



## Inspector's Report

### ABP-320823-24

#### Development

#### PERMISSION & RETENTION:

Permission for widening of existing window opening and replacement of same with new proposed entrance door to reduced coffee shop area including retention of change of use from coffee shop/creperie to chapel of rest and all associated ancillary internal alterations.

#### Location

1A Carlingford Road, Botanic, Drumcondra, Dublin 9, D09 P768.

#### Planning Authority

Dublin City Council North

#### Planning Authority Reg. Ref.

3907/24

#### Applicant(s)

Martin Tynan

#### Type of Application

Permission and Retention

#### Planning Authority Decision

Refuse

#### Type of Appeal

First Party

#### Appellant(s)

Martin Tynan

**Observer(s)**

1. Eileen Waters
2. Michael Windrim
3. Alice O'Connor
4. Kenneth Fitzpatrick
5. Eamon & Jackie McNally
6. Charles O'Reilly
7. Justine Chambers
8. Natasha Lawless
9. Marcella McCormack
10. Colin O'Reilly
11. Tom Duffy
12. Patricia Perry
13. Isabelle Lomers
14. Geraldine & John Power
15. Shane Prendergast
16. Feljin Jose & Neasa Hourigan
17. Patricia McKenna
18. Paul & Alice O'Dwyer
19. Helen & James Watters
20. Catherine Bermingham
21. David & Paula Gibbons
22. John Adams & Joseph Duffy
23. Jackie & Bernie McMahon
24. Hugh Hughes
25. Christopher & Una Ennis
26. Paddy & Phyllis Carroll
27. Patrick Perceval
28. Ciaran Long
29. Jenny Keenan & Donie O'Shea

30. Mary Timoney
31. Gertie Campbell
32. Mary Desch
33. Claire Thomas
34. Annete Toolin
35. Cynthia Lennon
36. Sarah Marabotto
37. Aoife & Des Cummins
38. Phillippa Kidd & Colm MacGinty
39. James Muldowney
40. Michael O'Brien
41. Austin Bayley
42. Morgan Smyth
43. Roisin Murphy & David Purdue
44. Geoffrey & Brittany Fountain
45. Claire Reynolds
46. Keith Massey
47. Elaine Keenan & Ianick  
Pomorski
48. Alice Melvin
49. Emma & Kevin Murphy

**Date of Site Inspection**

09/01/2025

**Inspector**

Gillian Kane

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## **1.0 Site Location and Description**

- 1.1.1. The subject site is located at the eastern end of Carlingford Road in close proximity to the junction with Drumcondra Road Lower, in the predominantly residential area of Drumcondra on the north side of Dublin. The site comprises a two-storey detached red brick property with a single storey rear extension. The ground floor comprises a double door within two 'blacked-out' windows which contain lettering advertising a 24-hour funeral directors. A sign on the eastern gable advertises a Creperie.
- 1.1.2. The surrounding area is characterised by two-storey red brick terraced houses, which open onto the public footpath. The site is bounded to the north and east by the rear gardens of two large period houses at nos. 114 and 116 Drumcondra Road Lower and to the west by a laneway, a garage and the rear gardens of the two single storey dwellings at nos. 12 and 12a Glenarm Avenue.

## **2.0 Proposed Development**

- 2.1.1. On the 26<sup>th</sup> June 2024, permission was sought to retain a change of use of part of the existing coffee shop / creperie to a chapel of rest (34sq.m.) and entrance hall (16sq.m.) and permission for the widening of the existing window opening and replacement with new entrance door to reduced coffee shop area. Existing office at first floor level to be unchanged. Existing coffee shop to be reduced to 39sq.m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. On the 20<sup>th</sup> August 2024, the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:
  - 1 Having regard to the site within a Z2 zoned residential conservation area, the planning authority is not satisfied, on the basis of the information before it, that the proposed development/ development to be retained complies with Sections 14.7.2 (Residential Neighbourhoods (Conservation Areas)) and 15.15.2.2 (Conservation Areas) or Policy BHA9 (Conservation Areas) of the 2022-2028 Dublin City Development Plan. As such, it is considered that the development would be contrary to the proper planning and sustainable development of the area, would set an undesirable precedent for similar developments in the area, would negatively impact on neighbouring

residential amenity by reason of its potential to regularly generate large crowds of mourners on a relatively constrained residential street in addition to significant additional volumes of traffic in the vicinity of the site which would unacceptably obstruct road users and create unacceptable local traffic congestion and parking issues, and would lead to the consequent devaluation of properties in the vicinity.

### **3.2. Planning Authority Reports**

- 3.2.1. **EHO:** Recommends conditions to be attached if permission is to be granted.
- 3.2.2. **Engineering Department:** no objection subject to conditions.
- 3.2.3. **Transportation Planning:** Further Information required on the management of trips, having proximity to the Drumcondra Road Lowe, operational traffic management plan, designated community liaison person, travel information leaflets.
- 3.2.4. **Planning Report:** Appears that the current coffee shop kitchen / washing / cold room areas at ground floor level and office accommodation at first floor level do not have the benefit of planning permission. Ownership of subject site should be clarified. Café / tea room and funeral home are 'open for consideration' uses in Z2 zone. Bar / public house not permissible, section 14.3.1 refers to a presumption against not permissible uses in Z2 zones.

Physical and functional relationship of existing and proposed uses unclear, extent of proposed development is unclear. Hours of operation and sale of goods within the café / bar unclear. Details of how the chapel of rest will operate not provided, may be inappropriate in a predominantly residential area. Hours of operation would conflict with peak travel times. Notes the comments of the transportation department but states that an operation traffic management plan would not satisfactorily address the Planning Authority concerns. Notes reports of the EHO and the drainage division. Concludes that permission should be refused due to the significant intensification of the commercial use of the property which would not be acceptable in a Z2 conservation zone.

### **3.3. Prescribed Bodies**

- 3.3.1. None on file.

### 3.4. Third Party Observations

3.4.1. A number of submissions to the Planning Authority raised the following issues:

- Lack of parking, traffic congestion in the area,
- Nature of proposed use incompatible with residential area,
- Extent of development unclear, ownership unclear.
- Hours of operation coincide with peak time use of the residential street
- Proximity to Croke Park and impact on activities there
- Impact on property values
- Unauthorised development,
- Environmental concerns

3.4.2. Those in support of the proposal raised the following:

- Lack of similar facilities in the area,
- Nuisance arising from café will be lessened
- Provide employment,
- Availability of parking nearby,
- Low intensity use, appropriate for area given proximity to supporting facilities

## 4.0 Planning History

4.1.1. **PL29N.214762**: Planning permission granted for a change of use from existing ground floor retail to coffee shop.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2022-2028

5.1.1. In the 2022-2028 plan the subject site is zoned **Z2 Residential Conservation** area zoning, which has the stated objective 'To protect and/or improve the amenities of residential conservation areas'. Section **14.7.2** of the development plan states that "Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires



special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. The principal land-use encouraged in residential conservation areas is housing but can include a limited range of other uses. In considering other uses, the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area.

5.1.2. Café / tea room and funeral home are listed as an 'open for consideration' use in the Z2 zone.

5.1.3. **BHA9:** It is the policy of Dublin City Council to protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
2. Re-instatement of missing architectural detail or important features.
3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.
5. The repair and retention of shop and pub fronts of architectural interest.
6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.
7. The return of buildings to residential use.

Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the

contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.

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

## 5.2. **Natural Heritage Designations**

- 5.2.1. The subject site is located 2km from the South Dublin Bay and River Tolka Estuary SPA (004024), 4km from the North Dublin Bay SAC (000206) and 4.5km from the South Dublin Bay SAC (000210).

## 5.3. **EIA Screening**

- 5.3.1. Having regard to the nature and scale of the development in an 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**

- 6.1.1. A first party appeal against the decision of the Planning Authority to refuse permission and refuse permission to retain has been submitted by an agent. The appeal includes the following:
- Consulting Engineers Report
  - Revised floor plan, elevation and section showing 'preparation area'
  - Details of other funeral homes
  - Email from former owner of site
  - Letter from Estate Agent referring to property values
  - The submission states that a letter of consent from the owner of the site is included. *The Board will note, this letter is not included with the appeal.*

- 6.1.2. The appeal states that the grounds of refusal could have been addressed by way of a request for further information. The appeal provides detail of the site location and description, proposed development, planning history of the site including details of the enforcement history, statutory context, matters arising from the DCC planning assessment with a statement that the appeal addresses the transport departments further information request and that there is no technical reason why the permission cannot be granted.
- 6.1.3. The grounds of the appeal (section 8 of the appeal submission) can be summarised as follows:
- Funeral home and chapel of rest are both open for consideration in a Z2 zone.
  - The Planning Authority erred in assessing the proposal as having a 'bar', amended drawing refers to 'preparation area'. The planning report notes that this could have been addressed by way of Further information.
  - Minimal interventions into the appearance of the existing building proposed. No adverse impact on architecture in area. Policy BHA9, sections 15.15.2.2 and 14.7.2. are not relevant.
  - No basis for argument that proposed use would adversely impact amenities. Use is embedded in the local community where the demand arises.
  - Proposed use has long term viability. The proposed use is not contrary to the proper planning and sustainable development of the area and would not set an undesirable precedent for similar developments
  - Addressing the Dublin City Council planning report:
    - Existing café has been in place for many years – planning history confirms.
    - External access to toilets is not a concern and is common,
    - Door open and open to yard do not detract from streetscape elevation,
    - An Bord Pleanála can condition external seating and hours of opening if required,
    - No bar is proposed, just a preparation area for the café,

- Café has not caused anti-social behaviour. Proposed use will be a quiet place,
- Proposed use is badly needed as no funeral home in Drumcondra, pop. 14,755,
- Operational layout and matters are for the applicant to arrange, but An Bord Pleanála welcome to attach condition regarding capacity, seating, ventilation and refrigeration, hours of operation,
- Many funeral homes are located in residential areas,
- Consulting Engineers have addressed concerns regarding roads traffic and parking issues,
- Dublin City Council disregarded the precedent set at the Goat Public House D24A/0062,
- Site already operates a busy cafe that operates as a neighbourhood centre,
- Proposed development does not represent a significant intensification in the commercial use of the property,
- Appellant considers the Dublin City Council planning report to be unjustified, not based on evidence and contrary to internal reports,
- Appellant notes that many of the third party observations were in support of the proposal. Notes the comments in support. Responds to third party observations objecting to the proposal as follows:
  - Planning and enforcement issues have no adverse impacts on third parties,
  - Ownership of the site not relevant to third parties,
  - Development should be located in the community it serves,
  - Appellant has addresses all parking and traffic matters,
  - No building regulation compliance or environmental concerns were raised by Dublin City Council,
- The appellant requests that permission be granted by An Bord Pleanála.
- Appeal is accompanied by:

- images of other funeral homes / chapels of rest operating in residential areas,
- email stating that the upstairs rooms of the premises were vacant in 2006, and per agreement with landlord used as office, store and staff room from 2012 to 2023.
- Letter from Estate Agent stating that proposed use will have no material impact on value of surrounding residential properties.
- Email regarding printing
- Consulting Engineering report. Report notes that Traffic / Transportation department did not object to proposal, that 4 no. off street spaces are required as a maximum per the development plan,

## **6.2. Planning Authority Response**

6.2.1. None on file.

## **6.3. Observations**

6.3.1. 49 no. observations on the first party appeal were submitted to the Board. A large number contain photographs and images. The issues raised in the observations can be summarised as follows:

- Supports the Planning Authority decision to refuse permission. Majority of submissions to the Planning Authority were in opposition, with a minority supporting the development. Appellant has misrepresented the objections to the development.
- Traffic and parking issues in the area will be exacerbated, particularly on those days with activities in Croke Park and Tolka Park. Road is too narrow to accommodate likely traffic, parking, manoeuvring of vehicles,
- Lack of sight lines at subject site would pose traffic hazard. Road is not 10m as stated by the appellant.
- Insufficient parking proposed, limited parking in area, with residents having parking discs. Development plan requires four car parking spaces.

- Traffic generation at peak times would create congestion for residents. Applicants traffic estimates are not realistic – CCTV footage is not representative. Applicants traffic reports show little knowledge of the area and does not take account of commuting patterns to funerals. No evidence provided to support applicants claims of traffic numbers. Traffic report is inadequate as it is based on the existing café use which draws from the local community area.
- No operational management plan was submitted. This should address site access and egress, parking management, traffic flow and routing, pedestrian safety, event-specific considerations, coordination with Local Authorities, emergency response and contingencies and a communication plan. The first party appeal fails to address the concerns of the Transportation Department.
- Difficult to turn onto Drumcondra Road due to bus lane and traffic volumes, results in many using Hollybank Road and Dargle Road as a rat runs.
- Proposed use and the traffic it would generate would negatively impact the residential amenity of the area. Proposed development is not a continuance of an existing commercial use.
- Proposed development would block access to properties using laneway that runs along the western side of the site. Only access to the toilet is via this lane.
- Proximity of site to the Swords – City Centre Bus Connects requires consultation with the NTA.
- Inappropriate commercial use in a residential conservation area, would negatively affect the residential amenity of the area and property values, would be contrary to the zoning objective for the area and policy BHA9. Appeal has ignored the architectural significance and character of the area. Appellants examples are all located in Z3 zones where the use is permissible, none include a coffee shop and all provide car parking on site.
- Proposed uses would generate large amounts of people congregating on the street / lane. Existing footpath is not DMURS compliant and is not wide enough for two people at the narrowest point.

- Unauthorised use, no permission for office accommodation on first floor, no permission for coffee shop or bar to the right of the stairwell. Appellant states that no alcohol will be provided but also states that the existing use will continue – one in which alcohol is for sale. Café has been closed since August 2023. Questionable business model.
- Large number of children living in the area
- Environmental health concerns
- Lack of toilet facilities for coffee shop
- There are 8 no. funeral homes within 2.6km of the subject site. 13 no. within a wider area. All have sufficient parking for visitors.
- Proposed development ruins the original shopfront.
- Application form was not completed, ownership details require clarity. No letter of consent was submitted with the application. Description of proposed development is misleading – no mention of bar. 'Bar' is not a common abbreviation of barista. Drawings are inaccurate.
- Appellants example of development in Goatstown (D24A/0062) is not comparable as that is a large commercial site with lots of parking. Boards refusal (PL29N.235289) for a funeral home at 54 Iona Road is more relevant as is Boards decision to refuse permission ABP-312373-22 due to impact on residential area.
- The enforcement history on the site lends no credence to the appellants suggestion of complying with Board conditions.

#### **6.4. Further Responses**

##### **6.4.1. First Party Response to Observation of Shane Prendergast**

- The observer's property does not adjoin the site and is not the closest residence to the site. Difficult to achieve a direct and unrestricted view towards the subject site. Google images submitted.
- Letter from owner submitted with response. The application is valid.

- Such services are often located in residential areas. There is a demand for such a service in the area.
- The appeal included a professional roads engineering submission which includes a traffic survey of the adjoining public road. The modest proposal would have no possible impact on Drumcondra Road.
- The observer seeks to have the service located away from his family home.
- The proposed development will not impact or impede the observers access to his property.
- The observers anecdotal evidence of traffic impacts cannot be considered. One-off events cannot be used as a baseline.
- The images submitted by the appellant can be verified by the Board.
- No evidence that Carlingford Road is unsafe have been submitted. The appellants traffic survey contradicts the Observers claims.
- The proposed development is to serve a local need. Traffic management planning is appropriate in this case.
- The veracity of the Observers letter from Sherry FitzGerald is questioned.
- The observer has not provided any credible reason why the proposal should not be granted.

## 6.5. Observers Responses to First Party Response

6.5.1. The Observers responses to the first party response can be summarised as follows. All of the Observers raised a concern about the personal nature of the applicants response to the Observers response.

- **David Purdue:** failure to controvert any of the first party claims should not be construed as acceptance of the accuracy or reliability thereof. The consent document submitted by the applicant is not from the company or entity stated to be the legal owner (Goodbody Stockbrokers Nominees Ltd.). The applicant should not be provided with any further opportunity to comply with the request for a valid consent. Mr Prendergast's property is that most directly affected by the proposed development. The applicants engineers are a partisan consultant, their



desk top submission is not site specific and lacking in surveying, mapping, comparative levels, swept path analysis etc. Allegations without evidence and uncorroborated claims should not be considered. Blacking out and stickers are in breach of condition no. 4.

- **Tom Duffy:** applicant is a leaseholder not owner, this is not a minor error and is untenable.
- **Charles O'Reilly:** applicant is not owner. Some houses have no parking and spaces available outside the funeral home are included in resident parking. Street cannot accommodate more traffic.
- **Eileen Waters:** traffic already a problem, parking is problematic. The estate agents letter is incorrect – Andersons did not close 12 months ago.
- **Colin O'Reilly:** Applicants response is incorrect re parking. Applicants traffic survey is fundamentally flawed. Location is unsuitable for the proposed development.
- **Geraldine & John Power:** Applicants rebuttal is unwelcome. Ownership is problematic. Traffic is already very challenging. Property will be devalued.
- **Hugh Hughes:** 'Error' regarding ownership was only clarified when brought to the applicants attention. Not in good faith. It cannot be retrospectively remedied. Applicant dismissed third party concerns regarding privacy. Location is not suitable for proposed development. Concerns regarding traffic were dismissed. Applicant has not satisfactorily addressed the concerns of the Transportation Department of Dublin City Council or third parties. Congestion is significant. Applicants traffic survey is limited, in contrast to lived experience of numerous observers. Applicants traffic management plan is vague. Applicant's estate agents letter is incorrect and out of date. An Bord Pleanála refused permission for funeral home beside a house in Donegal (ABP-312373-22). Photos submitted.
- **Helen & James Watters:** Applicant is not the owner. Concerned about increase in traffic. Applicants response re parking and Dargle Road is not accurate. Location is not suitable for proposed development.

- **Mary Desch:** Traffic & parking issue. Proposed development will devalue homes. Applicant is not owner. Third party genuine concerns not considered.
- **Sarah Marabotto:** parking and traffic concerns are valid. Family area, not suitable for proposed development. House values will be affected. Images of the applicant are out of date. Ownership concerns.
- **Alice O'Connor:** Clarity regarding ownership is not a minor error. Traffic is already problematic and will not accommodate proposed development. No demand for proposed development. Victorian front of subject building is protected and should not be changed. Dublin City Council acknowledged that proposal would devalue property.
- **Michael O'Brien:** subject development is invalid. Applicant is not owner. Important information should not be omitted. Initial works were undertaken without permission. Suggestion of adequate parking is false. No need for proposed development.
- **Shane Prendergast:** Applicants response is unacceptable, contains inaccuracies, lack of evidentiary base and lack of awareness of the area. Applicants reliance on google street images is unacceptable as they are out of date. Applicants representation of proximity of Prendergast property to the subject site is inaccurate. Images submitted. Applicants statements on the observers property are incorrect, images submitted showing lack of planting and ground levels. Validity of applicants submission is called into question. Parking on the street is residential permit parking, with 100 permits issued. Metered on-street parking is available but as secondary. Local resident refused permit due to over-burdening from existing traffic. Photos submitted. Applicant is not owner and no explanation has been presented. This is not a minor error and should not be under stated. The owner has not consented to a retention application, only a planning application. Ballyboden Case referenced by the agent is not comparable as that related to bicycle spaces. The case found that mandatory requirements of the planning process cannot be altered after the fact. Details of ownership is mandatory. The appeal does not demonstrate sufficient legal interest. Condition for previous application prohibits blacking out of windows as the applicant has done. No permission sought for this breach. Applicants

response demonstrates that area is already well served for this type of development. Planning process allows for public participation, applicants dismissal that observer is not professional is inaccurate as he is a transport engineer. Calling into question professional competence of an observer is unacceptable. Applicant has not addressed any concerns. No evidence of applicants 'fact' that there is demand for the proposed development, nor applicants discussion with engineers. Bus Connects is a valid concern and should be taken into account. Applicant has not addressed any of the Transportation Departments concerns. Applicants attempt to discredit the observers motives are rejected. Locals are opposed to the proposed development. Legitimacy of applicants traffic count is questioned compared to lived experience. No traffic management plan submitted. Unauthorised development at the subject site has been rejected permission by Dublin City Council. Photos submitted.

- **Gertie Campbell:** Road is too narrow with heavy traffic and insufficient parking.
- **Michael Windrim:** Observers home is sufficiently close to the subject site to have valid concerns, there is a clear line of sight. Applicant is not owner, letter of consent not submitted until four months after it was required and does not refer to retention element of permission. No operational traffic management plan. Traffic congestion, traffic hazard and shortage of parking are intractable problems. Photos demonstrate the narrowness of the road. Bus Connects will create further traffic. Proposed development will result in traffic mayhem, roadway will be blocked. Applicants engineering report is at odds with lived experience. Location is not suitable for proposed development. The applicants google images are not representative of the street. Agrees with estate agent that proposed development would devalue property.
- **Annette Toolin:** ownership details incorrect. Traffic a considerable problem. Precedent in Donegal. Location unsuitable for proposed development.
- **David & Paula Gibbons:** Applicants google streetview images are not representative. No parking available on sport days. Residents pay for permit parking and should not have to compete with a funeral home. Carlingford Road is a single lane carriageway, proposed development will increase congestion.

House values will be negatively affected. Applicants details about ownership not sufficient and not a minor error.

- **Patrick Perceval:** Not the owner who submitted the application. No demand for the proposed development. Development will not enhance the neighbourhood.
- **Claire Thomas:** lived experience of the residents is valid. Use of Dargle / Carlingford junction not understood by the applicants traffic survey. SSD is obscured – photos submitted. No right turn during AM peak hours. Ownership ambiguity must render application invalid. Permission refused for similar development in Donegal.
- **Natasha Lawless:** Applicant does not own the property and application should have been invalidated. Letter of consent not provided. Concerns about parking, narrowness of street. Location is not suitable for proposed development.
- **Catherine Bermingham:** proposed development would block access to Prendergast garage. Applicant is not owner and application is therefore invalid. No consent for retention element of development. Photo shows lack of parking. Board has refused permission for funeral home having negative impact on property prices.
- **Isabelle Lomers:** traffic is at breaking point. Proposed development would block the flow of traffic. Development would devalue property. Permission refused in Donegal for similar reasons.
- **Roísín Murphy:** Layout of Prendergast property is such that an extension will be required. Proximity of that home to the subject site will seriously injure the amenity of the home. Ground level changes are such that the rear garden is visible to the street. Proposed office will overlook. No screening, as submitted by the applicant. Funeral home is not a community or neighbourhood facility. Site is not suitable for a chapel of rest. Applicants google street view images are not representative or accurate. Proposed development cannot be accommodated spatially in the subject building. Ownership omission is not an error. Blackening of the windows breaches the planning permission on site. Road width does not support the requisite parking or traffic movements. Proposed development will

devalue property in the area. Development does not comply with the development plan.

- **Morgan Smith:** omission of ownership detail is not trivial. Applicant attempts to downplay the width of the road, displays no local knowledge. Increase in slow moving traffic will make a bad situation worse. Paid parking is meant to benefit residents.
- **Patricia Penny:** Personalised attack is unjustified. Applicant is not the owner, application should have been declared invalid. Concerned about parking, traffic appropriateness of location for proposed development.
- **Kenneth Fitzpatrick:** has seen a huge increase in traffic in the 64 years has lived on the road, pays for resident parking but not always available. Proposed development will create traffic congestion.
- **Justine Chambers:** Concerns about the validity of ownership. Permission should be refused for adverse traffic impact, insufficient parking and unsuitability of development at this location.
- **Cynthia Lennon:** Prendergast property is sufficiently close to the subject site to have valid concerns. Applicant is not owner. Letter of consent is not valid as it does not refer to retention and is out of date. Limited capacity in building to accommodate proposed development. No operational traffic management plan. Proposed development would exacerbate existing traffic and parking problems, particularly when considering Bus Connects. Not possible for existing traffic and proposed development traffic to use the same one-lane roadway. Proposed development would unduly impact the Prendergast home. Frequent traffic congestion can not absorb additional traffic congestion. Applicants google streetview and CCTV images are not representative of traffic but do illustrate how narrow the road is. Sports events are not one-off but frequent. Estate Agent has advised that proposed development would devalue house prices. Permission refused on similar grounds in Donegal.
- **Patricia McKenna:** clear that application is invalid, applicant is not owner and letter does not refer to retention element. This was raised by the Planning Authority. Letter of permission submitted with the appeal cannot retrospectively

validate. The board does not have jurisdiction. Proposed development will impact property values.

- **Chris & Una Ennis:** Issue of ownership has not been resolved – who is the beneficial owner of the property? Proposed development is incompatible with the zoning objective. Combination of funeral home and café is questionable business model, it is not a modification of the existing business. Applicants traffic assessment is flawed, ignores several key facts regarding junctions, parking, narrowness of the road and footpath and selective traffic monitoring. Significant impact on amenity. Premises not suitable for proposed development.
- **Jackie & Bernie McMahon:** Reiterate all earlier observations, highlights question of property ownership. Requests Board to uphold Planning Authority decision to refuse.
- **Clare Reynolds:** Early issues not addressed. Ownership and applicants right to apply are very unclear.
- **Ciarán Long:** Lack of clarity on ownership means application is invalid. Consent for all elements of application has not been demonstrated. Proposed development will devalue property in the area.
- **Paul & Alice O'Dwyer:** unacceptable impact of the proposed development, having regard to conservation area zoning objective and policy BHA9 of development plan. Proposed development will obstruct road users. Planning Authority's road engineer had significant concerns about the proposed development. There is little capacity for parking. No basis for applicants claim that local people are being forced out of the area for funeral facilities. Entire area will be negatively impacted by the proposed development. Applicants claim that there will be no traffic hazard is not supported. Is abundantly clear the proposed development will cause a traffic hazard, serious shortcomings in traffic and parking demand. Applicant does not understand the receiving environment, their analysis is deeply flawed. Operational traffic management cannot be addressed by condition. Negative impact on traffic values is clear.
- **Elaine Kennan & Yannick Pomorski:** Concern regarding traffic and lack of parking, proposed development will cause further congestion. Proposed

development is not compatible with the residential area and will devalue homes. City Council has been misled about ownership of the site.

- **Paddy & Phyllis Carroll:** Google streetview images are not representative. Ownership should be clarified. No evidence of significant demand for development as alleged by applicant. Development is not a community facility, it will attract crowds. Narrowness of road cannot accommodate .
- **Cllr. Felijn Jose and Neasa Hourigan TD:** Applicant did not demonstrate owners consent to the making of the application. City Council considered that a traffic management plan would not be practical to implement or enforce.
- **Mary Timoney:** Carlingford Road is resident parking. Only one vehicle width at the subject site. Traffic from the proposed development would create chaos on the subject and adjoining roads. Proposed development is not suitable for this area. No need for this service in this area.

## 7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development. I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of Proposed Development
- Traffic
- Impact on Residential Amenity

## 7.2. **Principle of Proposed Development**

7.2.1. Permission was sought for the following:

- Widen the existing window opening
- replacement of same with new entrance door to new reduced coffee shop area
- retention of change of use of coffee shop to chapel of rest.

- 7.2.2. The subject site is on land zoned Z2 residential neighbourhoods (Conservation Areas) with the stated objective “to protect and / or improve the amenities of residential conservation areas”. In their assessment of the application, the Planning Authority noted that café / tearooms and funeral home are open for consideration in Z2 zones. The Planning Authority noted that ‘bar’ was neither permissible nor open for consideration in a Z2 zone. In their appeal to the Coimisiún, the applicant confirms that the bar refers to a preparation area for the coffee shop and that there was never any intention to include a bar or a public house.
- 7.2.3. Section 14.7.2 of the development plan in referring to Z2 zones, states that the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area and that the general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. Many of the observers to the appeal raise a concern that the area is not a suitable location for the proposed development. They consider the proposed development to be an ‘unsuitable new development that would have a negative impact on the amenity.....of the area’. This is addressed in greater detail in section 7.4 below.
- 7.2.4. I note the planning history of the subject site. In their application, the agent states that the coffee shop has been in operation for twenty years based on an An Bord Pleanála permission PL29.214762, dated 9<sup>th</sup> March 2006. The agent's letter states that “the current coffee space / creperie use is going to be retained and the area reduced at ground floor level”.
- 7.2.5. The Planning Authority drew attention to the fact that the coffee shop's kitchen, washing, cold room at ground floor and office accommodation at first floor level do not appear to have the benefit of planning permission. I agree with this finding. The drawings submitted to the Planning Authority and to the Coimisiún show “existing coffee shop use to be retained” on a section of the building where no use is permitted. There is no permission to use the eastern section of the existing building as a coffee shop and the current application does not seek to provide such works. The public notices for the application do not draw attention to the moving of the coffee shop to an entirely new section of the building. I am not satisfied that permission can be granted in such circumstances.



- 7.2.6. The issue of the ownership of the subject site and the entitlement of the applicant to make the application is raised by multiple parties to the appeal. For the benefit of the Coimisiún, I outline the following: permission and permission to retain was sought by an agent for an applicant named as Mr Martin Tynan on the 26<sup>th</sup> of June 2024. In their assessment of the application, the Planning Authority noted that it was brought to their attention that the building was under leasehold and that “if the applicant is not the legal owner of the site, a letter of consent from the rightful owner should have been provided with the application”. The Planning Authority recommended a refusal of permission on the 20<sup>th</sup> of August 2024. In their appeal to the Board (section 4), the planning consultant states that the agent made an error in completing section 7 of the application form when stating that the client (Tynan) was the owner of the property. The appeal states that this is incorrect and that the applicant is the leaseholder. The appeal states that the letter of consent from the owner of the property “giving our client permission to make this application” was included with the appeal. As noted in section 6.1.1 above, no letter of consent accompanied the appeal.
- 7.2.7. Responses to the first party appeal noted that the letter of consent had not been submitted to the Board. Section 2.0 of the first party response to those third-party responses (7<sup>th</sup> November 2024) states that the owner of the property is Goodbody Stockbrokers Nominees Ltd. and that the loose page (letter of consent) from said owners was omitted from the submission to the Board in error. The appellant states that the error is de minimus and refers to the Ballyboden case in support of the claim. The appellant states that their client has sufficient legal interest in the site to make the application and that development management guidelines are clear that the matter can be addressed by way of a submission under further information.
- 7.2.8. The Coimisiún will note Attachment 2 to the response, a copy of a letter dated 10<sup>th</sup> September 2024 from a legal agent stating that they act on behalf of Goodbody Stockbrokers Nominees Limited and that being the owners of the property at 1a Carlingford Road, they consent to Martin Tynan making a planning application for the change of use of the property. The Coimisiún will note that many of the Observers to the appeal raise a concern that this letter of consent refers only to the change of use element of the application and not the retention element.

7.2.9. The Development Management Guidelines for Planning Authorities (2007) state “*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts*”. These Guidelines advise that where a third party raises doubts as to the sufficiency of an applicant’s legal interest in a site, further information may have to be sought under Article 33 of the Planning and Development Regulations, 2001 (as amended). The Guidelines further advise that, only where it is clear from the response that the applicant does not have sufficient legal interest, should planning permission be refused.

7.2.10. Having regard to the foregoing and acknowledging the Development Management Guidelines for Planning Authorities (2007), I do not recommend that permission is refused on this basis. As highlighted by the Guidelines and the Local Authority, Section 34(13) of the Planning and Development Act 2000 (as amended) states: “A person shall not be entitled solely by reason of a permission under this section to carry out any development.” As such, should the Coimisiún be minded to grant permission for the development, while it is the Applicant’s responsibility to ensure sufficient legal interest exists, the Coimisiún may wish to seek further clarification on the matter of consent for all elements of the application. This is particularly the case where it appears that not all uses within the site have the benefit of planning permission and that the letter of consent does not refer to the retention element.

### **7.3. Traffic**

7.3.1. The appellant requests the Coimisiún to dismiss the comments of one of the Observers on the grounds that he is not a roads engineer. That is not a reasonable request and one that shall not be entertained.

7.3.2. The appeal includes an engineering response that concludes that the proposed development will have no adverse impact on the public road or on Carlingford Road. The engineering submission states that Table 2 of the development plan requires the proposed development to provide a maximum of 4 no. off-street parking spaces. The report states that appendix 5 of the plan allows for a relaxation of standards where a clear case satisfactorily demonstrating a reduction of parking need for the development based on stated criteria is made. In compliance with the criteria, the

report states that there is copious and freely available on street pay& display parking. CCTV images are included.

- 7.3.3. In response to that, I note that the parking on street is resident parking and that it is frequently at capacity. The stills provided from the appellants property are during the day, when naturally parking will be less than evening times. The proposed business use will most frequently occur after the working day and therefore will conflict with the need for resident parking.
- 7.3.4. The development plan allows for a relaxation of standards, not a total absence of parking. I am not satisfied that relying on the availability of on-street parking (particularly where the case has been made there no availability exists) qualifies as satisfying the five criteria required for a relaxation of standards. The engineering submission 'ticks' the box for locational suitability and advantages of the site, yet no evidence of same is presented. In terms of walking and cycling accessibility and proximity to high frequency public transport, the site complies with these criteria but I argue that the proposed use does not. Attendees at funeral events, unless they are very local do not typically arrive by walking, cycling or public transport. The range of services and employment services within walking distance is not relevant to the proposed use nor is the availability of shared mobility. In conclusion, I am not satisfied that the applicant has 'set out a clear case demonstrating a *reduction* of parking need', never mind not providing any off-street parking at all.
- 7.3.5. The proposed development has the potential to generate significant traffic within a short period of time. The lack of car parking will result in increased pressure on available spaces in the area with impacts on local residents. Car parking restrictions apply along the roads in the vicinity of the site. The lack of car parking will result in increased pressure on available spaces in the area with impacts on local residents. This is clearly recognised by the Roads & Traffic Division who requested an operational traffic management plan. The Coimisiún will note that no such plan has been submitted to the Board.
- 7.3.6. Carlingford Road is a narrow road, with traffic chicanes to reduce traffic speeds. The engineering submission estimates that the volume of traffic generated by the proposed development to be an absolute maximum of 100-150. The report applies an 25% proportion commuting by car formula and estimates 25 cars arriving and

departing over a 1-hour period, less than 1 car every two minutes. The report states that this volume of traffic will likely pass wholly noticed locally and would appear to be less than the daily traffic generated by the current café.

- 7.3.7. I consider this analysis to ignore the fundamental nature of the proposed use. Firstly, it is unlikely the attendees would fall in to a 25% proportion commuting by car scenario. Funerals are not location specific and can attract from a wide geographical area. As noted above, I consider it unlikely that normal transport patterns / modal share apply to the proposed use. Secondly, the nature of the use requires people to arrive within a set time period, therefore the conclusion that 1 car would arrive every minute cannot be relied on. Thirdly, the nature of a café is far more locational specific. Locals use local café facilities, particularly small cafes such as the one that had operated on site. It is extremely unlikely that a small neighbourhood creperie would attract city wide traffic, particularly at non-standard hours. The comparison is not accepted.
- 7.3.8. I share the stated concerns of the Transportation Planning Division in relation to the management of trips to and from the site. I am not satisfied that it has been demonstrated that the subject site can accommodate the proposed development without negatively affecting the existing parking and traffic flow.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. The subject site is located at the eastern end of a long established residential road. I share the concerns of the Planning Authority and of the many observers that it is not a suitable area for the development to be retained. The nature of the proposed business is that it will attract large crowds, at non-standard hours of the day, will involve very sensitive operations and vulnerable attendees.
- 7.4.2. I note the first party submission that the use is a community use that will serve the local community. However, I note the existence of many such services in the wider area and consider that no evidence of a pressing need for the use at this particular site has been presented. Further, the proposed use is not a local use, there being no mechanism to limit use of the services to locals only.
- 7.4.3. I note the proximity of the subject site to the rear elevations of the dwellings on Glenarm Avenue, in particular nos 12, 12A and 13 which all have a direct line of site

to the subject site. As noted by many of the Observers, and myself on my site visit there is no screening between no. 12A and 13 and the subject site. There is a direct line of sight between the properties. I consider the non-standard hours of use of the subject site, particularly the possibility that such use would spill out on to the road, would seriously injure the residential amenity of these private open spaces. Further, I note the rear access of no. 13 and consider the possibility that access could be blocked, to be a real and valid concern.

7.4.4. I share the concern of the Planning Authority that the limited size of the subject building is such that the laneway to the west of the building is not sufficiently wide to accommodate a hearse. All activities associated with the removal of remains would of necessity occur at the front of the building. The location of the subject site at the end of Carlingford Road would result in residents passing through a funeral on their way home. Notwithstanding the traffic implications, the privacy of the attendees would not be respected and the residents would be forced to pass through occasions that frequently could be distressing. That is not to say that this normal part of life should be hidden from view, or prohibited from residential areas, only that certain areas are more capable of accommodating such uses. The subject site is not such an area.

7.4.5. I am satisfied that the residential amenity of the local area would be negatively affected by the proposed development and that this is not in keeping with the Z2 Residential Conservation area zoning of the site or the stated objective for the zone which is to protect and/or improve the amenities of residential conservation areas. I consider the proposed development not to be in accordance with policy BHA9 which provides for changes of use only where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting

## **8.0 EIA Screening**

8.1.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report

## 9.0 AA Screening


- 9.1.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 10.0 Recommendation

I recommend permission be REFUSED for the following reasons and considerations:

- 1 It is considered that the proposed development and the development to be retained, by reason of its nature, would generate significant additional volumes of traffic into an area zoned for the protection of Residential Conservation, would negatively impact on neighbouring residential amenity by reason of its potential to generate large crowds on a relatively constrained residential street in addition to significant additional volumes of traffic in the vicinity of the site which would unacceptably obstruct road users and create unacceptable local traffic congestion and parking issues,. This is contrary to the zoning objective for the area, contrary to policy BHA9 and would lead to the consequent devaluation of properties in the vicinity. The proposed development would, therefore, 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.



Gillian Kane  
Senior Planning Inspector

30 July 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b>	ABP-320893-24		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Permission for widening of existing window opening and replacement of same with new proposed entrance door to reduced coffee shop area including retention of change of use from coffee shop/creperie to chapel of rest and all associated ancillary internal alterations.		
<b>Development Address</b>	1A Carlingford Road, Drumcondra, D3		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Y
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>No</b>	Tick or leave blank	The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations).	

Inspector: 

Date: 30 July 2025