signage featuring on the rear façade of Nos. 1 and 2 Church Lane, associated with Sinnott Solicitors. The proposed development adopts a 2.6 metres setback from the rear façade of Nos. 1 and 2 Church Lane. This is considered sufficient to maintain views of the applicable signage, having regard to the signs northerly positioning on the rear façade.

7.10. **Appropriate Assessment**

7.10.1. Having regard to the nature and scale of the proposed development (3 no. infill houses 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. Having regard to the foregoing, it is recommended that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below.

9.0 Reasons and Considerations

Having regard to the zoning objective as set out in the Dublin City Development Plan 2016-2022, the design, layout and scale of the proposed development and the existing pattern of development in the vicinity, it is considered that subject to compliance with conditions below, the proposed development would appropriately introduce residential use onto this suitably located infill site, would not detrimentally impact on the architectural heritage of the area including the 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, would be acceptable in terms of traffic safety/parking provision and would comply with the provisions of the Dublin City Development Plan 2016-2022 and the Quality Housing for Sustainable Communities, 2007. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on 20 th September 2021 and by the further plans and particulars received by An Bord Pleanála on 6 th December 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.
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	Reason: In the interest of clarity.
2.	<p>The proposed development shall be amended as follows:</p> <p>a) The frosted glazed screens on the southern side of the 1st floor terraces, adjacent to No. 3 Church Lane, shall be 1.8 metres in height as measured from the ground level of the terrace.</p> <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 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>Prior to the commencement of any works to the existing stone boundary wall on Church Avenue, a methodology for the removal, treatment, temporary storage, and reconstruction of the wall as part of the proposed dwellings, shall be submitted to and agreed in writing with the Planning Authority. The methodology shall be prepared by a conservation expert, with proven and appropriate expertise. The development shall be carried out in accordance with the methodology as approved.</p> <p>Reason: In the interest of visual amenity of the area.</p>
5.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted by the planning authority to secure the protection of existing street trees to be retained adjacent to the site and to make good any damage caused by construction, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The amount of the</p>

	<p>security shall be determined by the Helliwell or Cavat method by the developer's arboriculturist. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of an agreement, shall be referred to An Bord Pleanala for determination.</p> <p>Reason: To secure the retention of existing street trees.</p>
6.	<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>
7.	<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>
8.	<p>Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.</p> <p>Reason: In the interests of traffic and pedestrian safety and the visual amenities of the area.</p>
9.	<p>Gates to the vehicular accesses shall be inward opening.</p> <p>Reason: In the interest of pedestrian safety.</p>
10.	<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>
11.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be</p>

	<p>carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition.</p>
12.	<p>Proposals for a 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>
13.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the 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>
14.	<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</p>

	<p>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>
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Margaret Commane
Planning Inspector

11th April 2022