



An
Bord
Pleanála

Inspector's Report

ABP-315608-23

Development	Demolition of house on the site, construction of 4 residential houses and all associated works.
Location	Kedleston, 60 Inchicore Road, Kilmainham, Dublin 8, D08 T3C1
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	5089/22
Applicant	Caroga Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant	Caroga Limited.
Observers	12 Observers (see section 6.4).
Date of Site Inspection	17 th July and 28 th August 2023.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to the dwelling and plot located at 60 Inchicore Road, Kilmainham, Dublin 8. The site is roughly L shaped, with a stated area of approximately 0.108ha (1,080m²) and is currently occupied by a two storey, detached dwellinghouse known as Kedleston. Kedleston is set back from the public road and accessed from a driveway that narrows from a frontage width of 12.37m at the site entrance on Inchicore Road to 7.6m in width where it meets the existing dwelling. The site then opens out into a more rational rectangular form at the top of the driveway, with the majority of garden ground being provided to the side of Kedleston rather than the rear.
- 1.2. To the north the site is bounded by the Dublin to Limerick/Cork mainline railway and Con Colbert Road. The eastern boundary of the site is marked by Rosemount Court which comprises eight apartments in a building which rises to three storeys in height. To the west the site is bounded by the residential development of Heuston Square, which comprises a mix of two storey and three storey homes.
- 1.3. The former Kilmainham Congregational Church lies to the south of the main body of the appeal site and is enclosed on its eastern side by the driveway. This is a Protected Structure (PS) (PRPS Ref 3988) and is listed on the National Inventory of Architectural Heritage (NIAH Ref 50080043). The church has been sensitively renovated into a dwellinghouse and retains much of its early character and form, with attractive features such as early tracery windows, granite steps, railings and gates, all adding texture and variety to what is an otherwise a plain building. Situated on the northside of Inchicore Road, the church is one of the earlier buildings in the area, to the west of Kilmainham Gaol, which was constructed 1796.
- 1.4. The surrounding character is predominantly residential, characterised by two storey terraced homes immediately opposite the site and two storey over basement level homes to the east at Spencer Terrace, some of which are also listed on the NIAH. The area to the south of the appeal site is categorised as a Conservation Area. Modern apartment developments are located further from the site towards the east and west. Inchicore Road operates a one-way traffic system, with a two-way cycle lane on the northern side of the carriageway bordering the appeal site and controlled parking on the southern side. Public transport is available from Inchicore Road, Emmet Road and South Circular Road.

2.0 Proposed Development

2.1. Planning permission is sought for the demolition of the existing dwelling, Kedleston, and redevelopment of the site to provide four detached homes including all associated ancillary works. The dwellings would be two storeys in height at the front and three storeys at the rear, taking account of the full width dormer style storey. Each dwelling would provide three bedrooms in addition to a study. The site entrance from Inchicore Road would be widened and a new wall/railing and sliding gate would be provided. A total of five car parking spaces would be provided on site, including an accessible bay. A bin storage area would be provided in a covered enclosure adjacent to the site entrance.

3.0 Planning Authority Decision

3.1.1. Notification of the Decision to Refuse Permission for the proposed development was issued by Dublin City Council (DCC) on 14th December 2022. The reasons for refusal are given as follows:

1. Having regard to the policies and objectives of the Dublin City Council Development Plan 2016-2022; the proximity of the proposed development to the Protected Structure, and the design, form, height, siting and materials of the proposed development, it is considered that the proposed development would be unsympathetic to the character of the Protected Structure, its historic curtilage and its setting, and would seriously injure the amenity, legibility and special architectural character of the Protected Structure and its historic and architectural setting. Furthermore, the proposed development would result in an unacceptable level of overlooking into the northern elevation of this Protected Structure and appear overbearing and would be contrary to Policy CHC2 of the Dublin City Development Plan 2016-2022 and contrary to the proper planning and sustainable development of the area.
2. Policy 16.10.17 of the Dublin City Council Development Plan 2016-2022 provides that "the Planning Authority will actively seek the retention and re-use of buildings/ structures of historic, architectural,

cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city." The characterful 20th Century house (Kedleston) makes a positive contribution to the special historic and architectural character of the area. The demolition of this building would therefore contravene Policy 16.10.17 of the Dublin City Council Development Plan 2016-2022 and the construction of four new houses in its place would seriously injure the amenities of the historic area.

3.2. Planning Authority Reports

- 3.2.1. The Planner's Report was issued on the 13th December 2022 and forms the basis of the Council's assessment and decision. The report notes the various observations made by third parties as well as interdepartmental reports and observations from prescribed bodies. The report states that the provision of homes would be consistent with the zoning objectives of the area (subject to overall compliance with relevant development plan policies) and considers that the development should be assessed as both backland and infill development.
- 3.2.2. The report states that any development to the north of the PS is likely to have a significant adverse impact on the PS as well as a significant loss of amenity. Concerns are raised regarding the demolition of Kedleston, the report states that refurbishment and retention of Kedleston would be the preferred option, and that the proposed replacement development would be wholly out of context with the prevailing and sensitive historical and architectural character of the PS.
- 3.2.3. The report considers the proposed dwellings to be an improvement on an earlier refused scheme but that the height, design, form and proximity of the dwellings to the PS would have an unacceptable impact. Private amenity space is noted as being below the level required for four bedroom houses, on the basis that the Planning Authority consider the study to be a potential additional bedroom.

3.2.4. Other Technical Reports

Archaeology Section (07.12.2022): The City Archaeologist notes that the site is located within the Zone of Archaeological Constraint for the Recorded Monument

DU018-020 (Dublin City) which is listed on the Record of Monuments and Places (RMP) and is subject to statutory protection. The site is located 100m south of the War Memorial Gardens where a Viking Cemetery was discovered in the 19th century and there are a number of archaeological artefacts/burials associated with the Viking period recorded by the National Museum of Ireland in the vicinity.

3.2.5. The area is described as one of high archaeological potential. The building for demolition is adjacent to a PS and its demolition would be detrimental to the character of the setting of the PS and would represent a loss of historic fabric. An archaeological impact assessment should be prepared, in consultation with the City Archaeologist, to assess the nature of possible archaeological deposits at the site and this should be submitted to the Planning Authority as additional information.

3.2.6. **Drainage Division (08.11.2022):** No objection, subject to conditions. The conditions are standard and relate to compliance with the DCC Code of Practice as well as other drainage and infrastructure requirements and protections.

3.2.7. **Environmental Health (09.11.2022):** No objection in principle, however the Construction Management Plan submitted with the application is not considered to be sufficient to alleviate the concerns in relation to the impact of dust, noise and vibration on residential amenity and an amended CMP should be submitted for approval.

3.2.8. **Transportation Planning Division (24.11.2022):** No objection, subject to conditions. The conditions are standard and include compliance with the DCC Code of Practice as well as conditions regarding entrance and footpath widths, Construction Management Plan, car and cycle parking, recharging of incurred costs and compliance with the points raised by Iarnród Éireann.

3.3. Prescribed Bodies

3.3.1. **An Taisce (23.11.2022):** The body is not satisfied that the demolition of the existing 1930's house is justified, noting that the design, placement, scale and proportions of the existing house are subordinate to the PS. It is also noted that it is the policy of DCC to encourage the re-use of buildings and to seek the preservation of the built heritage of the city and that the current proposal would be in conflict with this.

3.3.2. The proposed development would be sited directly to the rear of the PS and would straddle the historic plot, fundamentally changing its setting. The proposed dwellings

are considered to be of poor architectural quality and would be unsympathetic to the character of the PS as well as its historic setting.

3.3.3. An Taisce also raised concerns regarding the extensive removal of soft landscaping to accommodate the development, as well as the impacts associated with the increased traffic levels. It is submitted that the development would be contrary to the proper planning and sustainable development of the area and the requirement to ensure the character and special interest of a PS is protected through the development management process. It is therefore considered that the development should be refused.

3.3.4. **Iarnród Éireann (11.11.2022):** The Body have made various observations, including in relation to:

- Compliance with the Railway Safety Act 2005.
- Provision of a suitably designed solid boundary treatment and its maintenance.
- Preservation of railway mounds and ditches as well as suitable drainage and discharge from the site.
- Approval by IE of detailed foundation designs and a restriction on development taking place within four metres of the boundary.
- Requirements for agreement with IE regarding the use of cranes or services that could affect the railway (over, under, alongside).
- A restriction on the planting of trees along the railway boundary and a requirement for lights associated with the development (during construction and in operation) to not cause glare or in any way impair the vision of train drivers or personnel.
- IE note that the railway operates 24 hours a day and the development must consider potential noise and vibration impacts. Advises that the applicant must refer to the local Authority's Noise Action Plan and carry out a Noise Risk Assessment to inform an Acoustic Design Statement.

3.3.5. IE have also raised concerns regarding potential impacts from the development on the existing railway retaining wall and the applicant's proposed use of a 'French Drain'. The concern being that water going to ground will increase pressure behind the

retaining wall and that storm water/run off from the development should be fed into the existing stormwater system and not a soakaway.

3.4. Third Party Observations

3.4.1. A total of 19 observations were received to the planning application, including one with multiple signatories. These observations generally raise similar issues to the observations made on the appeal, which are set out in section 6.4 below. Observations in addition to those made on the appeal are summarised as follows:

- The Architectural Impact Assessment (AIA) does not highlight the irregular roof profiling of the PS against the contemporary urban backdrop of the proposed development from Inchicore Road.
- Should the entrance from Inchicore Road be blocked for whatever reason, it is not clear how emergency vehicles will access the site and the proposed dwellings.
- Cars parked at the development will likely exceed the current design numbers.
- There will be access issues regarding emergency services infrastructure such as fire hydrants.
- Excavation and drainage could be a health hazard and have an impact on adjacent dwellings in terms of a potential breakage, leak or overflow.
- The drainage and attenuation system could have an impact on the PS and the retaining wall to the railway, insufficient information has been submitted.
- No information has been submitted in terms of power supply and whether it would be above or below ground.
- The photomontages submitted with the application cannot be considered verified.
- The site is overdevelopment with no options for planting.
- The development would have adverse impacts on traffic, pedestrians, cyclists and safety.

- The development is in contradiction to the principles of the CDP regarding aims to improve and promote cycle friendly transport.
- The development would compromise outlook, views and would have an adverse impact on property values.
- The development would be contrary to the zoning objectives of the site.
- The autotrack diagrams are compromised and unrealistic.

4.0 Planning History

Subject Site

4.1.1. **ABP-310135-21/ Planning Authority Reference 2223/21:** The Board refused permission in November 2021 for the demolition of Kedleston and redevelopment of the site to provide a terrace of five, three storey houses with associated works. Permission was refused for the following reasons:

1. Having regard to the policies and objectives of the Dublin City Development Plan 2016-2022: the proximity of the proposed development to the Protected Structure, and the design, form, height, siting and materials of the proposed development, it is considered that the proposed development would be unsympathetic to the character of the Protected Structure, its historic curtilage and its setting, and would seriously injure the amenity, legibility and special architectural character of the Protected Structure and its historic and architectural setting. Furthermore, the development would result in an unacceptable level of overlooking into the northern elevation of this Protected Structure and would be contrary to Policy ChC2 of the Dublin City Development Plan 20106-2022 and contrary to the proper planning and sustainable development of the area.
2. The proposed development of five houses on this site, due to the insufficient private amenity space to cater for this development would represent overdevelopment of this site and would seriously injure the residential amenities of the future occupants of the houses and would be contrary to the proper planning and sustainable development of the area.

Adjacent Site at 62 Inchicore Road (Former Kilmainham Congregational Church)

- 4.1.2. **PA Reg Ref: 2346/08:** Planning permission granted by DCC in July 2008 for internal and external works (including ancillary development) to convert the building from a place of worship to a single, two storey dwelling.
- 4.1.3. **PA Reg Ref: 4179/05:** Planning permission was granted by DCC in March 2006 for the carrying out of restoration works to the interior and exterior of this building, including its curtilage and boundary in addition to a change of use of resulting building from a place of public worship to a professional office within the meaning of Class 3 of Part 4 to the Second Schedule of Planning and Development Regulations, 2001. Final grant issued 29 Mar 2006.
- 4.1.4. **PA Reg Ref: 4289/04:** Permission was refused by DCC in October 2004 for the refurbishment and conversion of the existing building to provide three, two bedroom apartments on two levels, with associated building and site development works. The reasons for refusal were given as follows:
1. The proposal, by virtue of the subdivision of this former church building to create three dwellings and by the insertion of a new floor to create an additional storey, would compromise the character and integrity of this Protected Structure in a manner which would be difficult to reverse. The proposal would therefore be contrary to the provisions of the Dublin City Development Plan and to proper planning and development.
 2. The proposal, by virtue of the creation of habitable rooms lit by existing windows in the north elevation, whose previous use was predominantly high-level lighting, would result in overlooking of the adjoining dwelling on whose boundary the windows are located. The proposal would therefore be seriously injurious to the residential amenities of the area and to proper planning and development.
 3. The proposal, by virtue of the creation of a vehicular access in the front boundary wall and a car parking area in the front garden, would detract from the streetscape and compromise the character of this Protected Structure and would, in addition, be contrary to the provisions of the Dublin City Development Plan in relation to vehicular access, specifically

Policy 14.2.3. The proposal would therefore be seriously injurious to the visual amenities of the area and to proper planning and development.

5.0 Policy Context

5.1.1. The planning application was considered by the Planning Authority for compliance with the policies and objectives of the Dublin City Development Plan 2016 – 2022, which was the relevant policy document in force at the time. A new City Development Plan came into effect on 14th December 2022 for the period 2022 – 2028, which will be considered herein. There are no significant changes to the policies or zoning objectives with respect to the proposed development although it is noted that the policy on backland housing now stipulates minimum separation distances.

5.2. Dublin City Development Plan 2022-2028

5.2.1. The subject site is immediately adjacent to a Protected Structure (Former Kilmainham Congregational Church, PS Ref 3988) and sits directly opposite a Conservation Area.

5.2.2. The Dublin City Development Plan 2022 – 2028 (CDP), categorises the site as zone 'Z1 – Sustainable Residential Neighbourhoods'. The stated objective for these areas is 'to protect, provide and improve residential amenities.'

5.2.3. Chapter 3: Climate Action, contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policy from this section is:

- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility

5.2.4. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this section are:

- SC5: Urban Design and Architectural Principles
- SC10: Urban Density
- SC11: Compact Growth

- SC12: Housing Mix
- SC20: Urban Design

5.2.5. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin remains competitive as a place to live and invest in. The relevant policies from this chapter are:

- QHSN6: Urban Consolidation
- QHSN10: Urban Density
- QHSN12: Neighbourhood Development
- QHSN22: Adaptable and Flexible Housing
- QHSN37: Homes and Apartments
- QHSN38: Housing and Apartment Mix

5.2.6. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related CO2 emissions. The relevant policies of this section include:

- SMT25: On-street Parking
- SMT27: Car Parking in Residential and Mixed Use Developments

5.2.7. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity, and flood risk/surface water management. The relevant policies of this section are:

- SI14: Strategic Flood Risk Assessment
- SI15: Site Specific Flood Risk Assessment

5.2.8. Chapter 11: Built Heritage and Archaeology, recognises that the city's heritage contributes significantly to the collective memory of its communities and to the richness and diversity of its urban fabric. It is key to the city's character, identity and authenticity and is a vital social, cultural, and economic asset for the development of the city. The Development Plan plays a key role in valuing and safeguarding built heritage and archaeology for future generations. The plan guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology. The relevant policies of this section include:

- BHA2: Development of Protected Structures
- BHA4: Ministerial Recommendations
- BHA9: Conservation Areas
- BHA11: Rehabilitation and Reuse of Existing Older Buildings
- BHA26: Archaeological Heritage

5.2.9. Chapter 15: Development Standards, contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. Relevant sections of Chapter 15 include (but are not limited to):

- 15.4: Key Design Principles
- 15.5: Site Characteristics and Design Parameters
- 15.7.1: Re-use of Existing Buildings
- 15.8: Residential Development
- 15.11: House Developments
- 15.13.3: Infill/Side Garden Housing Developments
- 15.13.4: Backland Housing
- 15.15.2.2: Conservation Areas
- 15.15.2.3: Protected Structures
- 15.15.2.4: Retention and Reuse of Older Buildings of Significance which are not Protected.

5.3. Regional Policy

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031

- 5.3.1. This strategy provides a framework for development at regional level. The RSES 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.

5.4. National Policy

National Planning Framework – Project Ireland 2040

- 5.4.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements whilst Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 is to increase residential density in settlements through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.5. Ministerial Guidelines

Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

- 5.5.1. Guidance is provided in terms of the criteria and other considerations to be taken into account in the assessment of proposals affecting Protected Structures. The guidelines seek to encourage the sympathetic maintenance, adaptation, and re-use of buildings of architectural heritage. Chapter 13 deals with curtilage and attendant grounds whilst Section 13.8 of the guidelines relates to development affecting the setting of a Protected Structure or an architectural conservation area.

Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

- 5.5.2. The main objective of these guidelines is to produce high quality sustainable developments through the provision of quality homes and neighbourhoods, places where people want to live, to work and to raise families, and places that work for us

and for future generations. The guidelines promote the principle of higher densities in urban areas to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport.

5.5.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to various safeguards which include (but are not limited to):

- compliance with the policies and standards of public and private open space adopted by development plans.
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours.
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area.

5.6. Natural Heritage Designations

5.6.1. None relevant.

5.7. EIA Screening

Having regard to the nature and scale of the development, the built nature of the site, the zoning afforded to the site and the availability of public services and infrastructure, and the location of the development outside of any sensitive location specified in article 109(4) of the Planning and Development Regulations 2001 (as amended), it is concluded that 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

6.1.1. An appeal has been lodged by Hughes Planning and Development Consultants of 85 Merrion Square, Dublin 2, on behalf of Caroga Limited, against the decision of DCC

to refuse planning permission for the proposed development. The grounds of appeal can be summarised as follows:

- The proposal has been designed to respect and respond to its immediate surroundings and will have no significant negative impacts on the amenity of existing properties.
- The proposal is in compliance with the CDP with regard to development in proximity to Protected Structures.
- The previous appeal accepted the principle of a higher density development, and the development was considered acceptable in terms of site coverage, plot ratio and density.
- The Board did not agree that insufficient evidence had been submitted to justify the demolition of Kedleston and it was not included as a reason for refusal on the previous appeal.
- On the previous appeal the dwellings were considered to be too tall and too close to the PS. In the current scheme, the dwellings have been reduced in height, with an amended roof design, and the separation distance to the PS has been increased.
- The terrace of five homes has been replaced with four detached dwellings with enhanced visual and physical separation to soften the overall impact of the development. Elevations and proposed materials have been amended.
- The ground level has been reduced by approximately 1 metre to be closer to the level of the adjacent properties and developments.
- Each dwelling has been provided with a study, to give consideration to the need to work from home. It is requested that the study is not considered a bedroom and that the dwellings are classed as three bedroom with acceptable private amenity space provided for such.
- The dwellings have been designed to ensure that the development does not detract from the streetscape over time. Red brick is consistent with the area.
- The dwellings would be perceived as two storey when viewed from Inchicore Road.

- The proposed dwellings are in keeping with the established height of the surrounding area and would protect the amenity of the PS. The height of the dwellings would be consistent with the height of Kedleston and as such the height has been established on site and would not be overbearing.
- The mitigation to reduce the height of the dwellings (reducing the level of the site) is appropriate and there would be no significant impact on the PS in this regard.
- Appropriate screening has been provided at Inchicore Road to ensure there will be no negative visual impact and the development will be screened by the existing mature greenery along Inchicore Road and by the PS.
- The dwellings would be situated 11.59 metres from the PS to ensure there will be no negative impact. The design of the dwellings including scale, massing, materials, siting has been to ensure a development that is appropriate for the site having regard to the PS and providing additional housing stock on a centrally located and underutilised site.
- There are various examples of new development in proximity to a PS throughout Dublin, such as Clancy Quay where proximity was not raised as a concern or a reason for refusal and the proposal should be assessed under similar merit.
- The proposed materials are consistent with those established in the area, they would have no impact on the PS and could be agreed by condition.
- In justifying demolition of Kedleston, the development would provide four homes on a well located, serviced and underutilised site which would be a more sustainable use of the land and would be consistent with emerging local and national policy.
- Kedleston restricts the development of the land due to its placement and avoiding its demolition would be difficult and unviable. The provision of new homes would be more energy efficient than retrofitting.
- Provision of new homes on site would be a substantial public benefit.

- The daylight and sunlight assessment demonstrates that there would be no significant impact regarding overshadowing.
- Urban Development and Building Heights, a Guide for Planning Authorities, notes that increasing building heights has a critical role to play in addressing the delivery of compact growth in Urban Areas and the development would be consistent with this.
- The development would be consistent with the CDP with regards to zoning and Backland Development (noting that the policy allows a relaxation of some standards to promote densification and urban consolidation).
- The front building line of the proposed dwellings is set further back from the PS than Kedleston and would not be overbearing or impactful on residential amenity.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority request that specific conditions be applied, in the event that the Board decide to grant permission. The specific conditions relate to Section 48 development contributions, the payment of a bond and a street naming and numbering condition.

6.3. Observations

- 6.3.1. There are 12 observations noted on the file as follows:
- Dr Annette Clancy, 12 Woodfield Avenue, Dublin 8
 - Jennifer Cooper and Oliver Durrent, 13 Heuston Square, Dublin 8
 - Paul and Rajaa Tierny of 15 Heuston Square, Dublin 8
 - OC & C Architects, 43 Inchicore Road, Dublin 8
 - Denis Conway (and others), 51 Inchicore Road, Dublin 8
 - Ross Hamer (and others), 58 Inchicore Road, Dublin 8
 - Marston Planning Consultancy for 62 Inchicore Road, Dublin 8
 - Karol O'Mahony Architects, Metropolitan Apartments, Dublin 8

- The New Kilmainham Historical Society
- The Inchicore Road Residents Group
- The Irish Georgian Society
- An Taisce

6.3.2. The issues raised in the observations reflect those made to the Planning Authority during its assessment of the proposed development and are summarised as follows;

- The development would have a significant negative impact on surrounding properties (including the PS) in terms of daylight, overshadowing, overbearance, privacy, outlook, loss of views, and noise.
- Property in the area would be significantly devalued as a result of the proposed development.
- No desktop appraisal for architectural significance has been included.
- The development would not be in keeping with the character or aesthetics of the area.
- The PS is given a Regional rating by the Department of Housing, Local Government and Heritage's National Inventory of Architectural Heritage and the historic curtilage includes Kedleston.
- The development would seriously and negatively impact on the character, setting, amenity, curtilage and attendant grounds of the PS which contributes to the architectural, social and industrial heritage of the area.
- Kedleston was built within and remains within the curtilage and attendant grounds of the PS. The loss of Kedleston and the damage to the historic setting of the PS has not been properly assessed.
- The developer has allowed Kedleston to become dilapidated over time in order to force its demolition and this does not inspire trust in the developer.
- The demolition of Kedleston, a historic building, is not acceptable, it would be contrary to the CDP, Ireland's Climate Action Plan and would not be in line with the approach to housing in the country.

- The front boundary wall is part of the attendant grounds and curtilage of the PS, and its removal and replacement would be out of character with, and would negatively impact on, the streetscape of Inchicore Road.
- Kedleston could easily be refurbished and renovated into a much needed family home.
- The Architectural Impact Statement submitted with the application does not give a fair representation of the historical significance of Kedleston in relation to the PS and the report is clearly written to justify the development. There are also inaccuracies in the report.
- The windows of the PS were damaged during site clearance works, undertaken without consultation or consideration to the PS.
- Earlier permission to convert the PS was refused for reasons that are now replicated on the proposed development (character, streetscene, overlooking).
- The PS would be reduced to a 'stage set' and would therefore be contrary to the CDP.
- The proposal would likely render the PS uninhabitable as a private dwelling and would contribute to the destruction of a valuable, civic, heavily touristed neighbourhood.
- Kedleston was located specifically to allow light through the windows of the PS.
- The developer has a track record with regards to damage to buildings of historic significance.
- There would be an increase in traffic both during construction and as a result of new residents.
- The development would create haphazard car parking and vehicle movements within the site that are likely to spill out onto Inchicore Road, affecting pedestrians, cyclists and other road traffic.
- The application does not differ significantly from the previously refused application.

- Providing examples of other developments to justify approval is flawed as it does not assess the characteristics and features that make this site unique.
- Almost all mature vegetation and trees have been removed by the applicant in advance of planning and this is a cynical, destructive and environmentally irresponsible action that impacts on character, heritage, streetscape and wildlife.
- Would query why Appropriate Assessment was not undertaken by the applicant and why no bird or bat surveys were completed.
- The cumulative loss of habitat along this section of Inchicore Road over the past several years has been significant and this should be assessed.
- The landscaping report is inaccurate and contradictory.
- The planning application fails to demonstrate compliance with a range of development standards and the development fails to comply with the current CDP and guidance.
- The developer ignores the release of embodied carbon that would come from demolishing Kedleston.
- The reduction in levels across the site are so significant that the feasibility of the project must be questioned technically, spatially, and legally.
- No assessment has been undertaken of the potential impact of lowering site levels on groundwater, boundary walls, foundations, or the rear wall of the PS. The section drawings are not accurate.
- No consideration has been given to geotechnical stability regarding vibrations from the railway.
- The site layout is dependent on having the whole site area available at the lowered level but steps to maintain levels alongside existing boundaries will not work with the proposed layout.
- The sections show unrealistically tight spaces on the east and west boundaries.
- Underpinning or rebuilding of shared boundaries can only happen with all party's agreement and this will not be forthcoming.

7.0 Assessment

7.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

- Heritage Impacts
- Design and Amenity
- Quality of Accommodation
- Traffic and Transport
- Appropriate Assessment

7.2. Heritage Impacts

7.2.1. The core issue raised by the Planning Authority in refusing planning permission relates to the impact of the proposed development on built heritage both in terms of the impacts on the PS, and the loss the existing dwelling, Kedleston. This concern was echoed by many of the observers on the appeal, including An Taisce. The applicant considers that the development is in line with all relevant guidance and policy with regards to the PS and argues that the revisions undertaken to the development since the previously refused appeal are sufficient to overcome previous concerns. Furthermore, the applicant considers that the new homes would be more energy efficient than Kedleston. In assessing this issue, it is necessary to consider what constitutes the curtilage of the PS, the contribution of Kedleston to the PS and wider area, and the impact of the development on both.

7.2.2. Kedleston is a two storey, three bay, hipped roofed house that was constructed in the 1930's on land which originally constituted the Kilmainham Congregational Church gardens. The house was constructed on lands that originally formed the curtilage of the church and was occupied by the caretaker of the church and grounds. The former Kilmainham Congregational Church (PS) is listed on the National Inventory of Architectural Heritage (Reg No. 50080043) and is enclosed by the appeal site on its

north and east boundaries. This building has been converted into a private single dwelling and the appeal site boundary runs tight to the north wall of the PS.

7.2.3. Concerns raised by third party observers are that Kedleston sits within the historic curtilage of the PS and that Kedleston makes a positive contribution to the character and historic setting of the PS and area. Further issues set out in the Planner's Report centre around the reuse and retention of Kedleston and compliance with CDP policy on this issue. The applicant considers that the development is in compliance with policy with regards to the PS.

7.2.4. Architectural Heritage Protection Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht (2011), specifically deals with the issue of curtilage and attendant grounds. The Guidelines note at Section 2.6.5 that 'it is possible that part of the curtilage or a specified feature within the attendant grounds of the structure may not in fact be in the ownership or control of the notified party.' Section 3.3.2 states 'Many buildings were consciously designed to contribute visually to the character of their setting, beyond the boundaries of the curtilage on which they were built. They respond to the street, road or landscape in which they are situated.'

7.2.5. A Protected Structure includes the land lying within its curtilage in addition to other structures within that curtilage and their interiors. Curtilage itself is not specifically defined in legislation however it is generally understood to be the plot associated with the relevant building, including current or past use. Section 13.1.5 of the guidelines sets out the considerations with regard to making a decision as to the extent of the curtilage of a Protected Structure. It is advised that the Planning Authority should consider:

- a) Is, or was, there a functional connection between the structures? For example, was the structure within the curtilage constructed to service the main building, such as a coach-house, stores and the like?
- b) Was there a historical relationship between the main structure and the structure(s) within the curtilage which may no longer be obvious? In many cases, the Planning Authority will need to consult historic maps and other documents to ascertain this;

- c) Are the structures in the same ownership? Were they previously in the same ownership, for example, at the time of construction of one or other of the structures?

7.2.6. The Board should be aware that the High Court issued judgements in January and May 2023 with regards to Protected Structures, in the case of *Sherwin v An Bord Pleanála* and *North Great George's Street Preservation Society v An Bord Pleanála*. In the latter, the judgement set out an appropriate test to determine curtilage as follows:

- (i) Whether property B (Kedleston) falls within the curtilage of property A (Former Kilmainham Congregation Church, the PS) should be determined by reference to the legally relevant time for the purposes of the determination of the issue. This may vary from legal context to legal context. For determining the legal effect of an entry in the RPS, the "legally relevant time" is the date on which the structure on property A was first listed prior to the establishment of the RPS system or first included in the RPS, whichever was earlier, unless the wording of the RPS has changed in a relevant way in the meantime or has made express relevant provision to determine the curtilage.
- (ii) At the legally relevant time, properties A and B must have formed a common unit such that property B was part and parcel of property A.
- (iii) Whether properties A and B formed a common unit at the legally relevant time is primarily to be determined having regard to use, function or layout as of that time, with due regard to use, function or layout prior to that.
- (iv) Enclosure or lack of it is not in and of itself relevant. There is no legal requirement for properties A and B to have been collectively enclosed, although the presence or absence of enclosure may be considered insofar as it is an aspect of the question of use, function or layout.
- (v) Ownership or a change in ownership is not in and of itself relevant, although a diversity of ownership may be evidence of a lack of unity of use, function or layout.
- (vi) Character, context and the aesthetic are not separately relevant but only arise if they form part of the question of use, function and layout.

- (vii) Property B is not required to be small but its size may be relevant to the questions of use, function or layout. Its size is also relevant to the basic question of whether land surrounding the main structure is part and parcel of it or merely attendant on it.
- (viii) To be part and parcel of the main structure, property B must be of relatively limited extent, that is, relative to the concept of attendant lands, a concept that may be very sizeable. Thus, any front, back, side, internal or subterranean gardens, courtyards, parking spaces or walls (insofar as not part of the main structure itself), outbuildings, access routes such as laneways or driveways, limited surrounding lands up to and including a ha-ha, walled or otherwise, lands within any of the foregoing, or extensions to any of the foregoing, whether walled or otherwise, or other lands that are part and parcel of the main structure, could be curtilage, whereas forests, farmlands, parklands or pastures centred on a house, or airfields around a control tower, are part of the attendant grounds, not the curtilage.
- (ix) For the purposes of the legal effect of the RPS, a change in use, function or layout after the legally relevant time does not change the extent of protection, unless the wording of the RPS also changes in some material way. Thus, if property B was part and parcel of property A at the legally relevant time, a subsequent separation does not nullify the protection of the curtilage for the purposes of the RPS. Likewise, if property B was not part of the curtilage of property A at the legally relevant time, a subsequent unification of the properties does not extend the meaning of curtilage for the purposes the RPS. In either case the RPS may expressly provide otherwise.

7.2.7. The Former Kilmainham Congregational Church was first listed in 1987, that being the relevant time for the purposes of part (i) in the aforementioned test. At this time, the properties did not form a common unit as the plot was divided in 1933 when the lands at Kedleston were leased separately and the dwellinghouse was constructed. No reference to Kedleston or its lands is made in the record for the Kilmainham Congregational Church on the Record of Protected Structures or the NIAH. The use, function, and layout of Kedleston was that of a dwellinghouse and was built and occupied by the caretaker of the Church. The relationship between Kedleston and the PS was therefore as a result of the caretaker of the church residing in the dwelling.

Whilst I note that the occupier of Kedleston was originally the caretaker of the congregational church upon its construction in 1933, it is not clear that this relationship continued at the relevant time (1987) despite remaining in the same ownership and occupation. Additionally, I note that the Kedleston plot is significantly larger than that of the PS for the purposes of part (vii) and part (viii).

- 7.2.8. As noted in the *North Great George's Street Preservation Society v An Bord Pleanála* judgment, whilst the definition of what constitutes curtilage may be a matter for the courts, the identification of the extent of curtilage is a question of fact and degree and a matter for the decision maker. On the basis of the test set out above and the information available, I do not consider that the curtilage of the PS extends to Kedleston. The Board should note that the proper interpretation of S.57(10) of the Act is now to be considered by the Supreme Court as a result of the *Sherwin* judgement.
- 7.2.9. Concerns have been raised by observers that Kedleston has been deliberately allowed to become increasingly run down. The applicant considers that the retention of Kedleston would be difficult and would prevent the provision of more housing on the site. The applicant also considers that the Board did not agree that insufficient evidence had been submitted to justify the demolition of Kedleston and that it was not included as a reason for refusal on the previous appeal.
- 7.2.10. Despite not being within the curtilage of the PS, Kedleston remains an older building of significance and its impact and contribution to the PS should be considered. CDP Policy 15.15.2.4: Retention and Re-use of Older Buildings of Significance which are not Protected, states that the Planning Authority will actively seek the retention and re-use of buildings and other structures of architectural, historical, archaeological, artistic, cultural, scientific, technical, social and/or local interest or those that make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.
- 7.2.11. From my site inspection it is clear that Kedleston has suffered to some extent as a result of its vacancy, however, this appears to be mostly cosmetic, the property is far from derelict and could be suitably refurbished as a family home. Kedleston is an attractive, well designed property, typical of the 1930's, which is sensitively located in relation to the PS and its curtilage, being offset from the north wall of the PS which contains large windows. Whilst Kedleston itself is not designated as a Protected

Structure, nor is it listed on the NIAH, its contribution lies in its architectural relationship to the PS in terms of siting, materials, scale and massing. I am mindful that the Board chose not to accept the loss of Kedleston as a reason for refusal on the previous appeal, however, I consider that Kedleston does indeed make a positive contribution to the character and setting of the PS and the wider area. In my opinion, the loss of this building is not justified and would be contrary to CDP policy 15.15.2.4. Further impacts on heritage, including direct impacts on the PS are discussed in the design and amenity section below.

7.3. Design and Amenity

- 7.3.1. The grounds of appeal state that the proposal has been designed to respect and respond to the immediate surroundings and that it would have no significant negative impact on the amenity of existing properties. The applicant notes that on the previous appeal, the dwellings were considered to be too tall and too close to the PS and that this issue has been overcome through reducing height and increasing separation distances.
- 7.3.2. Concerns raised by observers are that the dwellings would have significant adverse impacts in terms of daylight, overshadowing, overbearance, privacy, outlook, loss of views, and noise. Further concerns are raised that the reduction in site levels could affect foundations and the north façade of the PS, and that the development fails to comply with the standards set out in the CDP.
- 7.3.3. The proposed dwellings would be set back 11.59 metres from the PS and would reach a total height of 8.9 metres, which is a similar height to the previously refused scheme (with the exception of the projecting rooflights). The overall perceived reduction in height of the dwellings is therefore a result of the applicant proposing to reduce the level of the site by approximately 1 metre on average.
- 7.3.4. The Planning Authority have assessed the development against both the 'Infill/Side Garden Housing' and 'Backland Housing' policies of the CDP (sections 15.13.3 and 15.13.4 respectively) which I consider to be appropriate as the site and proposed development have attributes of both. These policies require the development, amongst other things, to have consideration to character, open space standards, visual harmony, and in the case of 'Backland Housing', a separation distance of at least 15 metres from the rear façade of the existing dwelling. I note that the 15 metre provision

was not part of the 2016-2022 CDP policy used to assess the application, however, the superseded policy did acknowledge that backland development can cause a significant loss of amenity to existing properties including a loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening.

- 7.3.5. In this respect, I consider that the proximity of the proposed dwellings to the north façade of the PS, in addition to their height, would have a significant adverse impact on the PS in terms of being overbearing and that this would also significantly impact on the character and setting of the PS. Given the positioning of windows on the north façade of the PS and the insufficient separation distance to the main façade of the proposed dwellings, I also consider that there would be a significant adverse impact in terms of overlooking and loss of privacy that would affect both occupiers of the PS and future residents of the proposed dwellings.
- 7.3.6. I accept that reduced distances can be considered appropriate in some cases in order to encourage higher density compact development and I note the examples of other development provided by the applicant. However, I do not consider the site specific circumstances of the appeal site or the proposed design of the dwellings to be appropriate to justify reduced development standards or negative impacts on the PS. I note the applicant's comments that the building line of the proposed dwellings would be set further back from the PS than Kedleston, and that the proposed dwellings would be a similar height to Kedleston, but this takes no consideration of the fact that Kedleston is positioned more sensitively to the north east of the PS instead of directly opposing it.
- 7.3.7. The gable of proposed house No. 1 would be positioned 1.2 metres from the shared boundary with the dwelling at 13 Heuston Square to the east. This would result in a separation distance of only 9.4 metres between the main rear façade of 13 Heuston Square and the gable elevation of house No. 1. I consider that this would also be an overbearing relationship, particularly on the rear garden of 13 Heuston Square, where the gable elevation of house No. 1 would clearly take a three storey form. Additionally, I am of the opinion that the provision of a window within the apex of the gable elevation of this dwelling, albeit obscure glazed, would create the perception of overlooking and would be inappropriate, although I accept that this could be dealt with by a condition requiring the removal of this window, should the Board be minded to grant permission.

- 7.3.8. I have considered the other issues raised by the observers with regards to daylight, noise, loss of views and depreciation of property values. I am satisfied that the daylight and sunlight assessment demonstrates that there would be no significant adverse impact. Additionally, no protected views would be impacted, and noise impacts would generally be temporary, related largely to construction, and could be effectively mitigated by way of a condition. I note the concerns by observers in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that property values in the vicinity would be reduced.
- 7.3.9. In terms of views of the development from Inchicore Road, I note the appellants comments regarding the proposed materials and that the dwellings would be perceived as two storey. I also note comments from the observers that the views from Inchicore Road are not accurate due to the removal of the vegetation on site. Whilst I agree that the dwellings would appear as two storey from Inchicore Road, I do not consider the 1 metre separation between each dwelling to be fully successful in addressing the overbearing nature of the development on the PS. I also consider that the high solid to void ratio on the upper front façade of the proposed dwellings, which is intended to minimise overlooking issues, further emphasises the bulk of the proposed dwellings and that this contributes to the impacts on the character and setting of the PS. I am satisfied that the proposed materials would be acceptable, however, should the Board be minded to grant permission, I would recommend that a condition be applied for the Planning Authority to have final approval of facing materials (brick type, bond and pointing) in order to ensure an appropriate high quality finish, given the historic surrounding context.
- 7.3.10. Concerns have been raised by several observers regarding the applicant's intention to engineer the site levels to achieve a reduction across the site of at least 1 metre. The concerns relate largely to the impact such a level reduction could have on adjacent boundary walls/fences as well as on the north façade of the PS. Certainly, from the sectional elevations provided, no backfilling or supporting infrastructure appears to be provided for the east and west boundaries and as such I cannot conclude that the reduction in site levels would not have an impact on the stability of the plot boundaries or the PS. Whilst I note that structural issues are generally a civil matter, the extent of

potential impact due to all of the plot boundaries being affected, including the PS, is such that should the Board be minded to grant permission, I would consider it prudent to request further information to demonstrate that the changes to the site levels can be achieved in addition to clarity on what mitigation would be required to ensure that there would be no impact on the stability of the site boundaries, foundations or the PS.

7.3.11. Overall, I consider that the proposed development would represent an inappropriate form of development that would have a significant impact on residential amenity in terms of overlooking of the PS in addition to being overbearing on both the PS and the dwelling at 13 Heuston Square. Furthermore, I consider that the development would not be appropriate to the character and historic setting of the PS or its curtilage.

7.4. Quality of Accommodation

7.4.1. Observers have stated concerns that the proposed dwellings would be substandard due to their access, location, orientation, private gardens, aspect and layout. I note that the Planning Authority considered the quality of accommodation to generally be acceptable with the exception that there is a concern regarding the size of the rear gardens, particularly when considering the study of each dwelling as a potential bedroom. The Planning Authority have stated in their report that the rear gardens are undersized, however it was not included as a reason for refusal. In the grounds of appeal, the applicant states that each dwelling has been provided with a study in order to give consideration to the need to work from home. The applicant requests that the that the study is not considered as a bedroom and that the dwellings be classed as three bedroom, with acceptable private amenity space provided for such.

7.4.2. The proposed study would be located to the rear at first floor and would meet the size of a single bedroom. Furthermore, the rooms would have good access to daylight as a result of the large window. I am therefore satisfied that these rooms would indeed have the potential to be used as a bedroom and that it should be considered as such. From my assessment of the plans, I consider there to be four potential bedrooms, two doubles and two singles. This would equate to six bed spaces and would require rear gardens measuring between 50sqm and 60sqm. I would share the concerns of the Planning Authority on this matter.

7.4.3. The applicant suggests that the appeal site is within an inner city location and that a relaxation of the private amenity space requirements should be applied as set out in

the CDP. However, I would not agree that the site is located within the inner-city and as such, I am of the opinion that the proposal would represent an overdevelopment of the site due to the insufficient private amenity space proposed and that this would seriously injure the residential amenity of future occupiers. This is further emphasised by the limited ability to provide additional open space on the site. I note the concerns from observers that the size of the rear gardens would mean that future occupiers would use the front gardens and land adjacent to the PS, thereby increasing disturbance. However, I do not consider that this would be a realistic scenario.

7.5. Transport and Traffic

- 7.5.1. Observers have raised concerns that there would be an increase in traffic both during construction and as a result of new residents. Additionally, there are concerns that the development would create haphazard car parking and vehicle movements within the site that are likely to spill out onto Inchicore Road, affecting pedestrians, cyclists and other road traffic. The Board should note that the Transportation Planning Division of DCC have raised no objections to the proposed development, subject to conditions.
- 7.5.2. Inchicore Road operates a one-way system, with cars travelling in an east to west direction. To the north of the road, and adjacent to the appeal site, there is a two-way cycle lane whilst vehicular parking is provided to the south of the carriageway. It is intended to increase the width of the existing entrance to the site in order to accommodate both vehicular access and pedestrians / cyclists. The existing entrance is approximately 3.2m in width while the proposal would see this increased to just under 5m. It is noted that the existing tree located on the public footpath adjacent to the entrance is to be retained.
- 7.5.3. The proposed development would provide five car parking spaces, including an accessible car parking space. Four of these spaces would be located on the driveway whilst the accessible space would be provided immediately adjacent to the proposed dwellings. The top of the driveway provides an area for vehicles to turn.
- 7.5.4. Given that the development would provide four dwellings, I consider the level of car parking being proposed to be satisfactory. I note that this is an area of high parking pressure however I do not consider that there would be significant overspill car parking as a result of the proposed development. Whilst there would be additional vehicle movements during the construction period, these would be temporary and appropriate

conditions could be applied to mitigate potential impacts. Trip generation associated with the completed development would not be a threat to the operation of the local road network. I am also satisfied that the proposed access and egress to the site is acceptable, including works to the front boundary wall/gate and the provision of a STOP sign and line, and that there would be no significant impact on the safety of other users such as pedestrians, cyclists and other vehicles.

- 7.5.5. It is noted that a bin store would be provided towards the bottom of the driveway for convenient collection from Inchicore Road. I consider this approach to be acceptable and it would remove the requirement for refuse vehicles to enter the site. Tracking diagrams have been submitted to show how refuse vehicles and emergency vehicles could enter and exit the site. This would require vehicles to turn at the top of the driveway. I note that the tracking diagrams show that the rear of the vehicles would temporarily oversail the front garden of proposed house No. 4 when completing this manoeuvre, and this has been raised as a concern by observers. Given that the refuse vehicles can collect from Inchicore Road, it is likely that this manoeuvre would only be undertaken by larger emergency vehicles and given the temporary and sporadic nature of such visits, I am satisfied that the proposed arrangement would be acceptable.

7.6. **Appropriate Assessment**

- 7.6.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application, and this has been raised as a concern by observers in addition to concerns raised that no bat or bird surveys have been completed. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA) (site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 5.8km to the east of the site. The North Dublin Bay SAC (& pNHA) (Site Code 000206), and North Bull Island SPA (Site Code 004006) lies approximately 9km to the east.
- 7.6.2. I note that Stage 1 Screening was undertaken by the Board on the previous appeal, with the conclusion that the development would not have an impact on any European sites. In terms of the current appeal, having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, I also conclude that no appropriate assessment issues arise as the proposed

development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.7. Other Matters

- 7.7.1. Concerns have been raised by observers regarding the previous removal of trees and vegetation from the site in addition to concerns regarding the applicant's history in dealing with buildings of historic significance. Whilst the tree removal on site is unfortunate, this was considered in the previous appeal and I would note that issues of enforcement are a matter for Dublin City Council. I am satisfied that other matters raised by observers in relation to archaeology, landscaping, and drainage, could be appropriately dealt with by way of condition, should the Board be minded to grant permission.

8.0 Recommendation

- 8.1.1. I recommend that the Board uphold the decision of Dublin City Council and that planning permission be refused for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

- 9.1. The proposed development, by reason of its design, form, height, and siting in close proximity to the Protected Structure, would materially and adversely affect the character, context and setting of the Protected Structure and its historic curtilage. Furthermore, the development would introduce an unacceptable level of overlooking into the Protected Structure and would be overbearing on both the Protected Structure and the dwelling/garden ground at 13 Heuston Square, resulting in a significant injurious impact on the residential amenity of these properties. The development would therefore fail to comply with Policy BHA2 and Section 15.13.4 of the Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed development, by reason of the provision of inadequate private open space, would conflict with Section 15.11.3 of the Dublin City Development Plan 2022-2028 and would represent an overdevelopment of the site that would seriously injure

the residential amenity of future occupiers. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 9.3. The proposed development, by reason of the demolition of the existing dwelling (Kedleston), would have an adverse impact on the historic and architectural character, setting and context of the area and the Protected Structure and would fail to retain and re-use a building that is of historic interest. The development would therefore be contrary to Policy BHA11 and section 15.15.2.4 of the Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Terence McLellan
Senior Planning Inspector

26 September 2023