

- To significantly change the appearance of a portion of Darty Road – in the vicinity of Sunbury Gardens. The contrast of height, materials, density and intensity of use will be the causes of the change.

- To cause localised changes to the appearances of parts of Temple Road, Palmerston Park (Road) and Palmerton Park – on account of the partial, intermittent or distant views of the proposed development.

- To cause the character and intensity of landuses to change from open, less used leisure and amenity to relatively intensively developed and used residential institutional uses.

- To establish a contrast between the new and established structures in terms of height, scale, form, materials, finishes and style.

For the purpose of the formal evaluation and in accordance with the 'Glossary of Impacts' (EPA Draft Guidelines on the Information to be contained in Environmental Impact Statements – section 8, p35) there will be Significant Permanent Impacts on the Landscape. The impacts will arise from contrasts between the existing and proposed environment. It is not possible to definitively characterise the impacts as being 'positive', 'neutral' or 'negative' on account of the subjectivity of opinions aesthetic matters.

Chapter 12 – Traffic and Transportation

12.1 Introduction

This section of the Environmental Impact Statement addresses the existing transportation situation in the vicinity of the subject site, the travel demand that will be generated by the proposed development and the impact, if any, on the surrounding transportation network. This calculations in this section assesses the impacts on the environment based on a site population up to a maximum of 1085 which was the original proposed number of bedspaces. The impacts resulting from a smaller number of bedspaces (a reduction of 9%) will obviously lessen the environmental impacts referred to in this section.

As part of the preparation of the Environmental Impact Statement and in order to establish the existing level of traffic in the area, a ten hour classified survey of weekday traffic during term time was undertaken on Friday 5th February 1999 at the junction of Dарты Road and Temple Road. The findings of this survey are discussed in sections 12.3 and 12.4 below.

12.2 The Proposed Development

12.2.1 Accommodation and Access

The proposed development on a site of approximately 2.5 hectares comprises of the provision of residential student accommodation totalling 946 bedspaces of which 82 bedspaces are existing and 864 bedspaces are new.

Vehicular access to the development will be through a modified existing entrance off Dарты Road.

New pedestrian entrances may be incorporated in the development in order to facilitate access to the bus stops on Dарты Road and the bus terminus on Palmerston Park.

12.2.2 Parking

On site car parking will be provided to satisfy demand from a number of sources. These include; student car parking, staff car parking and visitor car parking. The demand from each of these sources will vary depending on the time of day and time of year. A total of 160 spaces will be provided.

Coach parking spaces are being provided on site to cater for student movements, sports teams and special events.

To cater for the significant number of students who will travel by bicycle, a total of 400 bicycle parking spaces are being provided within the development.

12.2.3 Modal Split

The current level of car ownership amongst third level students is low compared to many other sections of the population in the Dublin area.

In the case of students at Trinity College car usage for travel to the city centre campus is also low due to the restrictions on parking both in the City Centre in general and on the TCD Campus.

The current modes of transport used by the student population are as follows:

-	Car	5%
-	Bicycle	20%
-	Public Transport	65%
-	Foot	10%

By comparison with the remainder of the population, student travel by car is less by a factor of 13 and student travel by public transport greater by a factor of 2 than the average population.

12.2.4 Trip Generation

For the purposes of this EIS, a trip is defined as a one way journey.

The generally accepted trip rate for residential developments in the Dublin suburban area is in the range 3-7 trips per unit depending on the size and location of the apartment complex.

For one bed units, a rate of 3 trips per day is appropriate with 11% or 0.33 trips per unit occurring during the AM peak between 08h00 and 09h00.

Excluding existing trips generated by the present site population of 180, the additional trips generated by this development during the AM peak have been calculated as follows :

Student Cars	(1085 - 180) units x 0.33 trips x 1/13	23 trips
Public Transport	(1085 - 180) units x 0.25	226 trips
Staff Cars		10 trips

12.2.5 Trip Distribution

Trip distribution to and from the completed development is dependent not only on the existing traffic pattern but also on the purpose of the journey.

In the case of Trinity Hall it has been assumed in this EIS as a worst case scenario that during the AM peak, 100% of the car trips will be towards the City Centre with no car trips in the opposite direction.

With respect to public transport, it has been assumed also for the purpose of this EIS that 100% of the trips will be towards the City Centre.

Inward staff trips during the AM peak have been allocated in this EIS on the basis of 50% from each direction.

12.2.6 Service Traffic

Service traffic to the completed development will fulfil the following functions :

- Deliveries to small grocery / newsagent
- Supply of linen and housekeeping goods
- Maintenance vehicles providing service to heating, telecommunications etc.
- Waste removal

The number of service vehicles will be small with typical frequency as set out below :

Deliveries	-	Groceries	Daily
	-	Newsagent	Daily
	-	Linen	Twice Weekly
	-	Cleaning Supplies	Weekly
Waste Collection-	-	Private	Twice Weekly
	-	Public	Weekly
Maintenance	-	Heating	Monthly
	-	Telecom etc.	Monthly
	-	Window Cleaning	Fortnightly

12.2.7 Construction

The development at Trinity will require, inter alia, the construction of a series of three buildings.

To reach the operational stage of the development, the following works will be carried out:

- Site clearance including excavation of subsoil to required levels
- Demolition of existing link building, gate lodge and entrance
- Trenching for underground services including foul sewer, surface water drains, water mains, gas, telecommunications, electricity and lighting.
- Connection of proposed underground services to existing underground services.
- Construction of buildings
- Construction of roads, footpaths and paved areas.
- Erection of boundary fencing, signage and lighting.

Each of the activities described above will generate traffic movements to and from the site and within the site.

The estimated principal material quantities associated with the construction period will be:

MATERIAL	QUANTITY	INDICATIVE TRANSPORT PERIOD
Demolition Rubble	1,200 cu m	4 weeks
Excavation - spoil	20,000 cu m	10 weeks
Concrete	9,000 cu m	30 weeks
Structural Steel	1,250 tonnes	8 weeks
Blocks and Bricks	5,000 cu m	40 weeks

Other materials will include windows, doors, lifts, sanitary fittings and services.

The overall construction period projected for the project is 20-30 months. During this time construction traffic access to the site will be from Darty Road. Other traffic will access Trinity Hall via a temporary entrance at the cul-de-sac off Temple Road.

Traffic movements generated by the construction process are expected to comprise some 20-30 inward car / light van and 45-50 inward truck movements per day during the opening months together with a similar number of outward movements per day.

Construction traffic will vary as the contract progresses to some 120-150 inward car/light van movements per day and 18-20 inward truck movements per day together with a similar number of outward movements per day at the peak of construction activity between months 10 and 20.

Depending on the domiciles of the construction staff, some additional trips may be generated by lunchtime traffic.

Parking demand for construction staff is expected to be 30-50 spaces between months 2 and 4 and 80-100 spaces between months 10 and 26. Parking demand for construction staff is expected to peak at 120 spaces about month 24. Parking for construction staff will be provided within the site.

12.3 The Existing Environment

12.3.1 General Description

The proposed development is located on a relatively undeveloped site in the southern suburbs of Dublin. The road network in the area is dominated by Darty Road, a primary north-south radial linking the City Centre to Churchtown through Rathmines.

To the west, Highfield Road provides an east - west link to Rathgar, Terenure and Kimmage. To the east the abandoned Harcourt Street railway line provides a linking corridor from the City Centre and Ranelagh to Dundrum/Sandyford, Foxrock and Bray.

The site is bounded on three sides by public roads (see Figure 12.1). The western boundary is formed by Darry Road with signal controlled junctions at Temple Road and Palmerston Park. The carriageway on Darry Road is 9 metres wide with 2 metre wide footpaths on both sides of the road.

The southern boundary is formed by Temple Road, a wide traffic calmed residential area where speed ramps have recently been installed. The carriageway on Temple Road is 10 metres wide with 2 metre wide footpaths and 2m wide grass verges on both sides.

The northern boundary is formed by Palmerston Park, an eastwards extension of Highfield Road. The carriageway on Palmerston Park is 9 metres wide with 4 metre wide footpath on the north side and a 5 metre wide footpath on the south side along the frontage of the subject site.

12.3.2 Site Access

There are presently two vehicular access points to the site. The primary access is off Darry Road through a 3.6m wide gateway and along a traditional avenue. There is also a secondary service access off Palmerston Park which is mainly used for access to the botanic gardens.

12.3.3 Traffic Management

Current traffic management in the vicinity of the site comprises :

- 30 mph speed limit
- signal controls at junctions of Darry Road with Temple Road and of Darry Road with Palmerston Park
- a series of speed control ramps on Temple Road
- local 24 hour parking restrictions at junctions of Darry Road with Temple Road and Palmerston Park
- one way clockwise traffic circulating in Sunbury Gardens opposite the main access to the subject site

12.3.4 Road Junctions

Details of the existing signalised junctions on Darry Road at Temple Road and Palmerston Park are presented on Figures 12.3 and 12.4. Both sets of signals operate to a cycle of 97-98 seconds including a pedestrian phase at Temple Road.

12.3.5 Public Transport

Existing public transport in the vicinity of the site comprises the following bus routes :

Route 13B	Palmerston Park - City Centre (D'Olier Street)
Route 14	Churchtown - City Centre (D'Olier Street)
Route 14A	Ballinkeer - City Centre (D'Olier Street)

These three routes provide a total of 9 departures from Trinity Hall to the City Centre during the AM peak between 08h00 and 09h00 each day. Bus stops for Routes 14/14A are located on either side of Darry Road at the main access to the site and for Route 13B at the west end of Palmerston Park. The city terminus for both services is in D'Olier Street adjacent to the Trinity College campus.

Proposals for the improvement of public transport in the area include the provision of an improved bus service and the development of the Dublin Light Rail (LUAS) along the line of the former Harcourt Street Railway some 600 metres east of the site.

An application to the Minister for Public Enterprise to construct the LUAS line from Sandycroft Industrial Estate to St Stephen's Green was made by CIE in December 1998.

The LUAS system is proposed to operate at a peak frequency of 5 minutes and a journey time of 22 minutes from Dundrum to O'Connell Street. Stops for LUAS will be provided at Milltown, 150 metres south of Temple Road and at Westmoreland Street adjacent to the Trinity College campus.

12.3.6 Traffic Surveys and Volumes

A ten hour count of all traffic movements at the Darry Road / Temple Road junction was undertaken on Friday 5th February 1999. The results of the survey are presented in Figure 12.2.

As might be expected, traffic flows through the junction are dominated by the north - south movements on Darry Road with inbound AM and outbound PM peaks of 950 - 1050 vehicles per hour equivalent to double the midday flow between peaks.

12.3.7 Opening Year Flows

When considering the receiving environment for traffic impact, it is usual for the traffic volumes to have changed from that which existed at the time the EIS was prepared. In the case of this development, it is expected that the traffic volume will have increased but that this increase may be mitigated by the provision of better public transport services including the commencement of LUAS services.

For the purpose of determining the traffic impact of this proposed development, a completion date of March 2001 or 2 years hence has been assumed. LUAS is projected to be operational by the year 2001. In keeping with best practice in the preparation of EISs it has been assumed for the purpose of this EIS that LUAS will not become operational until a later date.

In order to determine the background levels of traffic that will occur at that time, the existing traffic flows have been factored by 15%. This increase is based on an annual rate of increase of 6-7% which is the current generally

accepted rate of increase in the Dublin area when no reductions are included for public transport improvements.

The projected opening year traffic flows for the AM peak between 08h00 and 09h00 are presented in Figure 12.3.

12.4 Predicted Impacts

12.4.1 Introduction

For the purpose of assessing the traffic impact of a development, it is customary to look in detail at the morning or AM peak. This approach was adopted by the Dublin Transportation Initiative and has been adopted in this EIS in order to look at the worst case scenario for the subject development.

12.4.2 Impact on Road Network

12.4.2.1 Traffic Volumes on Darry Road

The existing two way flow on Darry Road during the AM peak is 1,647 vehicles / hour. By the opening year of 2001 (see section 12.3.7), this volume is projected to have increased by 15% to 1,894 vehicles per hour.

Post development, the volume is projected to increase by some 33 vehicles per hour. The impact of this increase due to traffic generated by the Trinity Hall development will not be significant.

12.4.2.2 Traffic Volumes on Temple Road

The existing two way traffic flow on Temple Road during the AM peak is 186 vehicles per hour.

There will be no change in traffic volumes on Temple Road due to the operational phase of this development. During the construction phase existing site traffic will access Trinity Hall via the cul-de-sac near the western end of the Road. This will not contribute significantly to traffic on Temple Road.

12.4.2.3 Road Junctions

The existing signalised junctions on Darry Road at Temple Road and at Palmerston Park operate to a 97-98 second cycle (Figure 12.4).

Post development the total approach flow through the Darry Road/Temple Road junction is expected to increase from 2,068 to 2,101 vehicles per hour. This increase at the junction can readily be accommodated without changing the signal cycle. As a result, there will not be a significant impact at this junction due to the Trinity Hall development.

12.4.3 Impact on Public Transport

At present, Routes 13 and 14 provide 9 No. double deck services during the AM peak between 08h00 and 09h00 each with a capacity of 79 passengers from Trinity Hall to the City Centre adjacent to the TCD Campus.

Post development, the number of bus passengers from Dарты Road to the City Centre is expected to increase by up to 200 passengers per hour during the AM peak.

The impact of these additional trips assuming that the exiting provision of 711 inbound spaces between 08h00 and 09h00 is 60% full, will require an increase in service frequency from 9 buses per hour to 11-12 buses per hour.

It is anticipated that Dublin Bus will be in a position to meet this demand.

12.4.4 Impact on Parking

The on-site parking being included in this development is for 160 cars, 5 coaches and 400 cycles.

During term time, up to 50 car parking spaces will be available for student cars and 10-12 spaces will be available for staff cars. The remaining spaces will be available for visitors both regular and occasional for events such as start-of-term, Parents Day and other special occasions.

Outside term time, parking will continue to be available for staff and the remaining spaces will be available for visitors to the development.

The overall parking provision is expected to exceed demand and as a result there will be no impact on the surrounding road network due to off - site and / or illegal parking.

12.4.5 Impacts during Construction

The main impacts from the construction stage will by car trips be construction workers and truck trips from disposal of unwanted material and deliveries.

During the construction phase, traffic volumes on Dарты Road are expected to be some 2,000 vehicles per hour during the AM peak compared to a construction worker arrival volume of less than 50 cars per hour and a truck volume of less than 5 vehicles per hour. These trips are within the capacity of the road network and are short term in nature and extent. Their impact in traffic terms will not be significant.

The main impact during the construction period could be the dirtying of the road carriageway arising from spillage's and muddy tyres. The control and cleaning measures described in section 9.5.1 will minimise the impact of this activity.

12.5 Mitigation Measures

The primary mitigation measure associated with this development is its location in a developed suburb of this city at the junction of two major bus routes both of which terminate in the City Centre adjacent to the Trinity College Dublin Campus.

In addition the development is located within acceptable walking distance of the proposed Milltown Stop on the Sandford - City Centre LUAS Line B. A number of other mitigation measures are incorporated in the proposed development to reduce the impact of generated travel demand and provide a safe and convenient access to the development for cars, service traffic cyclists and pedestrians. These measures include :

- Redevelopment of the existing access onto Dartford Road to provide a wider and safer access for all vehicular traffic with recognised standards of geometry and visibility

- Arrangement with Dublin Bus to provide additional passenger capacity (as indicated in section 12.4.3)

- New pedestrian gateway to Dartford Road to provide access to the bus stops for Route 14

- New pedestrian gateway to Palmerston Park to provide access to the terminus of Route 13B

- Provision of adequate on-site parking for cars, coaches and cyclists.

- Provision of clear signage within the development

- Control of construction traffic

- Cleaning of roads traversed by trucks carrying excavated material or imported fill during the construction stage

12.6 Residual Impacts

There are not expected to be any significant residual impacts from the completed development other than the ongoing requirement to maintain public transport either bus or light rail from the vicinity of the development to the City Centre near the campus.

Fig. 12.1

LOCATION MAP

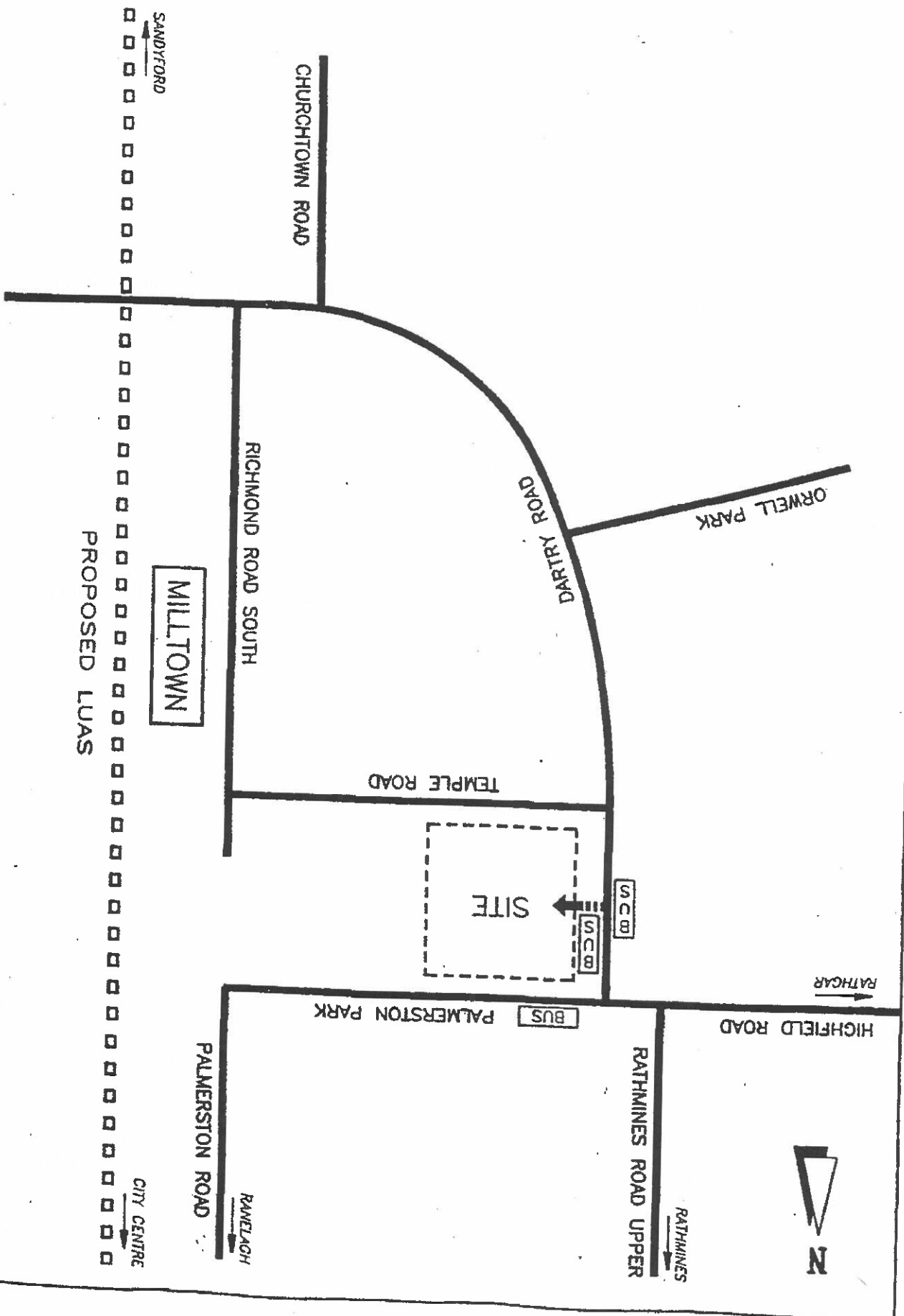


Fig. 12.3

DARTRY ROAD/TEMPLE ROAD JUNCTION - EXISTING

NOTE: WIDTH OF STOPLINE SHOWN THUS
SURVEYED: Monday 1st March 1999

5.2m

PHASE	INTERVAL	SOUTH/NORTH	EAST/WEST	PEDESTRIAN	TIME SECONDS		
A	1	GREEN	RED	RED	56		
	2	AMBER			3		
INTERGREEN	3	RED			2		
B	4				6		
	5				10		
INTERGREEN	6				2		
C	7	RED			13		
	8				3		
INTERGREEN	9				2		
TOTAL					97		

SIGNAL PHASING AND TIMING

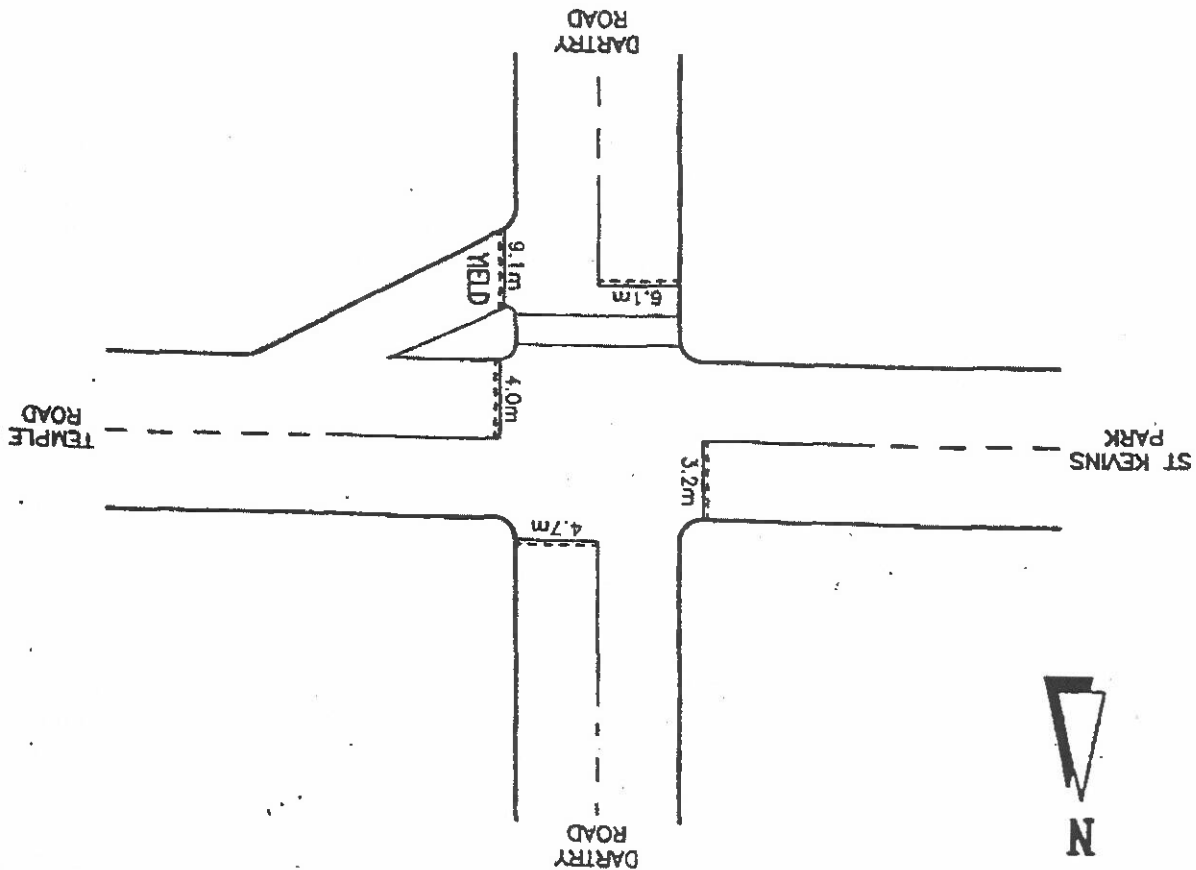


Fig. 12.4

DARTRY ROAD/PALMERSTON ROAD JUNCTION - EXISTING

NOTE: WIDTH OF STOPLINE SHOWN THUS
 SURVEYED: Monday 1st March 1999
 5.2m

PHASE	INTERVAL	NORTH		SOUTH		EAST		WEST		TIME SECONDS
		STRAIGHT	LEFT	STRAIGHT	RIGHT	STRAIGHT	STRAIGHT	STRAIGHT	STRAIGHT	
A	1	GREEN	GREEN	GREEN	RED	RED	RED	RED	RED	31
	2	AMBER	AMBER							3
	3	RED	RED							2
	4									28
	5									3
	6									2
B	7					GREEN	GREEN	GREEN	GREEN	15
	8					AMBER	AMBER	AMBER	AMBER	3
	9					RED	RED	RED	RED	7
	10					AMBER	AMBER	AMBER	AMBER	3
	11					RED	RED	RED	RED	1
										98
TOTAL										

SIGNAL PHASING AND TIMING

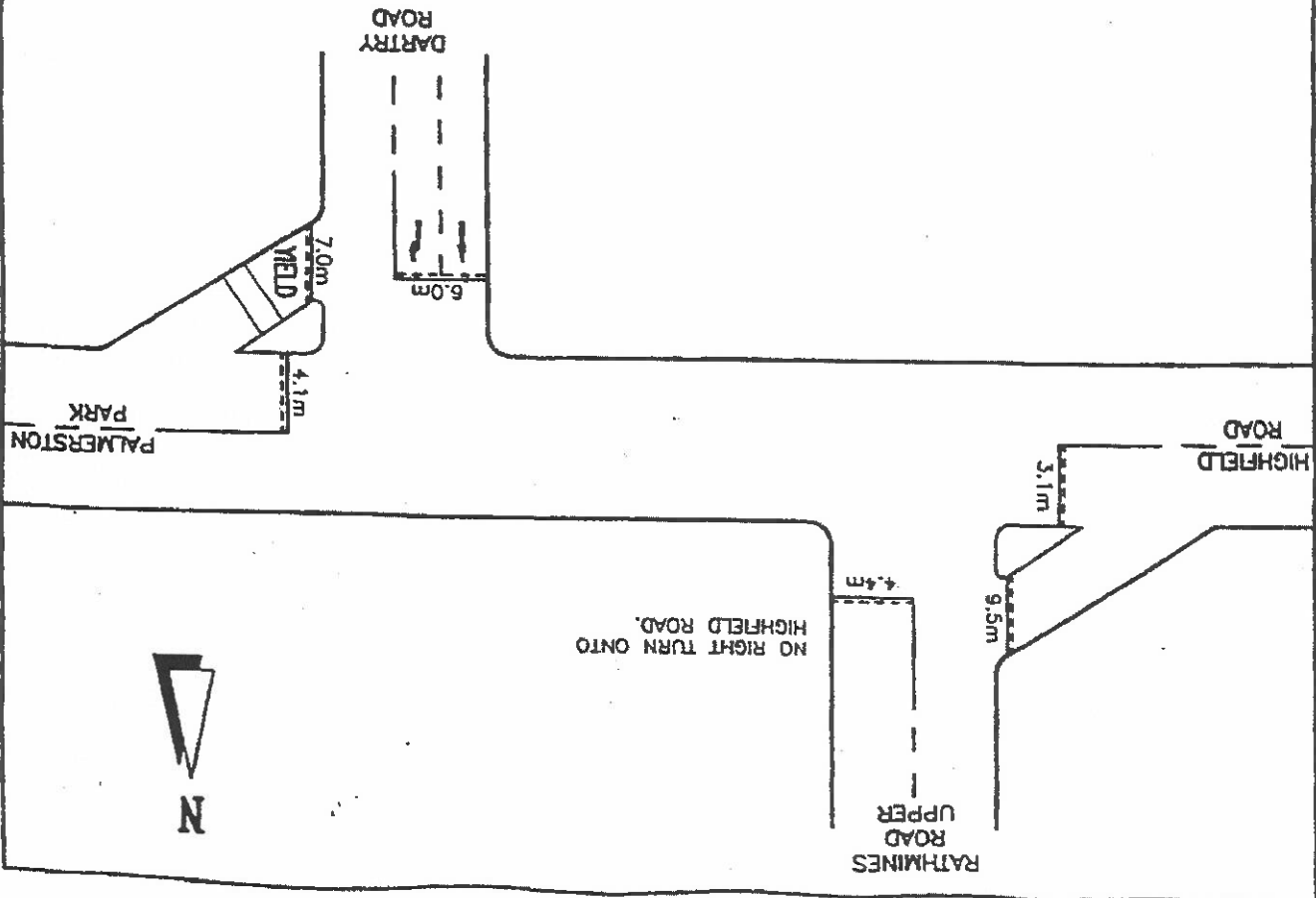
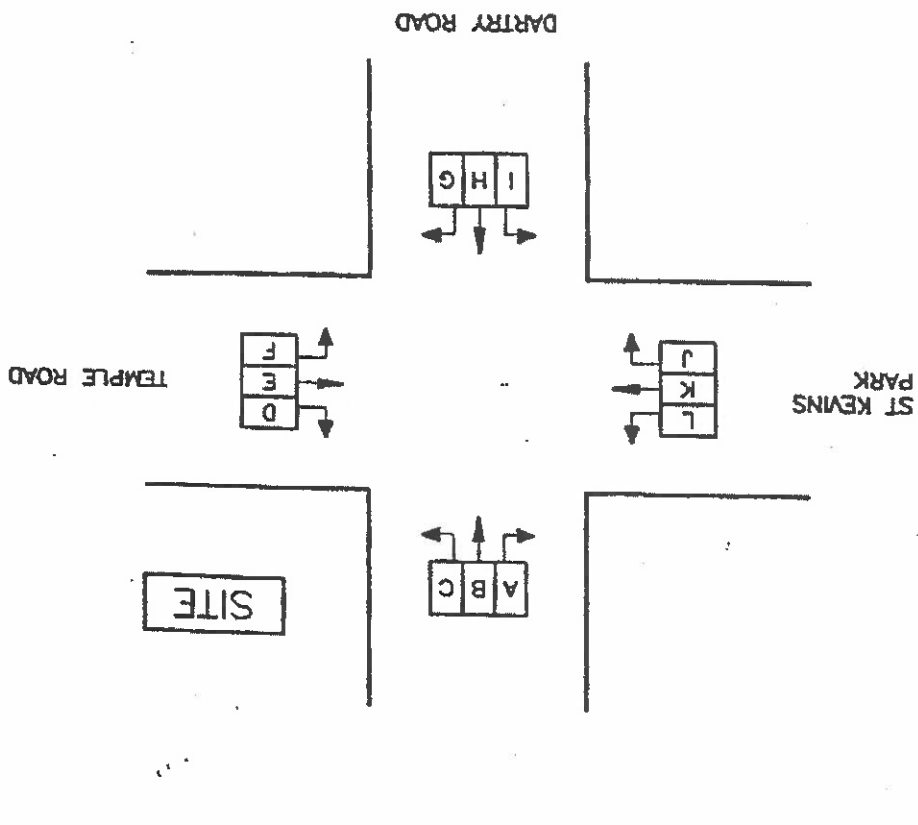


Fig. 12.5

AM PEAK 1999-2001

MOVEMENT	EXISTING (1999)	OPENING YEAR (2001)	GENERATED TRAFFIC	POST DEVELOPMENT
A	11	13	-	13
B	609	700	-	700
C	9	10	-	10
D	48	55	-	55
E	1	1	-	1
F	52	60	-	60
G	69	79	-	79
H	944	1086	5	1091
I	5	8	-	6
J	8	9	-	9
K	7	8	-	8
L	36	41	-	41
TOTAL	1799	2068	5	2073



Chapter 13 – Material Assets

13.1 Introduction

This section is intended to refer to infrastructure and resources. For this report it is taken to include services such as water supply, sewage disposal, waste disposal, telecommunications, electricity, road and footpath networks. Some of these topics are addressed in more detail in other sections of the EIS, such as Chapter 8 – Water and Chapter 12 – Traffic and Transport. The format of this section examines the proposed development, the existing infrastructure and the impacts of each item under the main heading.

13.2 Electricity

Electricity will be supplied to the development from existing ESB cables in the area. The ESB have advised that the likely impacts on local residents will be as follows:

- No interruption to power supplies is expected as a result of the connection of the new ESB medium voltage switchroom for Trinity Hall.
- Extensive ESB cabling operations will be necessary in the neighbourhood.

The likely route will be as follows: - from Palmerstown Park / Orchard Road South Intersection to Orchard Road South to Temple Road to Darry Road to Orwell Park to Orwell Park / Orwell Wood Intersection.

The ESB contractor, when appointed, will be responsible for all excavation and reinstatement related to the installation of ESB ducts in the path along the entire route, these operations may take up to three weeks. ESB crews will then draw cables through the new duct installation, over a period of approximately one week. Cables on the site will be buried underground.

13.3 Gas

Gas will be supplied to the development from the existing gas network in the area. While detailed discussions with An Bord Gáis have not yet taken place, it has been indicated that incoming gas supplies will be taken from gas mains which pass the site along Darry Road. Gas is likely to be used for cooking and heating throughout the development as it is the cleanest source of energy available.

13.4 Telecommunications

It has not been decided exactly what telecommunications will be installed at this stage due to the technologies for television and telecoms which are constantly changing. The provision of television services has however been referred to Cablelink for their comment. They have indicated that provision of television services to the new development will have no adverse effect on the existing supply to local residents, while down time associated with connection to the project will be negligible, a few minutes at off peak viewing at maximum, zero at minimum. Cabling is unlikely to cause disruption either on or off-site provided adequate notice of the schedule of works is given. Provision of

telecom services is still under investigation as recent changes in legislation have altered the nature of service provision.

13.5 Water

13.5.1 Water Supply

The existing water supply to the site is from a Corporation watermain. Existing consumption is estimated to average approximately 14,400 litres per day (l/d). The estimated consumption following the proposed development will be 120,000 l/d which will be provided from the same mains. The Corporation has indicated that it will be able to accommodate this demand.

13.5.2 Foul Drainage

Existing foul water drainage from the site is estimated to have a peak flow of 11 litres per second (l/s). The equivalent figure for the proposed development is 46 l/s. This will discharge to a 750x540mm sewer line under Darry Road, with the connection running under the main site entrance. Accommodation of the additional loading will be facilitated by the improvement of the existing main sewer line. This upgrading work will be undertaken by the Corporation's Main Drainage Division.

13.6 Domestic and other waste disposal

Trinity College Dublin promotes a policy of waste recycling. This policy will be encouraged and facilitated by the provision of can and bottle banks on the site. Disposal of domestic refuse from the site will be contracted to a licensed and approved waste collection firm. All waste disposal facilities will be located in a central area with suitable landscaping provided to screen the facilities from public view.

Chapter 14 – Architectural Heritage

14.1 Introduction

This section examines the architectural merit of existing buildings on the site. Each structure has been examined and is described in terms of its features and the architectural importance attached to such features. The predicted impact of the proposed development on the architectural heritage of each structure is assessed and where necessary mitigation measures are proposed.

Three mid-Victorian houses are the main architectural features of the site. The existing environment, predicted impacts and mitigation measures are all considered on a house by house basis. The three houses, Purser House, Trinity Hall and Grenane House, are listed for preservation in List 2 of the Dublin City Development Plan 1999.

Archaeology is examined in Chapter 15 and is not considered in this section.

14.2 Proposed Development

The overall site proposals are described in Chapter 4. Here the specific proposals relating to the existing buildings architectural interest are outlined.

Intervention in Trinity Hall (the main house) will be largely restorative, involving removal of partitions. A lightweight glazed atrium is to be inserted at the rear of this building, resolving levels between it and neighbouring buildings.

The existing annexe to the rear of this building and the link building between Trinity Hall and Purser House (circa 1920s) will be demolished. A new building will be built on the cleared area. The new building will be connected to Trinity Hall via a lightweight glass atrium which will include dining facilities.

An existing single storey lodge adjacent to the main gate on Darryl Road will be removed, allowing the entrance to be re-aligned in the new site layout.

There will be no works to Grenane House or to the lodge at the north-west corner of the site.

14.3 Grenane House

This is a listed building. This house at the south side of the site dates from circa 1875 and is an Italianate free standing house of three bays and two storeys over a low basement. The main feature of the facade is a half hexagon bow. It is cement rendered with vermiculated raised coigns, a cement string course, eaves to hipped roof, a round headed doorcase approached by granite steps and sash windows.

The heritage assessment of this building concludes that the similarity in treatment and date suggests the house might have been part of a development which comprised of Trinity Hall, Purser House and the house to

the south of these, outside the grounds of Trinity Hall. Grenane House is of minor architectural interest though very much part of the Victorian suburban landscape in the southern suburbs.

No alterations will take place on this building, consequently there will be no significant impacts on the architectural heritage and context of this building as a result of the proposed development.

14.4 Trinity Hall (the main house)

This is a listed building and is the largest of the three houses and perhaps the house built for the original developer of this site. It is three bays with a two storey facade over a high basement. It is cement rendered, with a half hexagonal bow with vermiculated raised coigns and built to a square plan. There is a timber bay window on the right hand side with an enclosed doric porch approached by granite steps and bracketed eaves and a hipped roof. At the south side is a lower two storey service wing with projecting porch on the ground floor, cornice and balustrade. The interior has large reception rooms with contemporary chimney pieces and bracketed cornices. The staircase has turned balusters.

The architectural assessment of this building concludes that it is the finest of the three houses and of more architectural significance than the others. Its central position means that it is the focus point of the present complex of buildings and will remain so in the new development.

Significant alterations including the provision of a 400 seater restaurant will take place to an glazed atrium at the rear of this building. The annexe which is to be demolished is described at section 14.4 below.

There will not be any significant adverse impacts on the architectural integrity of Trinity Hall.

14.5 Trinity Hall Annexe

This addition to the northside of Trinity Hall appears to have been constructed around 1900 and is of three storeys and four bays. The decoration follows the characteristics of Trinity Hall, being cement rendered with string courses and architraves to windows though having Georgian style glazing bars in the sash windows. The roof is hipped with bracketed eaves. This addition blends in successfully with Trinity Hall.

The annexe is not considered to be of significant architectural merit. It will be demolished to facilitate construction of Building 1. The impacts of demolishing this building will not be significant in architectural terms as it is not deemed to be of significant architectural merit.

14.6 Purser House

This is a listed building and may be slightly later than the other two. It is a two storey house raised above ground level on a high basement. It is cement rendered, with a pair of half octagonal bows, bracketed eaves and a hipped

roof. Granite steps with cast iron lamp stands lead to a simple doorcase. It is simpler in decoration and has been pebble dashed, possibly in the 1920's. The architectural assessment of this building concludes that there will be no significant impacts on this house as a result of the proposed development.

14.7 Link Building

This is a long, eight bay, three storey building probably dating from the 1920's. It is pebble dashed with Georgian glazing in wide windows. It may have originally been two storeys with an additional storey added later, it is flat roofed. The building is of no particular architectural importance and will be demolished to make way for a new building.

14.8 North-West Lodge

This is a single storey, four bay building with cement rendered walls, eaves and hipped roof. The gate piers and low walls are of ashlar granite and the gates are ornamented cast iron. The fenestration of the lodge has been altered and it has no features of architectural interest. No alterations will take place on this building, consequently there will be no significant impacts on the architectural heritage and context of this building as a result of the proposed development.

14.9 West Lodge

This is an attractive three bay, single storey lodge. It is cement rendered with parallel raised coigns, sash windows, gabled porch with timber fret work, bracketed eaves and a low pitch roof. The gates are simple and the gate piers and low walls are cemented with granite caps.

This is an attractive lodge with simple features. It is not listed for protection and will be removed to improve traffic safety at the proposed entrance to Trinity Hall, as it is not possible to incorporate it into the proposed design.

Chapter 15 – Cultural Heritage

15.1 Introduction

This section assesses the archaeological and historical importance of the proposed development lands at Trinity Hall, Darry. The main purpose of the study is to assess the impact on the receiving archaeological environment and to propose mitigation measures to safeguard any monuments, features or finds of antiquity.

Archaeological sites are generally classified for the purpose of impact assessment in such a way that their importance in the archaeological record is suggested. An Area of Interest is suggested for each site. This is a zone of archaeological potential around the known extant remains in which related archaeological features are likely to occur.

The destroyed site of Rathmines Castle (SMR DU022:087) is located in the north-eastern corner of the development site and is listed for protection under List 6 of the Dublin City Development Plan 1999. There are no stray finds of archaeological objects listed for Trinity Hall in the National Museum Topographical Files

Three detached houses within the grounds of Trinity Hall (Purser House, Trinity Hall and Grenane House) are listed for protection under List 2 of the 1999 Dublin City Development Plan. The architectural merits and impacts on these listed buildings is examined in Chapter 14 – Architectural Heritage.

15.2 Proposed Development

The proposed development involves the provision of residential student accommodation totalling 945 bedspaces. This will involve the construction of 3 new buildings and alterations to one existing building on the site. The most sensitive part of the site from an archaeological point of view is the north-eastern part where a zone of archaeological potential exists around the destroyed site of Rathmines Castle. The positioning of buildings has taken special care to avoid disturbing the zone of archaeological importance.

15.3 Existing Environment

15.3.1 Methodology

This section examines the historical context of the site and documents any known or potential archaeology which may exist. This archaeological report is based on a desk study and field inspection of the application area. The archaeological desk study availed of the following sources:

- Sites and Monuments Record

The primary source of information for the desk study is the Sites and Monuments Record, Dúchas, The Heritage Services of the Department of Arts, Heritage, Gaeltacht and the Islands (formerly OPW). The SMR records known upstanding archaeological monuments and their original locations (in cases of destroyed monuments) and the position of possible sites identified as

cropmarks on vertical aerial photographs. This is based on a comprehensive range of published and publicly available documentary as well as cartographic sources. The information held in the SMR files is read in conjunction with constraint maps. The SMR maps relevant to Trinity Hall, Dарты are sheets 3328 and 3329 of the Dublin 1:5000 series (see figure 15.2).

SMR No.	022:087	Map No.	3329
Townland	Palmerston Park	Nat. Grid Ref.	31608/23051
Site Type	Castle (site of)	Classification	G
Distance	within site boundary	Area of Interest	100m

Description

No visible trace. House known as the 'Orchards' off Palmerston Park occupies the site of a 17th century mansion built by Sir George Radcliffe called "Rathmines Castle". It was involved in the Battle of Rathmines 1649 (Ball 1903; Kelly 1995, 32-39). The Down Survey map of 1655 shows a multi-gabled house on the site. An avenue was constructed in 1753 from the gate of Rathmines Castle to Terenure. The avenue now forms Highfield Road and Terenure Road East (MacGiolla-Phadraig 1954, 28).

Map References: 1st edition O.S. map (1837) "Rathmines Castle Old". 3rd edition O.S. (1937-38) Not highlighted as antiquity "The Orchards". Down Survey maps: multi-gabled house ("Rathmines"). Dublin City Draft Development Plan 1998: "Site of Rathmines Castle".

Historical References: Ball, F.E. 'A History of the County of Dublin', 1903, 101, 105-6. Joyce, W. St J. 'The Neighbourhood of Dublin', 1912, 170, 188. MacGiolla-Phadraig, B. 'History of Terenure', 1954, 28.

- The Topographical Files of the National Museum of Ireland

These files identify recorded stray finds held in the National Museum of Ireland and archives. These are provenanced to townland. The files on finds, which have been donated to the State in accordance with National Monuments legislation, sometimes include reports on excavations undertaken by NMI archaeologists earlier in the twentieth century.

- Documentary Sources

Documentary and literary references were consulted as well as the 1998 Dublin City Draft Development Plan.

- Field Inspection

Field inspection was undertaken to assess current and previous land use, the access to the site, the local topography and any additional environmental information relevant to the report. It also sought to identify any low visibility archaeological features with little surface expression.

15.3.2 Historical Background

15.3.2.1 Rathmines

The lands of Rathmines once formed a portion of the property of the See of Dublin and were included in the Manor of St. Sepulchre. They were part of the

Parish of St. Peter and, more anciently (in pre-Norman times), of the Parish of St. Kevin (Ball 1903, 100).

The name 'Rathmines' originated in the family of de Meones who came into possession of what was referred to as 'the Rath' in the early 14th century. Richard de Welton had previously held it. In 1382 William de Meones, who styled himself Lord of Meonesrath, held the Rath. At some time the name was inverted to become 'Rathmines' or it may simply have been a corruption of Rath de Meones (Ball 1903, 100).

In early times the area was probably heavily wooded and much of it would have been part of Cullenswood. The main road going through this area leading towards Wicklow was known as the Bealach Dubhlinne, the Dublin Way. From early times there seems to have been a road to Rathmines and one through Cullenswood to Milltown. The ancient *Slioghe Chualann* passed along the western border of this area through Harold's Cross to Rathfarnham (Kelly 1996, 17-18).

In the 17th century, Sir George Radcliffe, friend and counsellor of the then Viceroy, the Earl of Stafford, built a 'great mansion in Rathmines' (Rathmines Castle, SMR DU022:087). Its value was estimated at £7,000, a huge sum in those days. However, he did not enjoy it for very long. The Earl of Stafford was overthrown and, in, 1640 Radcliffe was imprisoned by the House of Commons (Ball 1903, 101).

The wife and family of the Duke of Ormonde then occupied the castle for a short time. They then moved to Dublin and three days later the castle was burned. This act had been attributed to marauding bands of Irish troops, but some thought his own household may have been responsible and made much of the fact that the caretaker had fled and his wife was found dead (Ball 1903, 101).

15.3.2.2 The Battle of Rathmines

The Battle of Rathmines between Parliamentarian and Royalist forces, in 1649, took place in the vicinity of Rathmines Castle (see figure 15.3). The battle was the single greatest historic event in the area and resulted in the defeat of the Royalist Army under the command of the Duke of Ormonde by the troops of the Parliament, then garrisoning Dublin, under the command of Colonel Michael Jones (A. Brooke-Tyrell: Michael Jones, Governor of Dublin, Dublin Historical Record, 5 Vol. XXIV, No. 1). The battle took place in the grounds now occupied by Palmerston Park and the adjacent roads. Ormonde encamped his troops here on moving from Finglas, where he had lingered for many weeks (H.O. Brunsell: The Battle of Rathmines, Dublin Historical Record, Vol. II). This area subsequently became known as 'The Bloody Fields'.

There on the 27th July 1649, at a council of war, attended by Lord Inchiquin, Lord Castlehaven, Lord Taaffe, General Thomas Preston, Sir Arthur Aston, Sir William Vaughan and Major-General Patrick Purcell the disastrous decision was made to send Lord Inchiquin to Munster with two regiments to apprehend

Cromwell, where it was thought he might land (Ball 1903, 102). A rumour had gone round that Cromwell himself had set sail for Ireland to quell the rebellion. This decision diminished the number of troops available to Ormonde.

At Rathmines another council of war was held at which it was decided to fortify Baginbun Castle if practicable. However, the Parliamentarians decided to attack while the Royalist troops were in disarray. They routed the defenders of Baginbun, killing General Vaughan whose army retreated in the direction of the Dodder and the Dublin Mountains. Jones then sent some of his troops along the Dodder to surprise the Royalists from behind. They surrendered and, since most of them were English, joined up with the Parliamentarians (Kelly 1996).

The entire battle lasted only two hours. Jones' troops captured the camp at Rathmines with little difficulty and helped themselves to the stores of wine, wool and linen and about 200 draught oxen (Kelly 1996). The castle at Rathmines was very badly damaged. The importance of the Rathmines victory for the Parliamentarians can be judged by Cromwell's statement about it in a letter from Milford Haven on the 19th August: "This is an astonishing mercy, so great and seasonable, that indeed we are like them that dreamed" (T. Carte: Original letters and papers, 1739, 11).

15.3.2.3 Rathmines Castle

The castle was restored and Sir George Radcliffe was still stated to be the owner of the lands, which must have been very extensive as his house alone had a demesne of 60 acres. However, the house and demesne were occupied by Captain William Shore. Shore died in 1668 and ten years later there were legal proceedings between his representative and Thomas, the only son of Sir George Radcliffe, with regard to the lands of Rathmines (Kelly 1996).

In the 18th century the lands came into the possession of the Temple family and in 1746 Henry, the first Viscount Palmerston, leased the house to the Right Hon. William York, Chief Justice of the Common Pleas in Ireland (see figures 15.3 and 4). His stay here was probably why this part of the Milltown Path was for a period known as York's Path (Kelly 1996).

The Reverend Charles Barry ran a school there at the end of the 18th century. The syllabus included the Classics, Mathematics, English, History, Geography, French and Debating. The school day began at 6am in the summer and 7am in the winter. He described the building thus in 1795:

"...The spaciousness of the house, formerly the residence of Lord Chief Justice York, enables me to accommodate each of my pupils with a separate bed. The playground, likewise, is very extensive and in part surrounded with a piazza where the young gentlemen exercise in times of bad weather...And the whole of my farm which consists of 22 acres is enclosed by a wall nine feet high." (cited in Kelly 1996, 166).

The exact location of Rathmines Castle (SMR DU022:087) has been the subject of considerable debate by historians. Ball (1903) in his history of the County of Dublin places it on ground lying between Palmerston Villas and Cowper Villas. Joyce (1912) claims that it stood on the site occupied by a house known as 'The Orchards' and the 1837 edition of the O.S. map shows 'Rathmines Castle Old' marked on a spot that seems to be inside what is now Palmerston Park (see figure 15.5). The demesne itself would appear to comprise the present-day areas of Milltown north of the Dodder, Darry and a large part of Upper Rathmines. The Sites and Monuments Record agrees with Joyce and the 1837 O.S. map and sites it between 'the Orchards' and Palmerston Park (see figure 15.6).

Further up the Rathmines Road the 'new' Rathmines Castle was built about 1820 by a Colonel Wynne and later occupied by John Purser Griffith, Chief Engineer to the Dublin Port and Docks Board. Though 1820 seems to be the accepted date for this building, a castle is shown on Taylor's map of 1816 where it is indicated as much closer to the eastern boundary of the grounds and is simply marked 'castle'. There may have been an earlier castle on these grounds also although there is no historical record of it and no SMR designation is given to it. Wynne's Castle is now demolished and the grounds now house the Church of Ireland Teacher Training College, which moved here from Kildare Place in 1969 (Kelly 1996).

Looking at the Ordnance Survey Maps for the area, a number of changes are visible. The 1st edition O.S. map (6 inch, 1837) shows the site of Rathmines Castle 'old' with a large planted area stretching south of this (see figure 15.5). By 1864 and the 2nd edition map (25 inch), the area has changed considerably. The site of Rathmines Castle 'old' is no longer shown. The area formerly occupied by the castle has been laid out as a semi-circular garden, planted with trees (north-west corner of figure 15.6). 'Palmerston House' (later Purser House) and its surrounding gardens, including an orchard, occupy the present site of Trinity Hall. By 1907 (see figure 15.7) and the 3rd edition map (25 inch) three more houses occupy the site of Trinity Hall i.e. 'Glen-na-Smoll' (now Cunningham House) and Grenane House, both of which survive to the present day. Part of 'The Orchards' protrude into the boundary of Trinity Hall but this house is completely destroyed now. The area formerly occupied by Rathmines Castle is now called Palmerston Park and survives in this form to the present day.

15.3.3 Field Inspection

The area was inspected on January 8th 1999, by Finn Delaney of Margaret Gowen & Co. Archaeological Consultants and Project Managers, in cold, dry, bright conditions. There is some doubt about the exact location of the site of Rathmines Castle and so the entire development area was walked and examined for possible sub-surface archaeological features. It is likely that ancillary features such as an enclosing bawn wall, gardens, orchards etc. were present in the area surrounding the castle.

The development area is divided into seven for the purposes of this report (see figure 15.1). All areas of the site are easily accessible from the main entrance to the grounds on the Parry Road.

15.3.3.1 Area 1

This area to the north-east of the proposed site is occupied by Trinity College Botanic Gardens. The eastern half of the area is bounded by a large stone wall and is a completely manufactured environment with a series of gravel paths bounding a number of flower and shrub beds. The western half of the area includes seven substantial glasshouses surrounding a well-manicured grass lawn with a number of large trees. The area is enclosed by an old stone wall, which has a gate leading to a small overgrown walled garden with a temporary glasshouse in the centre. To the north of area 1 is a small one storey flat roofed structure, which is the main Trinity College Botanic building. There is a gravel car park to the front with an entrance on to the Palmerston Park road. To the rear of this building, separated by a gravel path, is a tool shed and incinerator with a tall chimney-stack. No obvious archaeological features were noted.

15.3.3.2 Area 2

A gravel path runs through the north of this area. To the north of this path there is an area of medium size trees with a dense undergrowth of bushes and shrubs which begins to thin out as you progress westwards along the path. To the south of the path the shrubs and plants are related to the Botanic gardens but gradually become larger and wilder until, at the rear of Purser House, a number of large trees are present. To the south of this vegetation break is an area bounded by the old red brick wall enclosing the green houses in Area 1 and the modern three storey extension which joins Purser House and Trinity Hall. This area has a well-kept grass lawn and two lines of apple trees and could be described as a small orchard. A blocked up red brick arch can be seen in the wall to the east of this area and leads in the most northerly of the greenhouses. To the rear of Purser House a yellow brick extension has been added along with an exterior staircase which acts as a fire exit. No features of archaeological interest were noted.

15.3.3.3 Area 3

This area to the north west of the development site is composed of large well-spaced trees. A compost heap used by the Botanic gardens is situated in the north east of the area up against an old wire fence, which divides area 2 from area 3. In the extreme north west of the area is situated a small 18th century one storey house with a small outhouse. Beside this house located in the western boundary wall is an old ornate wooden gate with decorative iron panels. A gravel drive runs from this gate up to Purser House. Nothing of an archaeological derivation was noted.

15.3.3.4 Area 4

To the west of Purser House is a flat, large, open expanse of grass stretching as far as the perimeter wall to the west of the property and to the farmacadamed entrance drive to the south. To the north of this area large trees gradually encroach on the grassy area. The farmacadamed area outside

Purser House is slightly raised above the grassy area to the west and runs south to join the entrance drive. To the south of Purser House and west of the extension which joins Purser House to Trinity Hall is another flat grassy area which stretches to the west as far as the raised tarmacadam drive. There is no sign of any archaeological features within Area 4.

15.3.3.5 Area 5

The area to the west of Area 5 is bounded by a stone perimeter wall and is used as a football pitch. There are two tarmacadam tennis courts in the south east of the area. In the north east of the area an earthen bank is covered with numerous large trees and dense undergrowth. Beneath one of these trees is a small flat roofed red brick pavilion, which overlooks the tennis courts and football pitch. No obvious archaeological features were noted.

15.3.3.6 Area 6

To the west of both Trinity Hall and Greenane House are tarmacadam areas that are used as car parks. A modern red brick extension to the back of Trinity Hall forms a small courtyard. The modern building has a glass frontage to the south and east. The courtyard is paved with square concrete slabs. In the south east corner of area 6 there is a small walled well kept garden with a tarmacadam drive to the north. No features of an archaeological nature were noted.

15.3.3.7 Area 7

The south east corner of the site is occupied by a modern red brick L-shaped building called Cunningham House. It has three storeys and is built in the same style as the extension to Trinity Hall. There is an entrance foyer at the meeting point of both arms of the L. To the south of this building a gravel car park and a bicycle shed are bounded by the old perimeter stone wall. In the semi-enclosed area created by the L shaped building there is a flat, well-kept grass lawn. To the north of this area a small hedge demarcates the lawn from an area with medium size well-spaced trees. This area extends to the stone wall that surrounds the Botanic gardens, which can be accessed through a gate in the wall. Nothing of an archaeological derivation was noted.

15.3.3.8 Observations of borehole extractions

Archaeological monitoring of 17 engineering boreholes has taken place over the whole site. Boreholes 1, 2 and 3 are in the vicinity of the destroyed site of Rathmines Castle. The first 2 metres of soil in borehole 1 consists of gravely clays, no archaeologically derived soils or features were noted. Borehole 2, north-east of Trinity Hall, produced some brick in the top 1 metre of soil. This could have been derived from many sources including the construction of Purser and Trinity Hall borehole 3, east of Purser House produced some cobbles in the top 2.8 metres of soil. This material may have some archaeological significance. A report on these results will be submitted to Duchas, the Heritage Services.

15.4 Predicted Archaeological Impacts

The area of archaeological interest for the development boundary for Trinity Hall (DU022:087) is partly within the development boundary for Trinity Hall.

Although the historical references are contradictory as to the exact location, this is the location upon which most of the authorities agree and to which the Heritage Service has assigned the SMR number.

The three 19th century houses, Pursers House, Trinity Hall and Grenane which are all listed for protection on List 2 of the 1999 Dublin City Development Plan, are to be incorporated into the development proposal, this is addressed in Chapter 14 – Architectural Heritage.

15.5 Mitigation Measures

Archaeological monitoring of engineering boreholes has taken place over the whole site some archaeological activity was encountered. A full report on the borehole monitoring will be submitted to *Dúchas* - the Heritage Services.

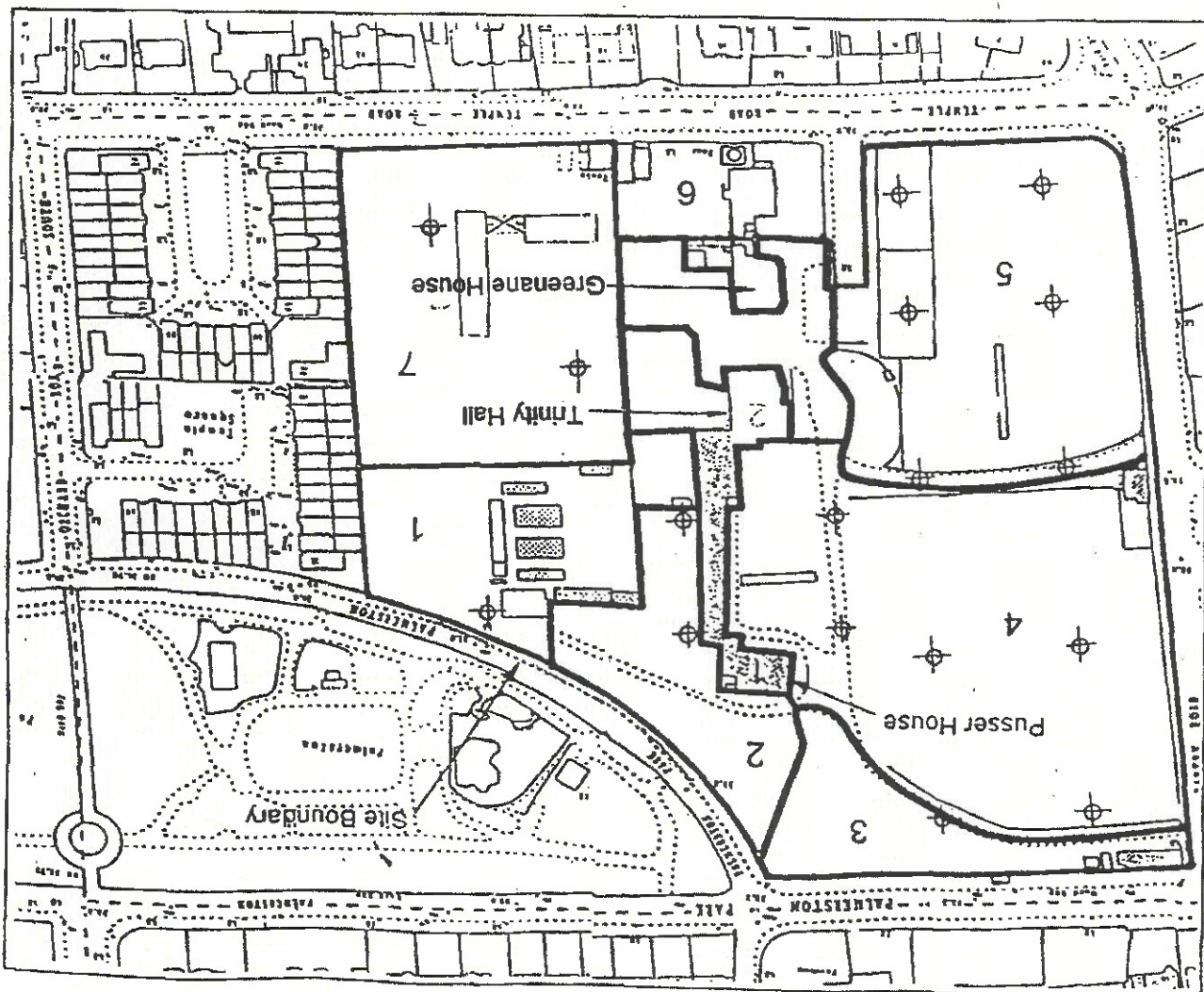
All top-soil stripping at construction stage, in the vicinity of the castle in the north-eastern section of the development site will be monitored by a licensed archaeologist. This will ensure that in the event of archaeological material being revealed, the full significance and appropriate level of recording will occur. The final design of the project does not however envisage any material change to the grounds or standing buildings in the north-eastern section of the site.

The appropriate sections of National Monuments Legislation (1937-1994) state that in the event of the discovery of archaeological finds or remains, *Dúchas*, *The Heritage Service* of the Department of Arts, Heritage, Gaeltacht and the Islands and the National Museum of Ireland should be notified immediately. The developer is required to allow and fund the any archaeological works which may be needed on the site. Adequate financial provision should also be made available for related post excavation work which would include conservation of artefacts and the publication of archaeological testing and excavation results.

TCD will comply with the relevant sections of all National Monuments Legislation at all stages of the project. All recommendations regarding possible archaeology on the site will be subject to discussion with and approval from the Planning Authority and *Dúchas*, the Heritage Service.

FIGURE 15.1 :
FIELD INSPECTION LOCATIONS

AN BORD PLEANÁLA
LTR DATED 20 JUL 2020
LDG-
ABP-



622

FIGURE 15.2 :
SMR SITE LOCATION

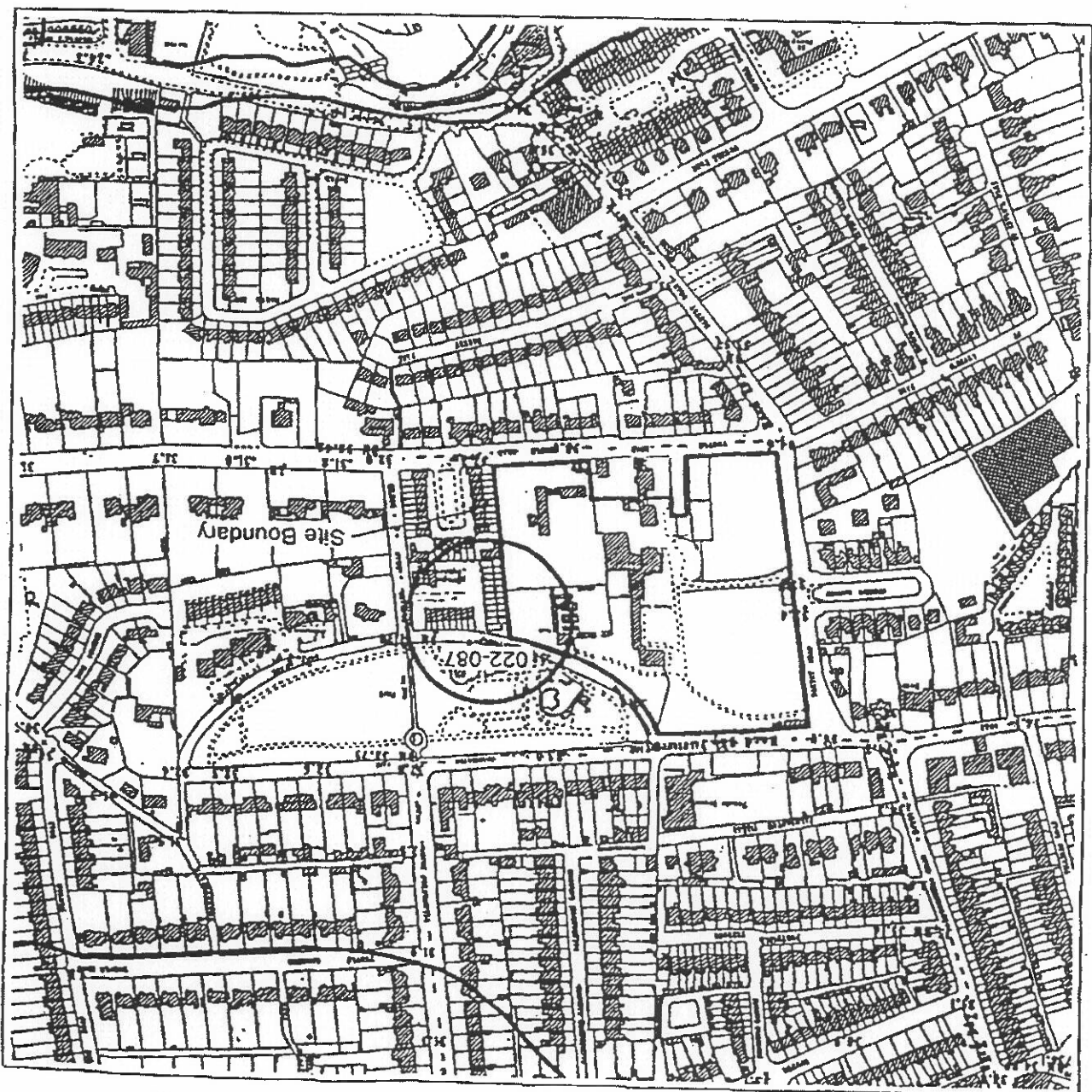


FIGURE 15.3 :
DOWN SURVEY (1655)

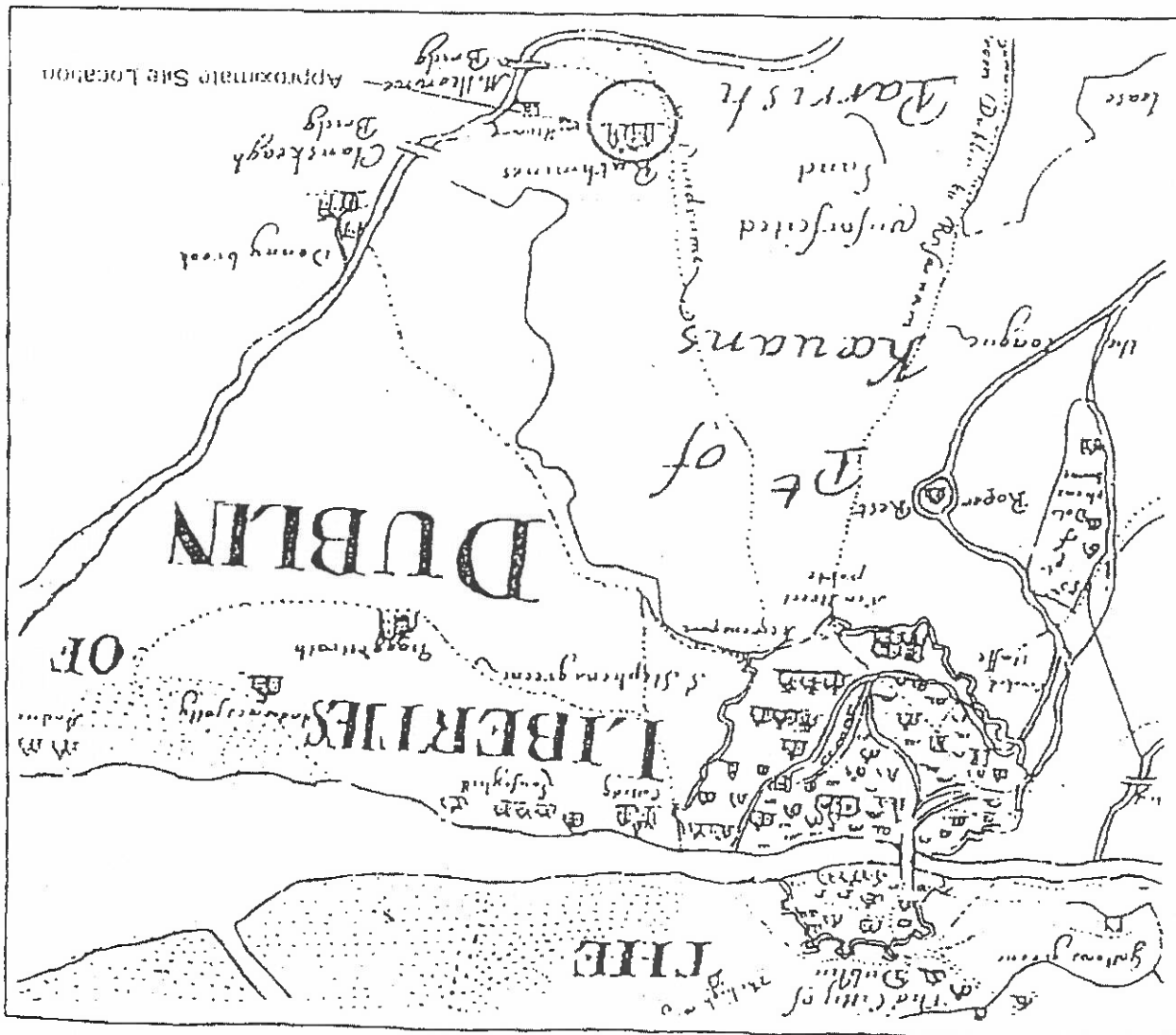


FIGURE 15.4 :
ROCQUE (1760)

AN BORD PLEANALA

LTR DATED 20 JUL 2020

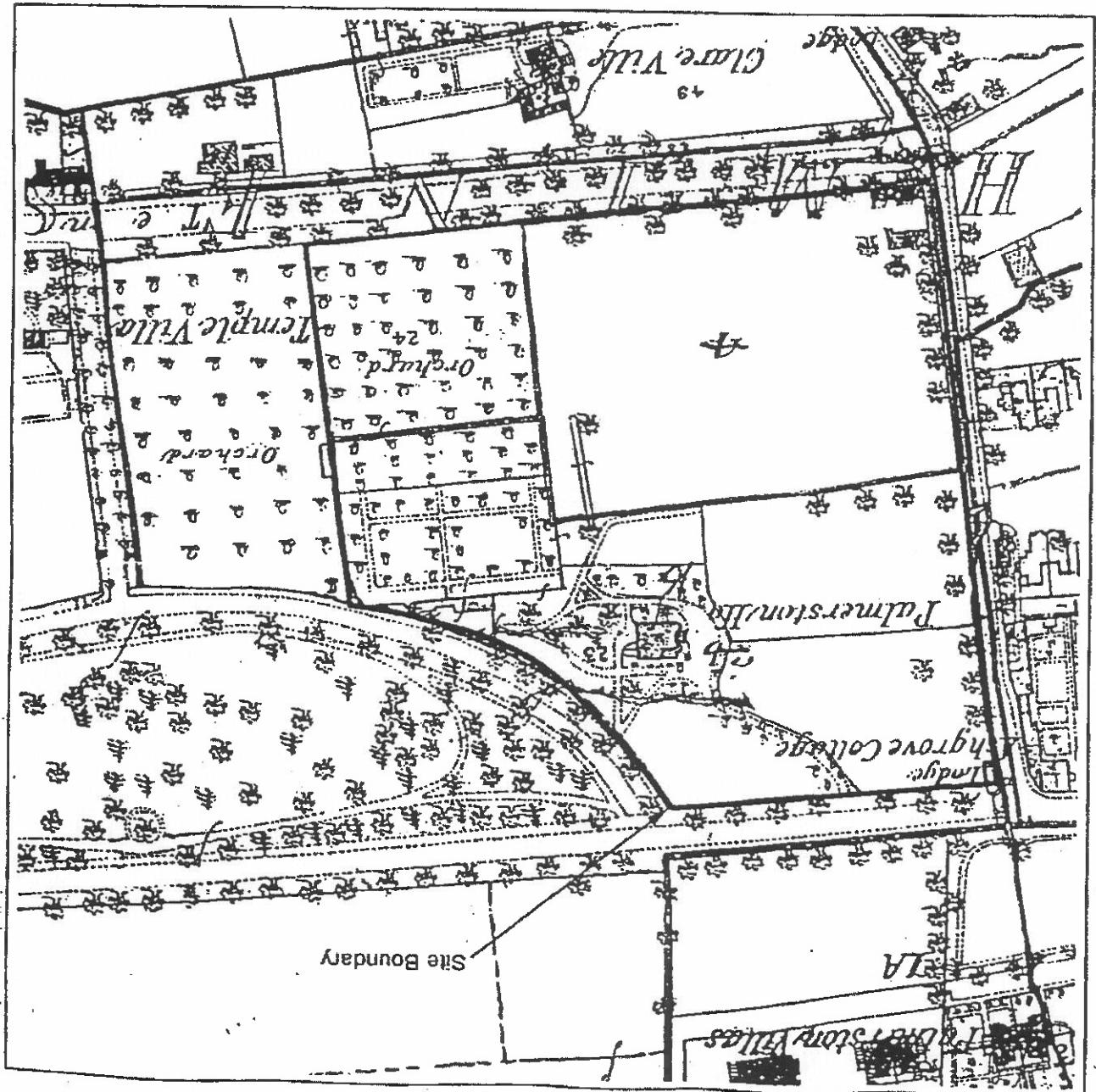
LDG- FROM

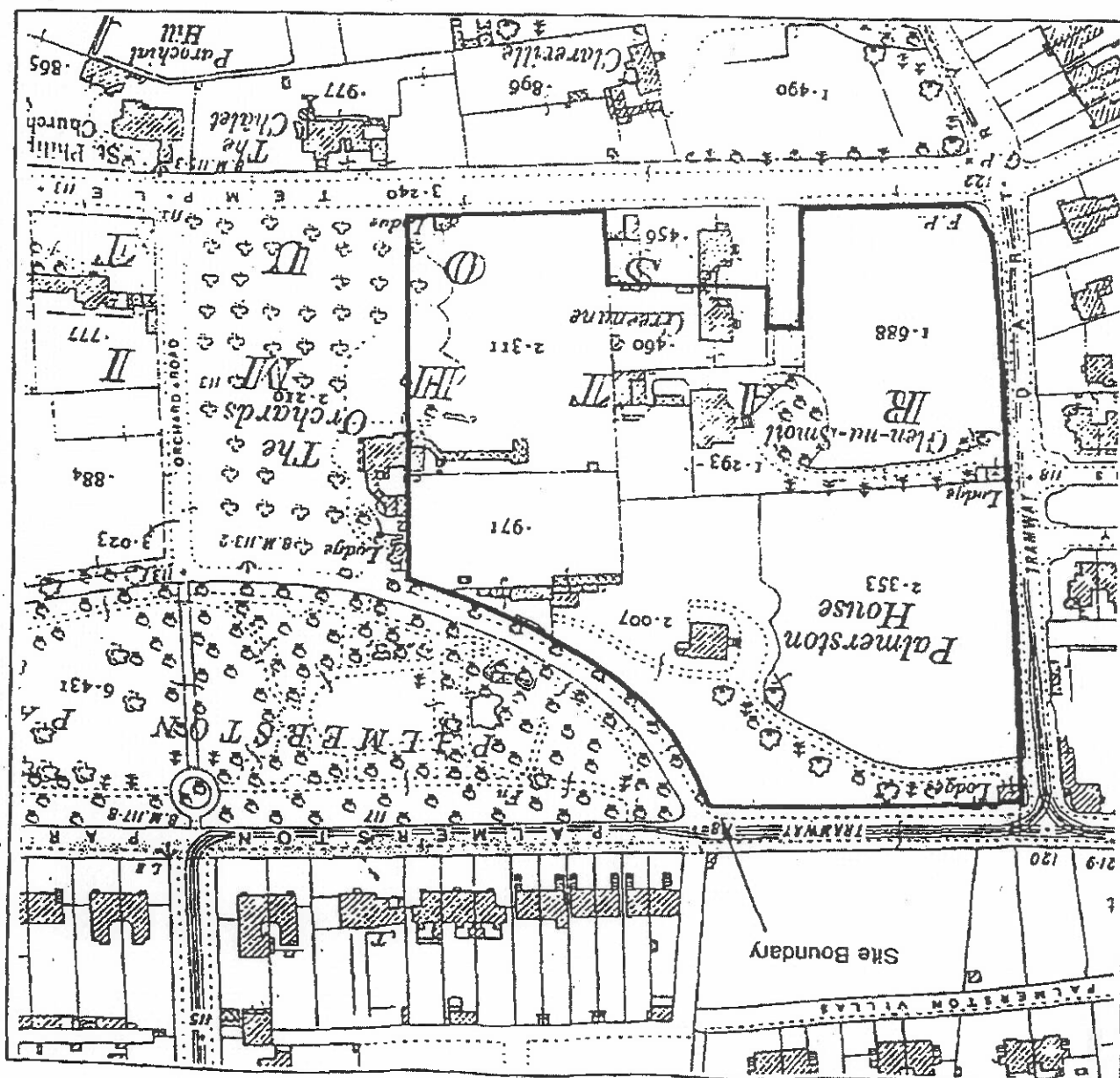
ABP-





FIGURE 15.6:
2ND EDITION O. S. (1864)





APPENDIX 6

Tree Inventory

The following is an inventory of the tree species in the north-west corner of Trinity Hall prepared by Dr. Steve Waldren (Curator/Administrator of Trinity Hall Botanic Gardens). While a map of the tree species is unavailable, the following inventory gives the types of tree species in the area along with the code and approximate location of species.

Taxon	TCD Accession No.	Tree Survey code	Location	Notes
Unknown		3738	Between path & fence	in corner
Unknown		3736	Between path & fence	by Eucalyptus
Unknown		3715	Between path & fence	Maria's 53.
Unknown		3714	Between path & fence	
Unknown		-	Beyond path	Maria's 53
Unknown		-	Beyond path	Maria's 10x, near
Unknown		-	Beyond path	Catalpa
Unknown		-	Beyond path	next to Cedar
Unknown		931	Beyond path	between Broussonetia & Acer negundo
? Prunus		3733	Between path & fence	Maria's 24.
? Shrub		-	Beyond path	near to Pinus
? Small shrub		-	Beyond path	near Broussonetia
Abies bracteata	19670034	3718	Between path & fence	
Abies cephalonica	19670033	3735	Between path & fence	
Abies koreana	19810001	-	Beyond path	
Abies pinsapo		951	Beyond path	
Abies procera		943	Beyond path	
Abies sp.		3728	Between path & fence	middle; nordmanniana?
Acer capillipes			Inside fence	
Acer giseum			Inside fence	
Acer hyrcanum		-	Beyond path	
Acer negundo		930	Beyond path	
Acer pseudoplatanus?		3703	Beyond path	by wall
Aesculus hippocastanum		3750	Between path & fence	
Aesculus hippocastanum		3739	Between path & fence	
Aesculus hippocastanum		962	Beyond path	
Aesculus hippocastanum		965	Beyond path	
Aesculus hippocastanum		964	Beyond path	
Aesculus hippocastanum		972	By Lawn	

Aesculus hippocastaneum		Inside fence	
Aesculus indica	19670019	Beyond path	-
Aesculus parviflora		Between path & fence	-
Ageratina ligustrina		Beyond path	-
Ailanthus altissima		Beyond path	929
Alnus sinuata	19860002	Beyond path	-
Amelanchier lamarkii		Beyond path	Inside fence
Aronia arbutifolia	19670012	Beyond path	-
Betula albosinensis	19670024	Between path & fence	3744
Betula schmidtii	19820002		-
Betula sp.		Between path & by fence	3743
Betula utilis		Beyond path	944
Broussonetia papyrifera	19830002	Beyond path	932
Buddleia sp.		Beyond path	-
Buxus sempervirens		By Lawn	-
Calocedrus decurrens	19840003	Beyond path	945
Carpinus betulus		Beyond path	925
Castanea sativa		Beyond path	933
Catalpa bignonioides		Beyond path	942
Catalpa bungei		Beyond path	-
Catalpa speciosa		Beyond path	-
Cedrus libani ssp. atlantica 'Glauc'	19670064	Between path & fence	3721
Cedrus libani ssp. atlantica 'Glauc'		Beyond path	936
Celtis occidentalis var. cordata	19670030	Between path & fence	3748
Cephalanthus occidentalis	19860003	Beyond path	-
Cercis siliquastrum	19670027	Between path & fence	3742
Cercis siliquastrum		Inside fence	
Cercocarpus montana var. glaber	19810004	Beyond path	-
Chamaecyparis lawsoniana		Main Avenue	-
Chamaecyparis nootkatensis 'Lutea'	19810005	Beyond path	946
Chamaecyparis?		Between path & fence	5713
Cherry		Beyond path	3701
Cherry		By Lawn	-
Chionanthus virginicus	19760001	Between path & fence	-
Cladastis lutea	19670063	Beyond path	945
Cornus mas		Between path & by E. perniiana	3720
Cornus officinalis	19830001	Beyond path	
Corylus avellana		Between path & Maria's 50. fence	-

Corylus avellana					By Lawn
Corylus chinensis		3732		Between path & fence	
Cotinus coggygria		-		Between path & fence	
Cotoneaster sp.		-		Beyond path	by lodge
Crataegus azarolus	19820004	-		Beyond path	
Cryptomeria japonica	19670016	949		Beyond path	
Cunninghamia lanceolata		-		Beyond path	
Cupressus macrocarpa		-		Beyond path	
Cupressus macrocarpa		-		Beyond path	
Decaisnea fargesii	19670026	-		Between path & fence	
Escallonia macrantha		-		Beyond path	
Eucalyptus cinerea		3727		Between path & fence	
Eucalyptus coccifera		3717		Between path & fence	
Eucalyptus gunni		3726		Between path & fence	
Eucalyptus gunni		-		Between path & fence	
Eucalyptus pauciflora		3724		Between path & fence	
Eucalyptus perfrutens		3719		Between path & fence	
Eucalyptus pulverulenta		3723		Between path & fence	W of pauciflora
Eucalyptus viminalis		3737		Between path & fence	
Eucommia ulmoides	19670009	941		Beyond path	
Fagus engleriana				Inside fence	
Fagus sylvatica		967		Beyond path	
Fagus sylvatica		963		Beyond path	
Fagus sylvatica		969		Beyond path	
Fagus sylvatica		971		Beyond path	
Fraxinus ? Pennsylvanicus		938		Beyond path	by Paulownia tomentosa
Fraxinus americanus		935		Beyond path	
Fraxinus angustifolia				Inside fence	
Fraxinus excelsior		965		Beyond path	
Fraxinus excelsior		970		Beyond path	
Fraxinus excelsior		-		Beyond path	by lodge
Fraxinus sp. (tomentosa?)		-		Beyond path	
Gleditsia triacanthos				Inside fence	
Griselinia littoralis		-		Beyond path	
Hohenia sexstylosa	19670013	-		Beyond path	by lodge
Ilex aquifolium		3706		Between path & fence	
Ilex aquifolium		3704		Between path & fence	
Ilex aquifolium		3712		Beyond path	

Ilex aquifolium	3711	Beyond path	
Ilex aquifolium	3708	Beyond path	
Ilex aquifolium	3705	Beyond path	
Ilex aquifolium	979	Main Avenue	
Ilex sp.	-	Inside fence	
Ilex, variegated	-	Beyond path	
Ilex, variegated	-	Main Avenue	
Ilex, variegated	-	Main Avenue	
Juglans nigra	974	By Lawn	
Kernia japonica?	-	Between path & Maria's 13.	
Laburnum X wateri	19670065	Between path & fence	
Larix X henryana	3741	Between path & beside fence	
Larix kaempferi (54)	958	Beyond path	double stemmed
Larix decidua (58)	957	Beyond path	single stemmed
Ligustrum vulgare		Between path & fence	
Liquidambar styraciflua	199670032	Between path & fence	
Liriodendron tulipifera	937	Beyond path	
Maclura pomifera	19950072	Beyond path	
Malus sp.	-	Beyond path	
Malus sylvestris	3734	Between path & Maria's 37.	
Meliosma dillenifolia		Inside fence	
Metasequoia	3745	Between path & fence	
Myrica caroliniana		Between path & fence	
Myrica asperata	3725	Between path & Maria's 42.	
Picea sp.	948	Beyond path	
Pinus lambertiana	19830003	Beyond path	
Pinus nigra	980	Main Avenue	
Pinus nigra	978	Main Avenue	
Pinus patula	19670015	Beyond path	
Pinus pinea	19800006	Beyond path	
Pinus radiata	947	Beyond path	
Pinus wallichiana	3710	Between path & fence	
Podocarpus salignus	-	Beyond path	
Prunus avium 'Flore Pleno'	19800013	Between path & fence	

<i>Prunus laurocerasus</i>	-	By Lawn	
<i>Prunus lusitanicus</i>	-	Beyond path	
<i>Pterocarya rhoifolia</i>	3746	Between path & fence	
<i>Pterocarya rhoifolia</i>	3730	Between path & furthest away fence	
<i>Pterostyrax hispida</i>		Inside fence	
<i>Quercus canariensis</i>	952	Beyond path	
<i>Quercus coccifera</i>	955	Beyond path	
<i>Quercus petraea</i>	934	Beyond path	
<i>Quercus sp.</i>	-	Beyond path	Keith Rushford plant
<i>Rhamnus catharticus</i>		Inside fence	
<i>Robinia pseudacacia</i>	926	Beyond path	
<i>Robinia pseudacacia</i>	923	Beyond path	
<i>Rosaceae</i>	931	Beyond path	
<i>Salix daphnoides</i>	3747	Between path & fence	
<i>Sambucus nigra</i>	-	Beyond path	
<i>Sequoiadendron giganteum</i>	981	Main Avenue	
<i>Sorbus esserteauiana</i>	19950076	Between path & fence	
<i>Sorbus hibernica</i>	3731	Between path & fence	
<i>Sorbus hupehensis</i>		Inside fence	
<i>Stachyurus chinensis</i>	19800008	Beyond path	
<i>Stachyurus praecox</i>	19670010	Beyond path	
<i>Stranvesia sp??</i>	-	Between path & in holly fence	
<i>Taxus baccata</i>	-	Beyond path	sapling
<i>Thuja heterophylla</i>	950	Beyond path	
<i>Thujopsis dolabrata</i>	19871005	Between path & fence	
<i>Tilia platyphylia</i>	975	Main Avenue	
<i>Tilia platyphylia</i>	-	By Lawn	
<i>Ulmus 'Sapporo Autumn Gold'</i>	-	Beyond path	
<i>Viburnum</i>	-	Beyond path	by Paulownia
<i>Viburnum tinus</i>	-	Between path & fence	fargesii

APPENDIX 10

TERMINOLOGY AND CALCULATION
DETAILS FOR NOISE ASSESSMENT

10.1 Terminology

dB(A) a logarithmic noise scale (decibel). The "A" indicates that a frequency weighting has been applied to take account of the variation in the sensitivity of the human ear as a function of frequency.

L_{avg} the average noise level during the measurement period, which includes all noise events. The L_{avg} value has been found to correlate well with human tolerance of noise, and is the value normally used in setting and monitoring industrial noise limits.

L₉₀ the noise level exceeded for 90% of the time. It is taken as being representative of the steady background noise at a location. It tends to exclude short events such as cars passing, dogs barking, aircraft flyovers etc.

L_{WA} Sound Power Level. It is a measure of the overall acoustic power emitted from the source in Watts, expressed as a dB level relative to 1 pW. The sound power level of a source is an unambiguous description of the overall noise emission, and is the preferred parameter for noise source specification.

10.2 – Calculation Details

10.2.1 Construction Traffic on Routes to Site

The maximum daily truck rates are 50 loads per day, for a ten week period during the transport of site spoil material.

Calculation of traffic noise generated by these trucks is based on an estimated 12 trucks per hour.

The usual procedures for road traffic noise calculation such as CRTN cannot be used due to the low numbers involved. Calculations are therefore based on measured passby noise of individual trucks.

The one-hour traffic noise levels $L_{Aeq,1hr}$ calculations are based on the following data:

LAE per truck @ 25 m:	76 dB(A) (speed of 50km/hr)
Number of trucks/hour:	12 (spoil transport) 2 (transport of materials to site)
Distance of Houses from road:	10m nominal

10.2.2 Construction Noise

Measurements at construction sites carried out by ANV Technology have found noise levels to be typically 60 dB(A) $L_{Aeq,1hr}$ at approximately 50m from the site. This includes noise from machinery and vehicles on site, power tools and manual work. Noise levels at houses near the Trinity Hall site are calculated using this data, allowing for the propagation distances to the houses.

In the early stages of the work during site clearance and transport of spoil, there will be significant movement of heavy equipment and trucks on the site. Calculations based on the methods of BS 5228 indicate that noise levels at nearby houses will be in the range 55 to 60 dB(A) during this phase of the work. An equipment sound power of 110 dB(A) was used in these calculations.

10.2.3 Services Noise

If the noise contribution from building services such as air handling units is limited to about 35 dB(A) at the nearest houses, there will be no noticeable change in background noise level in the locality ($35 + 41 \text{ dB(A)} = 42 \text{ dB(A)}$).

The closest residences will be at the cul-de-sac on Temple Road, approximately 30m from the nearest proposed apartment residence. Allowing a nominal source acoustic screening of 6 dB, the maximum sound power is calculated to be 78 dB(A). This corresponds to the sum of the sound powers of all external noise sources on the building in the direction of the nearest residence.

23-Jun-2020

James F Kenny
4, Temple Road
Dart
Dublin 6.

Application Number	0175/20
Application Type	Section 5
Registration Date	05-May-2020
Decision Date	19-Jun-2020
Decision Order	P3332
No.	
Location	Trinity Hall, Dart, Dublin 6
Proposal	EXPP: PROTECTED STRUCTURE: The application relates to the question as to whether various works that have been carried out at Trinity Hall, Dart, Dublin 6, namely:- (a) An increase in the floor area of Building 2 of 1,029m ² compared to what was approved; and (b) An increase in the floor area of Building 3 of 1,342m ² compared to what was approved are or are not development and, if they are development, whether they are or are not exempted development for the purposes of the Planning and Development Acts.
Applicant	James F Kenny

- If you have any queries regarding this Decision, please contact the number shown above

Note:

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by A Bord Pleanála within four weeks of the date of the issuing of the declaration.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dublin City Council has by order dated 19-Jun-2020 decided to issue a Declaration that the above



proposed development is **EXEMPT** from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000 (as amended).

Reasons & Considerations:

I am satisfied, having examined the proposal that the following conclusions apply:

The floor areas of Building 2 and Building 3 were deemed to be in compliance with the conditions imposed as part of the planning permission granted under Reg. Ref. 1101/99 (ABP Ref. 29S.117164). The 'increase in floor areas' referred to were approved and constructed and therefore are not development.

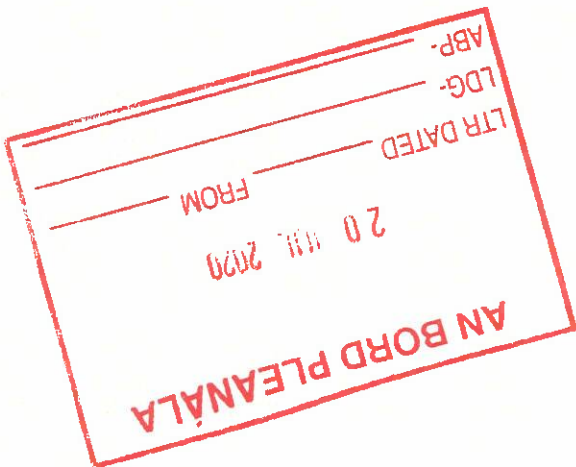
Signed on behalf of Dublin City Council

for Assistant Chief Executive

Note:

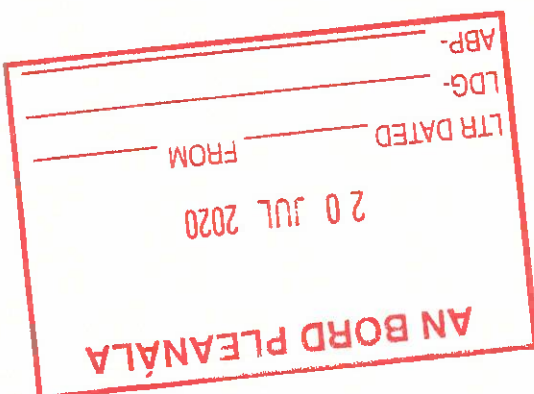
Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by an Bord Pleanála within four weeks of the date of the issuing of the declaration.

- Note: Section 251A of the Planning & Development Act 2000 as amended provides that the period from 29th March 2020 to 1st of May 2020 inclusive may be disregarded when calculating any specified statutory timelines in the Planning Acts and associated regulations.



Dublin City Council
Planning Registry Section
Block 4, Floor 0
Civic Offices
Wood Quay
Dublin 8

James F Kenny
4 Temple Road
Dublin 6



3 April 2020

Re: Application for a Declaration under Section 5 of the Planning and Development Acts 2000-2019 in respect of Trinity Hall, Dартry, Dublin 6

Dear Sir/Madam,

1. I reside at the above address, which is directly opposite the southern boundary of the Trinity Hall site on Temple Road.

2. I have recently completed a review of documents relating to the student halls of residence at Trinity Hall, Dартry, Dublin 6. This review has identified a number of matters in respect of which I am now submitting an application (the "Application") for a Declaration under Section 5 of the Planning and Development Acts 2000-2019. The Application relates to the question as to whether various works that have been carried out at Trinity Hall, Dартry, Dublin 6, namely:-
(a) An increase in the floor area of Building 2 of 1,029 m² compared to what was approved; and
(b) An increase in the floor area of Building 3 of 1,342 m² compared to what was approved
are or are not development and, if they are development, whether they are or are not exempted development for the purposes of the Planning and Development Acts 2000-2019.

3. The Application comprises the following:

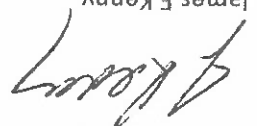
- The Application form.
- This explanatory letter (2 copies).
- An Addendum and Annexures to the Addendum (2 copies).
- A site location map with the perimeter of the site clearly marked in red (2 copies). The source of this map is explained in Section 3 of the Addendum.

4. It is my submission, having regard to the reasons and considerations set out in the Addendum, that (i) all of the above-mentioned works are material deviations from the permission that was granted for Trinity Hall and are therefore development, and (ii) that the above-mentioned works are not exempted development, and I request that Dublin City Council issue a declaration to that effect under Section 5 of the Planning and Development Acts 2000-2019.

5. The requisite number of copies of documents and plans are provided with this submission. However, in order to assist with the assessment of the application, this letter, the application form and all supporting documents and plans are available in electronic form at <https://bit.ly/trinityhall5>. The password required to access these documents is TrinityHall55.

6. If there is any further information you require to assist in the determination of this application, please do not hesitate to contact me.

Yours faithfully,


James F. Kenny

DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT



SECTION 5 APPLICATION FORM

James F Kenny

NAME OF APPLICANT:

4 Temple Road, Darty, Dublin 6

ADDRESS OF APPLICANT:

jfkenny.ie@gmail.com

EMAIL ADDRESS:

TELEPHONE NO. Day: 01 4971599 Mobile: 086 866 2269

NAME OF AGENT AND AGENT'S ADDRESS:

TELEPHONE NO. Day: Mobile:

ADDRESS FOR CORRESPONDENCE (if different from above)

LOCATION OF SUBJECT SITE: Trinity Hall, Darty, Dublin 6

Is this a Protected Structure or within the curtilage of a Protected



Structure?

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?



Please provide details of works (where applicable) or proposed development. (Note: only works listed and described under this section will be assessed under this section 5 application. Use additional sheets if required.)

See Sections 8 & 9 of the Addendum to this application for details

List of plans, drawings etc. submitted with this application

See Sections 11.1 & 11.2 of the Addendum to this application for details

Please state Applicant's interest in this site: Applicant resides adjacent to the site

If applicant is not owner of site, please provide name & address of owner:

Trinity College Dublin

Are you aware of any enforcement proceedings connected to this site?
If so please supply details:

See Sections 7.1.2 & 7.1.3 of the Addendum to this application for details

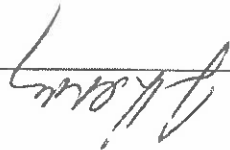
Where there previous planning applications on this site?
If so please supply details:



See Section 4 of the Addendum to this application for details

NOTES

Signed



Date

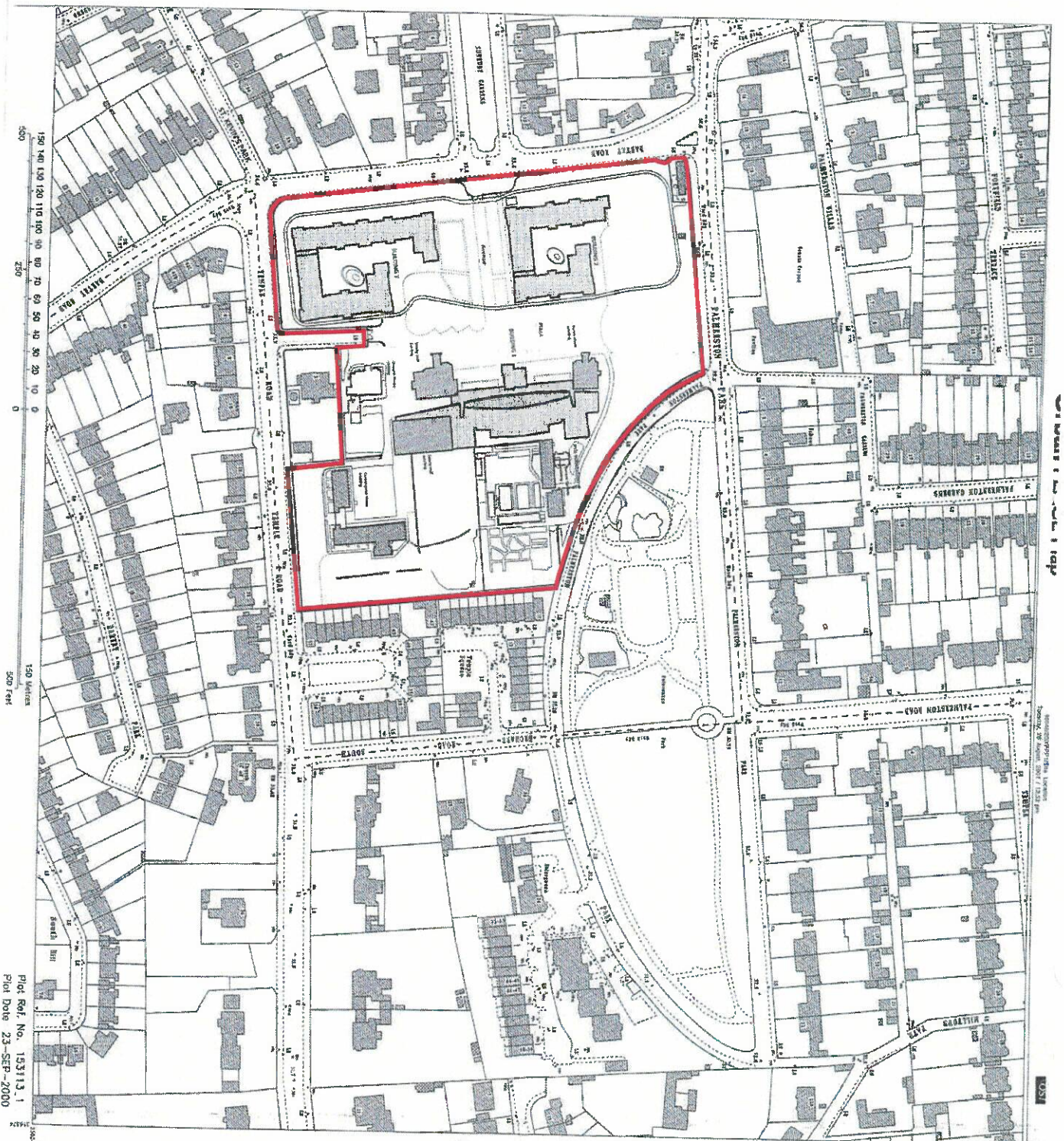
3 April 2020

Application shall be accompanied by 2 copies of site location map with site clearly outlined in red and a fee of €80.00. Please submit 2 copies of any additional plans/reports etc. you may wish to include as part of the application.

Application shall be forwarded to: Dublin City Council, Planning Registry
Section, Block 4, Floor 0, Civic Offices, Wood Quay, Dublin 8.

Contact Details: Phone: 01 222 2149 Fax: 01 222 2675

SITE LOCATION MAP
SUBMITTED WITH THE APPLICATION FOR
A SECTION 5 DECLARATION IN RESPECT
OF TRINITY HALL, DARTRY, DUBLIN 6



Plot Ref. No. 153113.1
 Plot Date 23-SEP-2000

**ADDENDUM
TO THE APPLICATION FOR A SECTION 5 DECLARATION IN
RESPECT OF TRINITY HALL, DARTRY, DUBLIN 6
SUBMITTED BY JAMES F KENNY**

3 APRIL 2020

1 BACKGROUND TO THE DEVELOPMENT

1.1 The Planning Application

1.1.1 The April 1999 Submission

On 12th April 1999 Murray O'Laoire, architects for Trinity College Dublin ("Trinity"), submitted a planning application (the "April 1999 Submission") to the Council for a development (the "Development") at Trinity Hall, Dublin 6. The initial proposed development was for nine new student halls of residence and included the refurbishment and renovation of a tenth building, Trinity Hall, which is a listed building.

The April 1999 Submission included, inter alia, drawings and plans (the "April 1999 Plans"), an architect's report (the "April 1999 Architect's Report"), a copy of which is provided in Annexure 1, outlining the key elements of the proposed development and various other documents.

On 14th September 1999 the Council sent a letter to Trinity in accordance with Article 35 of the Local Government (Planning & Development) Regulations 1994 requesting revised plans to be submitted taking into account various matters that were noted in the letter.

1.1.2 The October 1999 Submission

On 7th October 1999 Trinity made a submission (the "October 1999 Submission") in response to the Article 35 Request comprising a revised set of drawings and plans for the Development (the "October 1999 Plans") an architect's report dated 4 October 1999 (the "October 1999 Architect's Report") outlining the key elements of the revised proposed development and various other documents. A copy of the October 1999 Architect's Report is provided in Annexure 2. Copies of selected drawings from the October 1999 Plans that are relevant to this application for a Section 5 declaration (the "Application") are listed in 11.1 below and provided in Annexure 3.

Significant changes were made in the October 1999 Plans, with the nine buildings that had originally been proposed in the April 1999 Submission being replaced with three buildings that provided similar overall floor space and bed spaces. On 11th November 1999 the Council made an order (the "1999 Council Order") granting permission to the October 1999 Plans subject to 14 conditions.

1.2 The Grant of the Permission

The 1999 Council Order was appealed to An Bord Pleanála (the "Board") by the Darty and District Preservation Association, and various residents living close to Trinity Hall, including Mr James F Kenny and others. A Board Inspector held an oral hearing from 24th-26th May 2000 and on 4th August 2000 the Board granted planning permission (the "Permission") for the October 1999 Plans, subject to 19 conditions (the "Board Conditions").

The Permission, a copy of which is provided in Annexure 4, effectively meant that the plans for which permission was granted (the "Approved Plans") were the October 1999 Plans with only such changes as were required to be made in order to comply with the Board Conditions.

In order to be allowed to commence development, Trinity was required to prepare a revised submission incorporating such changes to the October 1999 Plans as were necessary to comply with the Board Conditions and to seek the Council's agreement for those changes.

1.3 Legal proceedings relating to the grant of the Permission

On 3rd October 2000 Mr Kenny sought leave in the High Court (High Court Reference 2000 532 JR) to apply for a judicial review of the Permission and to declare the Permission invalid and ultra vires. Mr Justice MCKECHNIE gave judgment on 15th December 2000 refusing leave to apply for judicial review. Mr Kenny sought leave to appeal but this application was refused by Mr Justice MCKECHNIE on 2nd March 2001.

Mr Kenny subsequently instituted three further sets of proceedings (High Court References 2002 14269P, 2003 7926P and 2005 3320P) in which he sought to have the decision of Mr Justice MCKECHNIE set aside, but was unsuccessful in each of these proceedings.

None of the above proceedings (collectively the "Permission Proceedings") are relevant to the subject matter of this Section 5 application as the judgments in the Permission Proceedings only dealt with

challenges to the validity of the Permission and did not deal with or make any determination in relation to the question of whether the Development complies with the Permission.

The Permission Proceedings are referred to in this addendum solely for the purposes of providing a full summary of the history of the Development.

2 THE COMPLIANCE PROCESS

2.1

The Compliance Submissions

In August 2001 Murray O'Laoire made a submission (the "August 2001 Compliance Submission") which included a revised set of plans for the Development accompanied by an architect's report dated 22 August 2001 (the "August 2001 Architect's Report") which identified and explained certain changes that had been made in the revised plans compared to the October 1999 Plans.

In November 2001 Murray O'Laoire made a second submission (the "November 2001 Compliance Submission") which included a full revised set of plans for the Development (the "Compliance Plans") accompanied by an architect's report dated 22 November 2001 (the "November 2001 Architect's Report") which identified and explained certain further changes that had been made in the Compliance Plans. Trinity's compliance submissions (the "Compliance Submissions") were effectively the Compliance Plans read with the November 2001 Compliance Architect's Report and, where appropriate, the August 2001 Compliance Architect's Report.

The agreement of the Council was sought for the changes that were identified and explained in the August 2001 Compliance Architect's Report and November 2001 Compliance Architect's Report (together the "Compliance Architect's Reports").

Copies of the August 2001 Compliance Architect's Report and November 2001 Compliance Architect's Report are provided in Annexure 5 and Annexure 6, respectively. Copies of selected drawings from the Compliance Plans that are relevant to this Application are listed in 11.2 below and are provided in Annexure 7.

2.2

Purpose of the Compliance Architect's Reports

The purpose of the Compliance Architect's Reports was stated to be to provide a summary of and explanation for all the changes that had been made in the Compliance Plans compared to the Approved Plans in order to comply with the Board Conditions, as noted in the extracts below.

The introduction to the August 2001 Compliance Architect's Report stated:

The following is a detailed analysis of the conditions of An Bord Pleanála's Permission and their impact on the proposal, as described in the enclosed documents. Actions implemented under each condition are explained in detail under interpretation, explaining the meaning taken from the wording of the condition, impact, explaining the interventions necessary altering the proposal, and compliance, summarising the actions taken and implemented to achieve the current proposal in compliance with the permission.

The November 2001 Compliance Architect's Report contained the following statement:

A Compliance Submission Document summarising interventions made to the original proposal to obtain compliance - with specific reference to each condition - was submitted to Dublin Corporation for written agreement on 22nd August 2001. The document was accompanied by such revised drawings, plans, reports and particulars to explain the modified scheme, and by reference to any valid previous documents carried forward to be included in the "live" package. The Bord Pleanála permission itself is attached at Appendix A of this Compliance Submission document

This ADDENDUM document seeks to identify and address a small number of minor ambiguities and /or discrepancies in the Compliance documents, following observations made at a meeting with the planning authority. Specific inconsistencies are described in detail in the coming pages and the complete submission package has been fully amended - by clarification, correction, omission or revision - to reflect the appropriate corrections arising therefrom.

2.3 The Council Order

The City Planning Officer for the Council at that time, Mr Pat McDonnell, prepared a report (the "McDonnell Report") dated 24 December 2001 in which he stated that the Compliance Submissions were "satisfactory". On the basis of the McDonnell Report the Council, by an order of 4 January 2002 (the "Council Order"), determined that the submissions were "satisfactory" and "acceptable to the planning authority", and construction was then allowed to commence on the following day, 5 January 2002. A copy of the Council Order is provided in Annexure 8. The Development was completed on 5th September 2003.

3 THE LOCATION OF THE SITE

3.1

The planning application

The site in respect of which the planning application was submitted is described in Section 5.0 of the October 1999 Architect's Report as being "approximately 4.27 hectares located on Dарты Road between Palmerston Park and Temple Road."

A copy of the Site Location Map from the Compliance Plans, drawing 98046/200/PPP1, is provided in Annexure 7. The boundary of the site is shown by the thick black bold line.

3.2

This Section 5 Application

Section 5 applications require a site location map to be submitted with the site clearly outlined in red. The site location map submitted with this Application is the same as drawing 98046/200/PPP1 from the Compliance Plans, with the exception that the boundary of the site is shown by a thick red bold line as required.

FURTHER PLANNING AND SECTION 5 APPLICATIONS MADE BY TRINITY

The table below provides details of the original grant of Permission and various other planning and Section 5 applications made by Trinity.

Reference number	Date of decision	Description
ABP Ref. PL29S.117164 (Council Ref. 1101/99)	04/08/2000	Permission granted by An Bord Pleanála on appeal for the construction of new halls of residence incorporating 3 no. buildings containing 832 no. bedrooms arranged in 180 no. apartments over 3 to 7 storeys, together with central support services, refurbishment of Trinity Hall, and ancillary works for the development of Trinity Hall.
ABP Ref. PL29S.202698 (Council Ref. 0577/03)	04/06/2003	Permission granted by An Bord Pleanála on appeal for a temporary amendment to Condition no. 3 of An Bord Pleanála permission to permit occupancy by Special Olympics athletes from June - July 2003 (expired).
ABP Ref. PL29S.210538 (Dublin City Council Ref 5170/04)	26/05/2005	Permission granted by An Bord Pleanála on appeal in respect of a retention application for an ESB substation.
Council Ref 4811/07	15/11/2007	Permission granted by Dublin City Council in respect of a retention application for a steel cabinet for metered gas and a timber enclosure.
ABP Ref. PL29S.RL2718 (Dublin City Council Ref 0354/09)	25/01/2010	An Bord Pleanála rejected an application for a declaration under Section 5 of the Act that had been referred to it by Dublin City Council relating to the use of some bedrooms as teaching spaces for summer language on the grounds that it was not a valid referral.
ABP Ref. PL29S.RL2839 (Council Ref. 282/10)	31/05/2011	Trinity applied for a declaration under Section 5 of the Act as to whether (i) the use of bedrooms of Block no. 1 Trinity Hall Student Residence as classrooms during the summer months, and (ii) the use of the premises for the purpose of a summer school run by an external operator with Trinity was exempt development or not. The application was referred to An Bord Pleanála who determined that it was not exempt development.
ABP Ref. ABP-30092-17 (Council Ref. 3645/17) (the "2017 Change of Use Application")	16/07/2018	Permission granted by An Bord Pleanála on appeal for a change of use of part of the student accommodation in Block 1 to 30 temporary classrooms outside of academic term times.
ABP Ref. ABP-30033-17 (Council Ref. 3674/17)	07/2018	Permission granted by An Bord Pleanála on appeal to amend Board Condition 3 to facilitate the use of existing student accommodation as temporary tourist or visitor accommodation only outside of academic term times and (b) to be used to accommodate any student registered in a Higher Education Institute during the academic term times, at Blocks 1, 2 and 3.

5 THE COMPLIANCE PROCEEDINGS

5.1 Introduction
Mr Kenny subsequently initiated two separate legal proceedings relating to the compliance process for the Development – the Judicial Review Proceedings and the Section 160 Proceedings (together the “Compliance Proceedings”) – as described below.

5.2 The Judicial Review Proceedings
In July 2002 Mr Kenny made an application in the High Court (High Court Reference 2002 383 JR) for leave to apply for a judicial review of the Council Order on the basis that the Compliance Plans did not comply with the Permission and Board Conditions and that the Council Order was therefore ultra vires. He obtained leave to do so on 17 July 2002, following which the proceedings (the “Judicial Review Proceedings”) commenced. The Council was the respondent and Trinity and Michael McNamara and Company Limited (“McNamara”), contractors for the Development, were notice parties.
Mr Kenny’s application was refused on 8 September 2004. Mr Kenny appealed the refusal to the Supreme Court (Appeal No. 006/2005) and on 5 March 2009 Mr Kenny’s appeal was refused. The matters that were the subject of the Judicial Review Proceedings are accordingly res judicata and cannot be raised again in court or Section 5 proceedings.

5.3 The Section 160 Proceedings.
In July 2002 Mr Kenny commenced proceedings under Section 160 of the Planning & Development Act, 2000 contending that Trinity had breached and intended to breach the provisions of the Permission. Trinity and McNamara were the respondents.

Following the failure of Mr Kenny’s appeal to the Supreme Court in the Judicial Review Proceedings Trinity sought an order from the High Court dismissing and/or striking out the Section 160 Proceedings on the grounds that all of the matters before the Court in the Section 160 Proceedings had already been decided in the Judicial Review Proceedings. The order was granted, and the Section 160 Proceedings were struck out in the High Court on 15 April 2011.

Mr Kenny appealed the High Court judgment to the Supreme Court (Appeal No. 297/11). This appeal was heard on 17 February 2020 and the judgment is awaited.

5.4 Matters that have already been determined in the Courts and cannot be the subject of a S5 application

5.4.1 Introduction
It is not possible to secure a Section 5 declaration in respect of matters that have already been determined by the Courts, so it was necessary to identify the matters that had already been determined by the Judgments in the Compliance Proceedings in order to ensure that the subject matter of this Application did not overlap with any of those determinations. This analysis is provided in below.

5.4.2 The Judicial Review Proceedings
As noted in the judgment of Mr Justice Murphy of 8th September 2004 in the Judicial Review Proceedings⁵, a copy of which is provided in Annexure 9, Mr Kenny sought an order quashing the Council Order on the following four grounds:

- (i) That the retention of the first floor in the western arm of Building Number 3 and the omission of another floor in the said building constituted an unlawful material alteration to the Development
- (iii) That the agreement of the Council to the installation of boilers and boiler rooms in the roof spaces of Building Numbers 2 and 3 with consequent alterations to the roof design and profile and the omission of plant rooms in the said buildings constituted an unlawful material alteration to the Development.
- (iii) That the agreement of the Council to an increase in bed spaces in the buildings forming part of the development constituted an unlawful material alteration to the development.
- (iv) That the agreement of the Council to the laying of services and utilities within 10 metres of the bole of trees and to the erection of timber post and rail fences which fail to enclose the crown

⁵ [2004] IEHC 381, paras 3.1 to 3.4

spread of trees to be retained as part of the development permitted by An Bord Pleanála constituted an unlawful material alteration to the development.

Mr Justice Murphy declined to grant the orders sought by Mr Kenny. Mr Kenny appealed the matter to the Supreme Court, but the appeal was dismissed.

5.4.3 The Section 160 Proceedings

In July 2002 Mr Kenny commenced proceedings under Section 160 of the Planning & Development Act, 2000 (the "the Section 160 Proceedings") in which he contended that Trinity had breached and intended to breach the provisions of the Permission.

Following the delivery of the judgment in the Judicial Review Proceedings, Mr. Justice Feeney delivered a judgment in the Section 160 Proceedings dated 8th September 2004, a copy of which is attached in Annexure 10. In this judgment Mr. Justice Feeney stated² that he was "satisfied that the only area where Mr. Kenny has identified a factual matter within the s. 160 proceedings, absent amendment, which has not been already considered and in effect determined [in the Judicial Review Proceedings] relates to [a] minor or trifling breach... concerning the laying of service and utilities within ten metres of the bole of trees" and on that basis struck out the Section 160 Proceedings.

5.4.4 Conclusion

As the Section 160 Proceedings were struck out on the grounds that the matters before the Court in the Section 160 Proceedings had already been determined by Court in the Judicial Review Proceedings, the matters that cannot be the subject of a Section 5 application are limited to those that were determined by the Court in the Judicial Review Proceedings, as summarised in 5.4.2 above.

This Application deals with matters that were not the subject of determinations of the courts in the Compliance Proceedings.

² IEHC 2002 No. 72, Para 17

6 LEGAL CONSIDERATIONS RELATING TO THE COMPLIANCE PROCESS AND SECTION 5 APPLICATIONS

6.1 The meaning of compliance

Mr Justice O'Neill provided a suitable summary of what should happen during a compliance review process, as follows³:

It necessarily follows from this, that what is required of this compliance procedure is no more than faithful implementation of the decision of An Bord Pleanála... all that they must ascertain is the true or correct meaning of the conditions attached to the planning permission and to confine themselves and the Notice Party to such proposals as are in compliance with those conditions.

... Therefore in my view it necessarily and obviously follows that the Respondent must be confined in this exercise solely to the ascertainment of the true and correct meaning of the conditions and consequent, on that, confined in their agreement to proposals which faithfully adhere to and implement those conditions. [Emphasis supplied]

Murphy J. also defined compliance in the following manner⁴

The only power exercisable by the Council was to agree details in relation to the revision of plans on the basis of the implementation of the condition imposed by the Board. Any agreement reached without that condition having been fulfilled was necessarily ultra vires the Council. [Emphasis supplied]

6.2 Immaterial changes

Planning and development case law recognises that planning permissions must be interpreted flexibly so as to allow for immaterial deviations. This was noted by Mr Justice Finnegan⁵

"...planning permission covers work which is specified in the detailed plans and any immaterial variation therein ... there will necessarily be variations from time to time. Things may arise which were not foreseen ... The permission covers any variation which is not material"

It should also be noted that Finnegan J. considered⁶ the issue of a trivial or technical breach of planning permission and quoted with approval the statement of Lord Denning⁷, which stated:

In my opinion a planning permission covers work which is specified in the detailed plans and any immaterial variation therein. I do not use the words 'de minimis' because that would be misleading. It is obvious that, as the developer proceeds with the work there will necessarily be variations from time to time. Things may arise which were not foreseen. It should not be necessary for developers to go back to the planning authority for every immaterial variation. The permission covers any variation which is not material.

6.3 The requirement to seek express agreement for changes in compliance submissions

The requirement that planning documents are to be interpreted in their ordinary meaning as they would be understood by members of the public, without legal training, as well as by developers and their agents, was set out in *XLS Investments Ltd.* [1986] IR 750 and is a well-established principle in planning law in Ireland.

³ *Vera O'Connor v The Lord Mayor Aldermen and Burgesses of Dublin*, No. 2000 179JR, 3rd October 2000
⁴ *Gregory v Dun Laoghaire Rathdown County Council* (Supreme Court, unreported 28th July 1977)
⁵ *O'Connell v. Dúngharvan Energy Ltd* [Unreported, High Court, Finnegan J., February 27, 2001]
⁶ *O'Connell v. Dúngharvan Energy Ltd*, [2001] WJSC-HC5119 (Unreported judgment of 27th February, 2001)
⁷ *Lever (Finance) Ltd. v. Westminster Corporation* [1973] All E.R. 496 (at p. 500)

This principle requires that any changes made in compliance plans be brought to the attention of the planning authority in documents accompanying those plans and their agreement expressly sought for those changes.

This requirement is referred to in a recent judgment in the High Court⁸ where the decision of a planning authority to issue a letter accepting a compliance submission in relation to a planned wind farm development was challenged. The basis on which the challenge was made was that (i) certain changes had been made in the plans submitted for compliance review and (ii) the express agreement of the planning authority to those changes had not been sought in the compliance submission.

Since the matters that are the subject of this application relate to changes made in the Compliance Plans for which the express agreement of the Council was not sought in the Compliance Architect's Reports, a detailed extract from the Krikke judgment is provided below and the full text of the judgment is provided in Annexure 11:

126. I have concluded that the decision-letter of 13 December 2013 cannot be relied upon as authorising the alterations to the rotor diameter of the wind turbines for the following two reasons.

127. First, as a matter of interpretation, the decision-letter cannot be read as "agreeing" to an increase in rotor diameter in circumstances where the Developer did not expressly request agreement to this increase. Planning documents are to be interpreted in their ordinary meaning as they would be understood by members of the public, without legal training, as well as by developers and their agents, unless such documents, read as a whole, necessarily indicate some other meaning. (See in re XJS Investments Ltd. [1986] IR 750).

132. The hypothetical intelligent person reading the decision-letter must be taken as being aware of the content of the compliance submission of 6 November 2013, and as having read the decision-letter in conjunction with same. As appears from the extract from the compliance submission set out at paragraph 26 above, the Developer did not expressly seek the agreement of the planning authority to an increase in rotor diameter.

133. It is not enough, as has been contended for by counsel on behalf of the Developer, that the proposed alteration is capable of being deduced by either (i) carrying out the mathematical exercise of subtracting the figure stated for the hub height from that stated for the maximum tip height of the turbines, and then multiplying the resulting figure by two, or (ii) by a careful examination of the fine print of the A3 Schematic GE Turbine which had been included in Appendix B of the compliance submission.

134. Had the Developer wished to obtain the planning authority's agreement to an increase in rotor diameter, then this should have been stated in express terms in the body of the compliance submission. Neither a planning authority nor a member of the public should be expected to wade through extensive documentation in order to attempt to ascertain what precisely it is that a developer is seeking agreement to. Public participation lies at the heart of the planning process. This is especially so in the context of development, such as the present case, which consists of a project subject to the public participation requirements of the EIA directive.

171. The Developer is not entitled to rely on the alleged agreement of the planning authority to the compliance submission as providing authorisation for the "change" or "extension".

[Emphasis supplied]

⁸ Krikke and others v. Barranofadock Sustainability Electricity Limited, Simons G., 6 December 2019 [2019] IEHC 825

Based on the above, it is clear that where changes are made in plans submitted for compliance review and those changes are not expressly identified and the agreement of the Council to those changes is not expressly sought in the documents accompanying those plans, then, notwithstanding the acceptance of the plans by the planning authority, those changes cannot be considered to have received the agreement of the planning authority.

Applying this principle to Trinity Hall, it is clear that any changes that were made in the Compliance Plans that were not disclosed in the Compliance Architect's Reports and for which the express agreement of the Council was not sought in the Compliance Architect's Reports could not⁹ have received and therefore did not receive the agreement of the Council by the making of the Council Order.

6.4

The matters to be considered in a Section 5 application

The Planning & Development Act of 2000 defines "development" as "...except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land..."

The questions that need to be asked in relation to any application for a Section 5 declaration are whether the subject matter of the application is or is not development and, if it is development, whether it is or is not exempted development.

6.5

Timing

Although the Development has been completed for many years there is no time-bar on making a request for a Section 5 declaration¹⁰.

⁹ Erratum: the word "not" was omitted from the text in this document at the time of submission to the Council, but has been inserted at the location indicated by this footnote for the purpose of a referral an An Bord Pleanála.

¹⁰ "A request for a section 5 declaration may be made at any time prior to, during or following the development or activity in question." Page 3, Guide to Section 5, Philip Lee Solicitors, <http://www.philliplee.ie/wp-content/uploads/2015/06/Guide-to-Section-5.pdf>

7 ENFORCEMENT ACTIONS IN RELATION TO TRINITY HALL

7.1.1 Introduction

The nature and scale of changes to the Development that the Council considered to be sufficiently material to constitute a breach of the Permission and require enforcement action to be taken provide useful guidance in relation to the materiality of the matters raised in this Application, so details of enforcement actions taken by the Council in relation to the Development are provided below.

7.1.2 The ESB substation

The Approved Plans showed an ESB substation on the ground floor of Building 1. Following the completion of the Development it became apparent to a number of residents in the area that the ESB substation had been constructed as a separate building away from Building 1. Following receipt of complaints in relation to the new substation the Council took enforcement action on the basis that the substation, which covered an area of 32.4m² and was 3m high, did not have the benefit of planning permission. Trinity was required to prepare and submit a retention application in respect of the substation. This application was submitted in October 2004 and subsequently approved. A copy of the retention application is provided in Annexure 12.

7.1.3 The gas cabinet

The Council took enforcement action against Trinity on the basis that a gas meter and cabinet which were installed in an enclosure adjacent to the perimeter wall on the north west of the site did not have the benefit of planning permission. The enclosure covered an area of 2.5 m² and was 2.9m high. Trinity was required to prepare and submit a retention application in respect of the enclosure. This application was submitted in August 2007 and subsequently approved. A copy of the retention application is provided in Annexure 13.

8 QUESTION 1 - INCREASE IN THE FLOOR AREA OF BUILDING 2

8.1 Floor area of Building 2 in the April 1999 Plans disclosed in the April 1999 Architect's Report and Accommodation, which provided a detailed analysis of the floor area, bedrooms and bed spaces of each building in the Development. An extract from this schedule for Building 2 is shown below.

Extract from Schedule of Areas and Accommodation, April 1999 Architect's Report

Building No.2 (4 Storey)						
No. per block	Bedspaces	Area m sq	Tot. Bedspaces per Block	Tot. Area per Block	Single Room	63
0	2	18.40	0	0.00	Twin Room	0.00
3	1	15.32	3	45.96	Disabled Room	0.00
0	1	27.08	0	0.00	Staff Apartment	0.00
12		23.00		276.00	Kitchens	
1		20.00		20.00	Plant Room	
2		15.00		30.00	Water Storage Rooms	
4		2.00		8.00	Misc. storage / Ducting	
1		15.00		15.00	Electric & Data Rooms	
Total						
				1457.56	Gross Floor Area	
				66		
				1566.88		

8.2 Floor area of Building 2 in the October 1999 Plans disclosed in the October 1999 Architect's Report and Accommodation and an extract from this schedule for Building 2 is shown below. This indicates that the area of Building 2 in the October 1999 Plans was 7,145 m², which is therefore the approved area for Building 2.

Building No.2 (4 & 5 Storey (with 6-storey corner element)) - 60 no. apartments						
No. per block	Bedspaces	Area m sq	Tot. Bedspaces per Block	Tot. Area per Block	Single Room	222
28	2	18.00	56	504.00	Twin Room	
15	1	16.50	15	247.50	Disabled Room	
7		32.00		224.00	Staff Apartment	
1		27.08		27.08	Porter's office	
53		25.00		1325.00	Kitchens	
1		1935.00		1314.80	Circulation estimated	
2		25.00		50.00	Plant Room	
2		15.00		30.00	Water Storage Rooms	
4		2.00		8.00	Misc. storage / Ducting	
2		15.00		30.00	Electric & Data Rooms	
Total						
				6646.38	Gross Floor Area	
				300		
				7144.86		

8.3 Floor area of Building 2 in the Compliance Plans not disclosed in the Compliance Architect's Reports in contrast to the April 1999 Architect's Report and the October 1999 Architect's Report, the Compliance Architect's Reports shown in Annexures 5 and 6 only contain a Schedule of Accommodation of Revised Compliance Scheme which was limited to providing a summary of the number of bedrooms and bed spaces in each building. No information was provided in this schedule or anywhere else in the Compliance Submissions as to the floor area of Building 2. As a result, there was no information available to the Council at the time of its compliance review as to what the proposed floor area of Building 2 as shown in the Compliance Plans was.

The entirety of the Schedule of Accommodation of Revised Compliance Scheme is shown below.

copy of this application is attached in Annexure 12.

copy of this application is attached in Annexure 13.

which is attached in Annexure 14, and this indicates

ascertain the floor area of Building 2.

8.4 Floor area of Building 2 identified in other planning applications

[illegible]

Source	Floor area (m ²)
October 1999 Plans, as approved by the Board	7,145
As per 2017 Change of Use Application	8,174
As per 2007 Gas Cabinet Retention Application	8,200
As per 2004 ESB Substation Retention Application	8,200
Floor area increase (m ²) ¹¹	1,029
Floor area increase (%) ¹²	14.4%

8.5.2 Materiality of the increase in floor area

It is submitted that the increase in floor area of Building 2 is a material deviation from the Permission for the following reasons:

- The increase is 412 times larger than the 2.5 m² floor area of the gas cabinet which the Council considered to be unauthorised resulting in enforcement action being taken.
- The increase is 32 times larger than the 32.4 m² floor area of the ESB substation which the Council considered to be unauthorised resulting in enforcement action being taken.
- Based on the average floor size per unit of private flats/apartments in Ireland in Q4 2001¹³ of 77.9 m² the increase was the equivalent of 13 new flats/apartments.

8.6 Changes to Building 2 that resulted in increase in floor area not disclosed

On the basis of the principles outlined in section 6.3 above, it is submitted that as (i) neither the increase in floor area of Building 2, nor the changes that had been made to the length and/or width and/or height of Building 2 in order to result in the increase in floor area, were disclosed to the Council in the Compliance Architect's Reports, and (ii) the express agreement of the Council was not sought for either the increase in floor area of Building 2 or the changes that had been made to the length and/or width and/or height of Building 2 in order to result in the increase in floor area, these changes cannot be considered to have received the agreement of the Council.

8.7 Question 1

Is the increase in floor area of Building 2 of 1,029 m² compared to what was approved by the Board development or not development and, if it is development, is it exempted development or not exempted development for the purposes of the Planning and Development Acts 2000-2019?

¹¹ Based on the smallest floor area disclosed in the retention and change of use applications.

¹² Based on the smallest floor area disclosed in the retention and change of use applications.

¹³ <https://statbank.cso.ie/px/pxeirestat/statire/selectVarVal/Define.asp?Maintable=BHQ05&Language=0>

9 QUESTION 2 - INCREASE IN THE FLOOR AREA OF BUILDING 3

9.1 Floor area of Building 3 in the April 1999 Plans disclosed in the April 1999 Architect's Report provided a detailed analysis of the floor area, bedrooms and bed spaces of each building in the Development. An extract from this schedule for Building 3 is shown below.

Extract from Schedule of Areas and Accommodation, April 1999 Architect's Report

Building No.3 (4 & 5 Storey)					
No. per block	Bedspaces	Area m sq	Tot. Bedspaces per Block	Tot. Area per Block	
119	1	12.20	119	1451.80	Single Room
17	2	18.40	34	312.80	Twin Room
0	1	15.32	0	0.00	Disabled Room
5	1	27.08	5	135.40	Staff Apartment
26		23.00		598.00	Kitchens
1		720.00		720.00	Circulation estimated
1		27.08		27.08	Porter's office
1		25.00		25.00	Plant Room
2		15.00		30.00	Water Storage Rooms
4		2.00		8.00	Misc. storage / Ducting
1		15.00		15.00	Electric & Data Rooms
Total					3923.08

9.2 Floor area of Building 3 in the October 1999 Plans disclosed in the October 1999 Architect's Report *The Schedule of Areas and Accommodation* in October 1999 Architect's Report shown in Annexure 2, an extract from which is shown below, indicates that the area of Building 3 in the October 1999 Plans was 8,659m².

Building No.3 (3, 4 & 5 Storey) - 68 no apartments

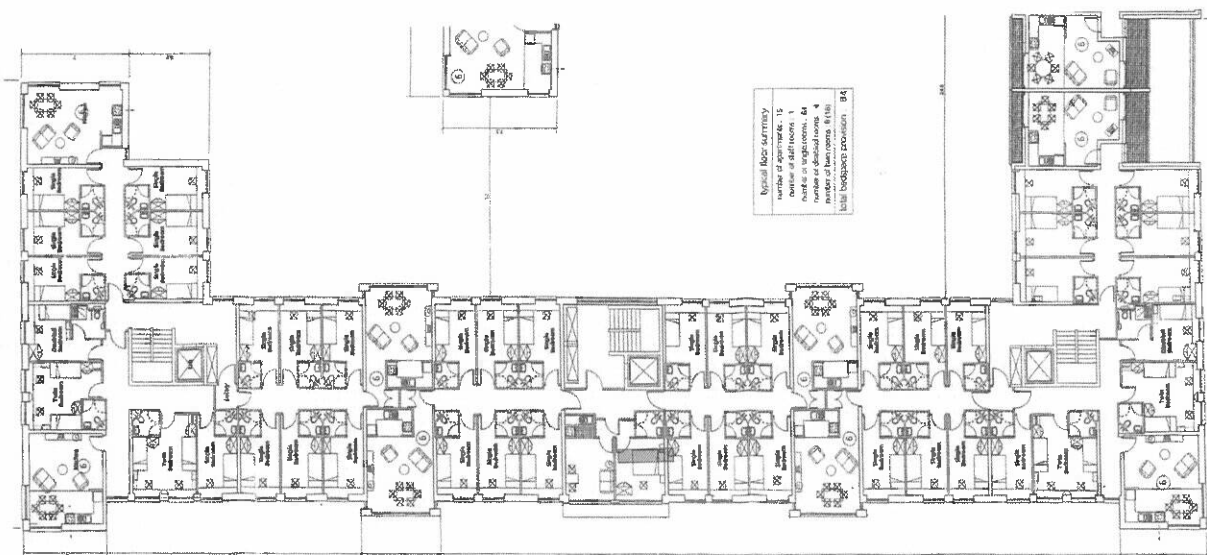
No. per block	Bedspaces	Area m sq	Tot. Bedspaces per Block	Tot. Area per Block	
281	1	13.00	281	3653.00	Single Room
37	2	18.00	74	666.00	Twin Room
18	1	16.50	18	297.00	Disabled Room
4	1	32.00	4	128.00	Staff Apartment
64		25.00		1600.00	Kitchens
1		1960.00		1592.50	Circulation estimated
2		25.00		50.00	Plant Room
2		15.00		30.00	Water Storage Rooms
4		2.00		8.00	Misc. storage / Ducting
2		15.00		30.00	Electric & Data Rooms
Total					8054.50
Gross Floor Area					8658.59

9.3 Calculation of the area of Building 3 approved by the Permission
The area of Building 3 in the October 1999 Plans was 8,659 m², but this was not the area approved by the Board as Board Condition 2 stated that "The western arm of Building Number 3, that is on the full Darry Road elevation, shall be reduced in height by the omission of the first floor."

To ascertain the area approved by the Board for Building 3 it is therefore necessary to make an adjustment for the reduction in floor area arising from compliance with Board Condition 2. In order to do so it is necessary to consider the judgment of Mr Justice Fennelly of 8th September, 2004 in the Judicial Review Proceedings, a copy of which is provided in Annexure 15, in which he stated¹⁴ "The north wing of the west elevation of building Number 3 remained at five storeys, though the remaining western arm was reduced by one storey to comply with [Board] Condition 2". As the Court accepted that this change satisfied the

requirements of Board Condition 2, this is the basis on which the effective reduction in area of Building 3 resulting from compliance with Board Condition 2 should be calculated.

The reduction in floor area required in order to comply with Board Condition 2 can be calculated from dimensions marked on drawing 98046/215/PPP*. An extract from this drawing showing the western elevation is provided below to illustrate that most of the dimensions are clearly marked and, where not available, can be scaled from the drawing.



¹⁵ Calculated on the basis of the description in the Compliance Architect's Reports of how Trinity gave effect to the requirements of Board Condition 2, as approved by Fennelly

¹⁶ Based on the smallest floor area disclosed in the retention and change of use applications.

¹⁷ Based on the smallest floor area disclosed in the retention and change of use applications.

¹⁸ <https://statbank.cso.ie/px/pxeirestat/statire/select/arVal/Define.asp?MainTable=BH005&Language=0>

9.7 Changes to Building 3 that resulted in increase in floor area not disclosed

On the basis of the principles outlined in section 6.3 above, it is submitted that as (i) neither the increase in floor area of Building 3, nor the changes that had been made to the length and/or width and/or height of Building 3 in order to result in the increase in floor area, were disclosed to the Council in the Compliance Architect's Reports, and (ii) the express agreement of the Council was not sought for either the increase in floor area of Building 3 or the changes that had been made to the length and/or width and/or height of Building 3 in order to result in the increase in floor area, these changes cannot be considered to have received the agreement of the Council.

9.6.2 Materiality of the increase in floor area

It is submitted that the increase in floor area of Building 3 is a material deviation from the Permission for the following reasons:

- The increase is 537 times larger than the 2.5 m² floor area of the gas cabinet which the Council considered to be unauthorised resulting in enforcement action being taken.
- The increase is 41 times larger than the 32.4 m² floor area of the ESB substation which the Council considered to be unauthorised resulting in enforcement action being taken.
- Based on the average floor size per unit of private flats/apartments in Ireland in Q4 2001¹⁸ of 77.9 m² the increase was the equivalent of the addition of 17 new flats/apartments.

It should also be noted that not only does the floor area of Building 3 substantially exceed the floor area approved by the Board, it is actually larger than it had been in the October 1999 Plans. Given the removal of an entire floor from most of the western elevation of Building 3 it is hard to explain this other than as a result of other material changes to Building 3 in the Compliance Plans that were not disclosed in the Compliance Architect's Reports.

Source	Floor area (m ²)
October 1999 Plans	8,659
Reduction to comply with Board Condition 2 ¹⁵	-781
Approved by the Board	7,878
As per 2017 Change of Use Application	9,217
As per 2007 Gas Cabinet Retention Application	9,250
As per 2004 ESB Substation Retention Application	9,250
Floor area increase (m ²) ¹⁶	1,342
Floor area increase (%) ¹⁷	17%

The Board Conditions did not require any modifications that would have resulted in a change of floor area of Building 3, so the floor area of the building should not have changed. Despite this the area of Building 3 is 1,342 m² bigger than what was approved by the Board, equivalent to an increase of 17%, as shown in the table below.

9.6 Increase in the floor area of Building 3 from what was approved by the Board

9.6.1 Increase in floor area

9.5.4 2004 ESB Substation Retention Application

The planning application form submitted by Trinity in 2004 in support of the ESB substation retention application referred to in Section 7.1.2 above indicates that the floor area of Building 3 is 9,250 m². A copy of this application is attached in Annexure 12.

The planning application form submitted by Trinity in 2007 in support of the gas cabinet retention application referred to in Section 7.1.3 above indicates that the floor area of Building 3 is 9,250 m². A copy of this application is attached in Annexure 13.

9.8 Question 2
Is the increase in floor area of Building 3 of 1,342 m² compared to what was approved by the Board development or not development and, if it is development, is it exempted development or not exempted development for the purposes of the Planning and Development Acts 2000-2019?

10 OTHER OBSERVATIONS

10.1 Introduction

There are a number of further observations that the Applicant would like to make regarding the matters in respect of which Section 5 declarations are being sought.

It should be noted that the Applicant does not consider it to be necessary for the Council to form its own view in respect of these observations in order to make the declarations requested by this Application.

10.2 Changes that were disclosed in the Compliance Architect's Reports

10.2.1 Description of the purpose of the Compliance Architect's Reports

The August 2001 Compliance Architect's Report opened with the following statement:

The following is a detailed analysis of the conditions of An Bord Pleanála's Permission and their impact on the proposal, as described in the enclosed documents. Actions implemented under each condition are explained in detail under *interpretation*, explaining the meaning taken from the wording of the condition; *impact*, explaining the interventions necessary altering the proposal, and *compliance*, summarising the actions taken and implemented to achieve the current proposal in compliance with the permission.

The November 2001 Compliance Architect's Report contained the following statement:

A Compliance Submission Document summarising interventions made to the original proposal to obtain compliance - with specific reference to each condition - was submitted to Dublin Corporation for written agreement on 22nd August 2001. The document was accompanied by such revised drawings, plans, reports and particulars to explain the modified scheme, and by reference to any valid previous documents carried forward to be included in the "live" package. The Bord Pleanála permission itself is attached at Appendix A of this Compliance Submission document

This ADDENDUM document seeks to identify and address a small number of minor ambiguities and/or discrepancies in the Compliance documents, following observations made at a meeting with the planning authority. Specific inconsistencies are described in detail in the coming pages and the complete submission package has been fully amended - by clarification, correction, omission or revision - to reflect the appropriate corrections arising therefrom.

10.2.2 Details that were disclosed in the Compliance Architect's Reports

In addition to disclosing more significant changes that had been made to the October 1999 Plans in order to comply with the Board Conditions, the Compliance Architect's Reports also contain details of changes that could be considered minor or immaterial, such as:

"insertion of small windows into plans"
"review of dimensional inaccuracies in windows and standardisation of window typologies"
"minor elevational changes to courtyard elevations stair cores to comply with fire compartmentation"
"minor elevational changes to twin rooms to make consistent throughout"
"minor elevational changes to external elevation fenestration to co-ordinate with plans"
"minor adjustment of levels to permit proper brick coursing"
"corridor windows inserted to full height with articulated micro-rib spandrel panels"
"glass block detail incorporated at kitchen flanks and at entrances in courtyards"
"minor alterations to footprint of plant room to rear to provide sufficient access to rear yard"
"minor amendments to courtyard and running dimensions to allow for 1800mm turning circles in corridors to comply with universal access principles"

10.3 Changes that were not disclosed in the Compliance Architect's Reports

A reading of the Compliance Architect's Reports gives the impression that they contain a comprehensive and detailed disclosure of ALL changes that had been made in the Compliance Plans compared to the October 1999 Plans, including even minor and immaterial changes.

It is therefore very surprising that neither the changes to floor area of Buildings 2 and 3 nor the changes that had been made to the length and/or width and/or height of the buildings in order create the additional floor area were disclosed. In the opinion of the Applicant there are four possible explanations for this, as outlined below.

10.3.1 The changes were not disclosed in the Compliance Architect's Reports as they were not considered to be sufficiently material to warrant disclosure

It is the conclusion of the Applicant that Trinity deliberately breached the terms of the Permission by either (i) making material changes to the floor areas of Buildings 2 and 3 after the Compliance Plans and the Compliance Architect's Reports had been completed and submitted to the Council, or (ii) making material changes to the floor areas of Buildings 2 and 3 in the Compliance Plans and then deliberately failing to disclose these changes in the Compliance Architect's Reports in order to conceal the changes from the Council.

10.4 Conclusion

This is, in the opinion of the Applicant, the second of the two plausible explanations as to why the Compliance Architect's Reports failed to disclose the changes.

10.3.4 The changes were made after the Compliance Submissions had been submitted to and approved by the Council

This is, in the opinion of the Applicant, one of only two plausible explanations as to why the Compliance Architect's Reports failed to disclose the changes. It would also explain why the *Schedule of Areas and Accommodation* that had been included in both the April 1999 Submission and the October 1999 Submission was omitted from the Compliance Architect's Reports and replaced instead with a *Schedule of Accommodation* that provided no information on floor areas.

10.3.3 The failure to disclose the changes in the Compliance Architect's Reports was deliberate and was done with the objective of concealing the changes from the Council

Numerous changes would have to have been made to the length and/or width and/or height of Buildings 2 and 3 and these changes would only have been made with the knowledge and approval of the project architect, who would also have been responsible for overseeing the preparation of and approving both the Compliance Plans and the Compliance Architect's Reports. Murray O'Laoire was one of the biggest and most reputable architectural practices in Ireland at the time and was responsible for the Development at all stages of the planning and compliance process. Under these circumstances this explanation is considered by the Applicant to be entirely implausible.

This explanation is considered by the Applicant to be entirely implausible, as the changes in the length and/or width and/or height of Buildings 2 and 3 that resulted in the significant increase in floor area would undoubtedly have been material by comparison to the minor changes that were disclosed in the Compliance Architect's Reports such as those noted in 10.2.2 above.

**ANNEXURES TO THE ADDENDUM
TO THE APPLICATION FOR A SECTION 5 DECLARATION IN
RESPECT OF TRINITY HALL, DARTRY, DUBLIN 6
SUBMITTED BY JAMES F KENNY**

3 APRIL 2020

STUDENT RESIDENCES AT TRINITY HALL, DARTRY

For

UNIVERSITY OF DUBLIN
TRINITY COLLEGE, DUBLIN 2.

PLANNING APPLICATION REPORT
APRIL 7th, 1999

murrayolaire architects

ARCHITECTS • PLANNERS • URBAN DESIGNERS
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See attached Structural Engineers' Report

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See attached Services Engineers' Report

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STUDENT RESIDENCES

1 INTRODUCTION

1.1 Design Team Composition

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:
Mr. Simon O'Brien

Representative

Chartered Quantity Surveyors

Representative

Structural & Civil Engineers

Representative

Mechanical & Electrical Engineers

Representative

TRINITY HALL DARTRY

STUDENT RESIDENCES

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